

**LEGISLATIVE  
RESEARCH COMMISSION**

---

**RAILROADS AND  
OTHER PUBLIC TRANSPORTATION**



**REPORT TO THE  
1991 GENERAL ASSEMBLY  
OF NORTH CAROLINA  
1992 SESSION**

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STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH 27611



May 26, 1992

TO THE MEMBERS OF THE 1991 GENERAL ASSEMBLY (REGULAR SESSION, 1992):

The Legislative Research Commission herewith submits to you for your consideration its interim report on Railroads and Other Public Transportation. The report was prepared by the Legislative Research Commission's Committee on Railroads and Other Public Transportation pursuant to Section 2.1(17) and (42) of Chapter 754 of the 1991 Session Laws.

Respectfully submitted,

A handwritten signature in cursive script, reading "Daniel T. Blue, Jr.", written over a horizontal line.

Daniel T. Blue, Jr.  
Speaker of the House

A handwritten signature in cursive script, reading "Henson P. Barnes", written over a horizontal line.

Henson P. Barnes  
President Pro Tempore

Cochairmen  
Legislative Research Commission

1991-1992

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of  
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Henson P. Barnes, Cochair

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Senator Howard F. Bryan  
Senator J. K. Sherron, Jr.  
Senator Lura Tally  
Senator Russell G. Walker

Speaker of the House of  
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Rep. E. David Redwine  
Rep. Frank E. Rhodes  
Rep. Peggy M. Stamey

## PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1991 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of Railroads and Other Public Transportation was authorized by Section 2.1(17) and (42) of Chapter 754 of the 1991 Session Laws (1991 Regular Session). That act states that the Commission may consider House Joint Resolution 700, House Joint Resolution 1226, and Senate Joint Resolution 906 in determining the nature, scope and aspects of the study.

Section 1 of House Joint Resolution 700 reads in part: "The Legislative Research Commission is authorized to study public transportation in North Carolina. The Legislative Research Commission may study:

- (1) All types of public transportation, such as bus, rail, and human service transportation, whether provided by public or private entities;
- (2) Public transportation financing, through federal, State, and local sources;
- (3) Promotion of public transportation as a means to reduce pollution, congestion, and use of limited fuel resources; and
- (4) Preservation and development of transportation corridors."

Section 1 of House Joint Resolution 1226 and Section 1 of Senate Joint Resolution 906 each reads in part: "The Legislative Research Commission is authorized to study the present condition of the rail transportation system in North Carolina and the future of railroads in this State, including issues of rail revitalization and rail corridor preservation."

The relevant portions of Chapter 754 and House Joint Resolutions 700 and 1226 and Senate Joint Resolution 906 are included in Appendix A. The Legislative Research Commission grouped this study in its Transportation area under the direction of Representative Peggy M. Stamey. The Committee was chaired by Senator Howard N. Lee and Representative John W. Hurley. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee



minutes and all information presented to the committee is filed in the Legislative Library.

## COMMITTEE PROCEEDINGS

### Meeting on January 17, 1992

The LRC Committee on Railroads and Other Public Transportation held its first meeting on January 17, 1992, at 10:00 a.m. in Room 1124 of the Legislative Building. Representative Stamey read the Committee its charge, noting that two areas originally authorized for separate studies, railroads and public transportation, had been combined into the one Committee.

After the Cochairmen, Senator Howard Lee and Representative Bill Hurley, had emphasized the importance of the Committee's work, representatives of the Department of Transportation began a presentation on the impact of the new federal Intermodal Surface Transportation Efficiency Act ("ISTEA"). Mr. Larry Sams, Director of the Office of Policy and Emerging Issues, summarized the complicated legislation for the Committee and emphasized four major points: ISTEA (1) presents an opportunity and encourages a new way of doing business; (2) provides more flexibility at the State and local level; (3) represents a movement towards more equitable distribution of federal motor fuel tax dollars; and (4) means more transportation dollars for North Carolina.

Mr. James T. Sugrue, Assistant Secretary of DOT, discussed the impact of the new legislation on the Transportation Improvement Plan (TIP). At the time, the Department was still trying to arrive at a reliable estimate of the new money that ISTEA would provide, but it hoped that there would be at least an additional \$40 million. He felt that would be enough to justify a "reprogramming" of the TIP.

Mr. David King, Director of the Division of Public Transportation and Rail, addressed the Committee next. He discussed the availability of federal funds for public transportation and rail, and the impact of ISTEA on these programs. A summary of ISTEA and funding for public transportation and rail can be found in Appendix H.

### **Meeting on February 14, 1992**

The second meeting of the Committee was held on February 14, 1992 at 10:00 a.m. in Room 1228 of the Legislative Building. The meeting began with a presentation from several representatives of the short line railroad industry in N.C.

The first speaker was Mr. Sam Holcomb, President of the Railway Association of North Carolina. He presented a brief overview of the industry, emphasizing four issues important to the Association: (1) transferring rail regulatory functions from the Utilities Commission to DOT; (2) establishing an industrial rail access program; (3) achieving satisfactory funding for rail revitalization and rehabilitation; and (4) reviewing expenditures by DOT for grade crossing maintenance. Next, Mr. Benjamin I. Zachary, General Manager of the Alexander Railroad Company, spoke of the importance of the "level playing field" necessary for railroads to compete with other forms of transportation.

Following Mr. Zachary's presentation, Mr. Bob Menzies, President of Aberdeen, Carolina, and Western Railway, detailed his financial difficulties in operating a short line railroad. He emphasized the importance of rail service to many industries in North

Carolina, particularly those in rural areas. Mr. Murphy Evans, President of the Laurinburg and Southern Railroad Company, spoke next, and expressed the hope that there will be State funding for industrial access to rail as a means of attracting new industries to North Carolina.

Mr. Tom W. Slade of the Department of Agriculture reminded the Committee of the importance of railroads to agriculture and expressed the Department's support for a transfer of railroad regulation from the Utilities Commission to DOT.

Mr. David King, Director of the DOT Public Transportation and Rail Division, next told the Committee that the recently passed Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA") has provided transportation departments across the country with the flexibility to think of themselves as "transportation" entities, rather than as several individual highway, rail, and aviation programs. He echoed the comments of earlier speakers in encouraging the Committee to look at railroads as industrial development tools.

Mr. King then turned to the the railroad transfer legislation the Committee was about to discuss. He expressed the Department's willingness to work with the Committee in an effort to get the bill approved during the 1992 Session of the General Assembly.

Mr. Robert Bennick, General Counsel of the Utilities Commission, spoke next, briefly reviewing the Utilities Commission's limited regulatory role over railroads. The final speaker, Mr. Lyle Key, Assistant General Counsel, CSX Corporation, expressed support for the transfer of railroad regulatory functions to DOT.

Following the scheduled speakers, the committee discussed proposed legislation to transfer the regulation of railroads from the Utilities Commission to DOT, as well as several other changes in railroad law. The proposal for a transfer has arisen as a result of the establishment in 1989 of regulatory fees to defray the cost of regulating public utilities. A dispute has developed between the railroad industry and the Utilities Commission over the payment of those fees, and at the present time the costs of all railroad regulatory functions performed by the Utilities Commission are being paid with fees collected from other utilities.

The Utilities Commission and DOT had reached an agreement to support a proposal to transfer of all railroad regulatory functions (rail safety inspection, station and team track closings, speed limits and crossing location, right-of-way condemnation mapping, etc.) to DOT. They saw this as a way of solving the dispute over fees, and as a way to avoid further assessment of railroads, which are already heavily assessed by the Federal Railroad Administration. It would also place railroad supervision with the agency responsible for overseeing other transportation modes. The Commission and DOT had decided to ask the Committee to recommend the bill to the General Assembly for enactment during the 1992 short session.

The bill being proposed at the February meeting would have funded the transfer and provided funding for other rail programs within DOT by creating a new continuing rail appropriation from the General Fund to the Highway Fund of the estimated revenue from State sales and use taxes on sales made to railroads of diesel fuel, lubricants, locomotives, rolling stock, replacement parts, accessories, and track materials. It also proposed other changes in railroad law, such as additions to railroad

condemnation powers and the repeal of a statute making it a misdemeanor for a railroad corporation to engage in business outside the scope of its charter.

The Committee discussion focused on the funding for the transfer, and the inclusion of items not directly related to the transfer. The Cochairmen agree that it would be necessary to devote its next meeting to a further discussion of this bill.

### **Meeting on March 24, 1992**

The third meeting of the Committee was held March 24, 1992 at 10:00 a.m. in Room 1228 of the Legislative Building. Senator Lee began by explaining that the proposed legislation discussed at the previous meeting had been revised to include only the railroad regulation transfer from the Utilities Commission to DOT, funded by an appropriation from the Highway Fund.

Those items contained in the original draft, but left out of the revised draft were:

- (1) The addition to railroad condemnation powers in G.S. 40A- 3(a)(4) that of "constructing new lines"; substitution of "relocating" lines for "altering its location"; and allowance of condemnation "for any other purpose necessary for construction, maintenance, and operation of a railroad";

- (2) The removal of the upper limit on the width of land that may be condemned for railroad purposes in G.S. 40A-3(a) (currently 100 feet);
- (3) A grant to DOT of standing as an operating railroad company for purpose of acquiring railroad corridors, tracks, facilities, etc. from railroad companies for preservation for future railroad use;
- (4) The repeal of G.S. 62-221, which makes a railroad engaging in "any business other than the business authorized by its or their charter" guilty of misdemeanor;
- (5) A grant to DOT of the power to charge fees to cover cost of railroad supervision program;
- (6) A broadened definition of "railroad", for purposes of DOT's authority, to include "fixed guideway public transportation";
- (7) Amendments to the statutory powers of railroad corporations contained in G.S. 62-220 (i) removing the 100-foot limit on the width of road a railroad corporation can grade and construct, and (ii) adding a new power: "all powers, rights, and privileges of a North Carolina corporation";
- (8) **(Replaced with appropriation from Highway Fund for 1992-93 fiscal year and agreement to make recommendation on future funding to**

**1993 General Assembly) Funding to support the transfer and other rail programs within DOT creating a new continuing rail appropriation from the General Fund to the Highway Fund of the estimated revenue from State sales and use taxes on sales made to railroads of diesel fuel, lubricants, locomotives, rolling stock, replacement parts, accessories, and track materials.**

Following discussion, the Committee voted to endorse the revised draft of the transfer legislation, and to recommend it the 1992 session of the General Assembly. The Committee agreed to continue discussing the items removed from the original draft, with an eye toward making recommendations to the 1993 Session.

Mr. Bill Holman, representing the North Carolina Public Transportation Association, next addressed the Committee. He asked that they support four proposals: (1) use of property taxes for public transportation without a referendum; (2) sales tax refunds for public transit authorities; (3) committee endorsement of S.B. 131, entitled "Preserve Rail Corridors"; and (4) a study by the Department of Administration of methods to encourage commuting by State employees. The Committee agreed to endorse S.B. 131, and to give further consideration to the other three proposals at the next meeting.



### **Meeting on April 24, 1992**

The fourth meeting of the Committee was held April 24, 1992 at 10:00 a.m. in in Room 1027 of the Legislative Building. The Committee reviewed and approved this report to the 1992 General Assembly.

## FINDINGS AND RECOMMENDATIONS

**RECOMMENDATION ONE: That the General Assembly enact the bill found in Appendix C, which transfers all railroad safety supervision and other regulatory functions currently performed by the Utilities Commission to the Department of Transportation.**

The Committee finds that there is a continuing need for State rail safety inspection to supplement existing federal inspection, which is minimal. Currently, the State's rail safety inspection activities, as well as other railroad regulatory functions (station and team track closings, railroad speed limits and crossing location, right-of-way condemnation mapping, etc.) are performed by the Utilities Commission.

The Committee finds that, since the establishment in 1989 of regulatory fees to defray the cost of regulating public utilities (G.S. 62-302), a dispute has developed between the railroad industry and the Utilities Commission over the payment of those fees. The railroads contend that they are not subject to the regulatory fee, and currently are not paying any fee; therefore, the cost of all railroad regulatory functions performed by the Utilities Commission is being paid with fees collected from other utilities.

The Committee finds that the Utilities Commission has agreed with the Department of Transportation to support a proposal to transfer all railroad regulatory functions to the Department of Transportation. In addition to solving the current

dilemma over fees, this solution would avoid the further assessment of railroads, which are already heavily assessed by the Federal Railroad Administration for federal rail safety inspections. It would also place supervision of railroads with the same agency charged with responsibility over other modes of transportation.

**RECOMMENDATION TWO: That the General Assembly enact the bill found in Appendix D, which adds public transportation to the list of purposes for which a city or county may use property taxes without calling a referendum.**

The Committee finds that funding of public transportation is an important responsibility of both state and local government. An effective public transportation system can reduce the need for additional highway construction, as well as alleviate pollution and congestion.

The Committee finds that under current law, cities and counties can fund a long list of services with property taxes, without a referendum. The listed services are generally agreed to be essential functions of local government.

The Committee finds that public transportation is an essential element of an integrated transportation system. In order to encourage local governments to support public transportation, the Committee recommends that cities and counties be able to use property taxes for that purpose, without a referendum.

**RECOMMENDATION THREE: That the General Assembly enact the bill found in Appendix E, which adds public transportation authorities and regional public transportation authorities to the list of "governmental entities" entitled under G.S. 105-164.14(c) to refunds of sales and use taxes paid on direct purchases of tangible personal property.**

The Committee finds that G.S. 105-164.14 permits cities, counties, and many other government entities, such as sanitary districts and sports authorities, to receive a refund of annual sales and use tax paid on direct purchases of tangible personal property.

The Committee finds that tax fairness would be promoted, and public transportation systems would be assisted statewide, if public transportation authorities created pursuant to Article 25 and 26 of Chapter 160 were also eligible for sales and use tax refunds.

**RECOMMENDATION FOUR:** That the General Assembly enact the bill found in Appendix F, which directs the Department of Administration to study and recommend methods for encouraging State employees to use public transit, including carpools and vanpools, in commuting to work.

The Committee finds that vehicles driven by employees of State government make a significant contribution to the general problems of congestion, lack of adequate parking, and pollution. The Committee finds that the State should make take steps to alleviate these conditions.

The Committee finds that the Department of Administration is an appropriate agency of State government to examine ways to encourage State employees to use public transportation, carpools, and vanpools.

**RECOMMENDATION FIVE: The General Assembly enact Senate Bill 131, with the short title "Preserve Rail Easements."**

The Committee finds that Senate Bill 131 would allow the Secretary of Transportation or an officer of a railroad company holding a railroad easement to file an affidavit stating the affiant's intention to preserve the easement for future transportation use. The filing of such an affidavit would negate the current presumption of abandonment that arises, pursuant to G.S. 1-44.1, seven years after the removal of tracks from the corridor.

The Committee finds that Senate Bill 131 has passed the Senate and has been given a favorable report by the House Committee on Transportation. The Committee encourages the General Assembly to enact this legislation as a method for preserving the State's vital rail corridors.

**APPENDIX A**



CHAPTER 754  
SENATE BILL 917

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES, AND TO MAKE OTHER AMENDMENTS TO THE LAW.

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1991."

.....

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1991 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The topics are:

.....

(17) Public Transportation (H.J.R. 700 - Hurley),

.....

(42) Railroads--study continued, including the present condition of the rail transportation system, the future of railroads, rail revitalization, and rail corridor preservation (H.J.R. 1226 - Abernethy, S.J.R. 906 - Block),

.....

Sec. 2.7. Committee Membership. For each Legislative Research Commission Committee created during the 1991-93 biennium, the cochairs of the Commission shall appoint the Committee membership.

Sec. 2.8. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1992 Regular Session of the 1991 General Assembly or the 1993 General Assembly, or both.

Sec. 2.9. Bills and Resolution References. The listing of the original bill or resolution in this Part is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 2.10. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

.....

**PART XXI.-----EFFECTIVE DATE**

Sec. 21.1. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 1991**

**H**

**1**

**HOUSE JOINT RESOLUTION 700**

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Sponsors: Representatives Hurley; and Warner.

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Referred to: Rules, Appointments and Calendar.

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April 11, 1991

**A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH  
COMMISSION TO STUDY PUBLIC TRANSPORTATION.**

Whereas, public transportation is an important part of an integrated transportation system; and

Whereas, public transportation can alleviate congestion, pollution, and dependence on foreign fuels; and

Whereas, public transportation serves urban and rural residents, through city and regional bus transit, ride sharing, car and van pools, intercity rail service, and human service transportation; and

Whereas, communities throughout the State are attempting to maintain and expand existing public transportation services, with limited resources; and

Whereas, preservation and future development of public transportation corridors is an issue of concern across the State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is authorized to study public transportation in North Carolina. The Legislative Research Commission may study:

- (1) All types of public transportation, such as bus, rail, and human service transportation, whether provided by public or private entities;
- (2) Public transportation financing, through federal, State, and local sources;
- (3) Promotion of public transportation as a means to reduce pollution, congestion, and use of limited fuel resources; and
- (4) Preservation and development of transportation corridors.

Sec. 2. The Legislative Research Commission may make an interim report to the 1992 General Assembly, and shall make a final report to the 1993 General Assembly.

Sec. 3. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE JOINT RESOLUTION 1226

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Sponsors: Representatives Abernethy; and Bowman.

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Referred to: Rules, Appointments and Calendar.

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May 10, 1991

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH  
COMMISSION TO CONTINUE TO STUDY RAILROADS IN NORTH  
CAROLINA.

Whereas, the Legislative Research Commission was authorized by the 1989 General Assembly to conduct a study of the lease and renegotiation of contracts of the North Carolina Railroad Company; and

Whereas, the Commission later expanded the scope of the study to include the future of railroads in North Carolina, including the issues of rail revitalization, rail corridor preservation, and other related issues; and

Whereas, the Committee on Railroads recommended that the General Assembly enact a bill creating a Railroad Advisory Commission to advise the Governor, Council of State, and General Assembly of its opinion of any proposed lease or other transaction involving all or a substantial portion of the assets of the North Carolina Railroad Company; and

Whereas, the Committee on Railroads was not able to fully explore the other issues that were brought to its attention in the course of its discussions, and therefore requested in its report to the General Assembly that the study be continued for another two years;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is authorized to study the present condition of the rail transportation system in North Carolina and the future of railroads in this State, including the issues of rail revitalization and rail corridor preservation.

Sec. 2. The Legislative Research Commission may make an interim report, including any recommendations, to the 1991 General Assembly, Regular Session 1992, and a final report to the 1993 General Assembly.

Sec. 3. This resolution is effective upon ratification.

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 1991**

**S**

**1**

**SENATE JOINT RESOLUTION 906\***

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Sponsors: Senator Block.

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Referred to: Appropriations.

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May 13, 1991

**A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH  
COMMISSION TO CONTINUE TO STUDY RAILROADS IN NORTH  
CAROLINA.**

Whereas, the Legislative Research Commission was authorized by the 1989 General Assembly to conduct a study of the lease and renegotiation of contracts of the North Carolina Railroad Company; and

Whereas, the Commission later expanded the scope of the study to include the future of railroads in North Carolina, including the issues of rail revitalization, rail corridor preservation, and other related issues; and

Whereas, the Committee on Railroads recommended that the General Assembly enact a bill creating a Railroad Advisory Commission to advise the Governor, Council of State, and General Assembly of its opinion of any proposed lease or other transaction involving all or a substantial portion of the assets of the North Carolina Railroad Company; and

Whereas, the Committee on Railroads was not able to fully explore the other issues that were brought to its attention in the course of its discussions, and therefore requested in its report to the General Assembly that the study be continued for another two years;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission is authorized to study the present condition of the rail transportation system in North Carolina and the future of railroads in this State, including the issues of rail revitalization and rail corridor preservation.

Sec. 2. The Legislative Research Commission may make an interim report, including any recommendations, to the 1991 General Assembly, Regular Session 1992, and a final report to the 1993 General Assembly.

Sec. 3. This resolution is effective upon ratification.



**APPENDIX B**

**MEMBERSHIP OF LRC COMMITTEE ON  
RAILROADS AND OTHER PUBLIC TRANSPORTATION  
1991 - 1992**

**LRC Member:** Rep. Peggy M. Stamey  
6201 Arnold Drive  
Raleigh, NC 27607  
(919) 851-0495

**Members:**

**President Pro Tempore's Appointments**

Sen. Howard N. Lee, Cochair  
9 Riggsbee Road  
Chapel Hill, NC 27514  
(919) 942-6528

Sen. Franklin L. Block  
520 Princess Street  
Wilmington, NC 28401  
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Sen. N. Leo Daughtry  
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Smithfield, NC 27577  
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Mr. Cecil Hill  
The Legal Building  
One North Gaston Street  
Brevard, NC 28712

Sen. Robert L. Martin  
P.O. Box 387  
Bethel, NC 27812  
(919) 825-4361

Ms. Louise McColl  
2531 Confederate Drive  
Wilmington, NC 28403

Sen. Dennis J. Winner  
81-B Central Avenue  
Asheville, NC 28801  
(704) 258-0094

**Speaker's Appointments**

Rep. John W. Hurley, Cochair  
P.O. Box 714  
Fayetteville, NC 28302  
(919) 483-6210

Rep. Joanne W. Bowie  
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Greensboro, NC 27410  
(919) 294-2587

Mr. Wendell Edwards, Executive Director  
Choanoke Public Transportation Authority  
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Rich Square, NC 27869

Rep. Aaron E. Fussell  
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(919) 876-0240

Rep. Jack Hunt  
Lattimore, NC 28089  
(704) 434-6853

Rep. Howard J. Hunter, Jr.  
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Conway, NC 27820  
(919) 585-0683

Rep. Albert S. Lineberry, Sr.  
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Greensboro, NC 27402  
(919) 272-5157

Rep. Paul Luebke  
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Durham, NC 27705  
(919) 286-0269

Ms. Christie Price  
Box 2170  
Raleigh, NC 27602

Rep. George S. Robinson  
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**Staff:**

Mr. Giles Perry (919) 733-2578  
Mr. Sean Dail (919) 733-6660

**Clerk:**

Ms. Ginny McCann

**APPENDIX C**



1 Utilities Commission, engages in the transportation  
2 of persons or property for compensation, except as  
3 exempted in G.S. 62-260."

4 Sec. 4. G.S. 62-3(22) reads as rewritten:

5 "(22) 'Private carrier' means any ~~person~~ person, except a  
6 rail carrier, not included in the definitions of  
7 common carrier or contract carrier, which  
8 transports in intrastate commerce in its own  
9 vehicle or vehicles property of which such person  
10 is the owner, lessee, or bailee, when such  
11 transportation is for the purpose of sale, lease,  
12 rent, or bailment, or when such transportation is  
13 purely an incidental adjunct to some other  
14 established private business owned and operated by  
15 such person other than the transportation of  
16 property for compensation."

17 Sec. 5. G.S. 62-3(23) reads as rewritten:

18 "(23) a. 'Public utility' means a person, whether  
19 organized under the laws of this State or  
20 under the laws of any other state or country,  
21 now or hereafter owning or operating in this  
22 State equipment or facilities for:

23 1. Producing, generating, transmitting,  
24 delivering or furnishing electricity,  
25 piped gas, steam or any other like agency  
26 for the production of light, heat or  
27 power to or for the public for  
28 compensation; provided, however, that the  
29 term 'public utility' shall not include  
30 persons who construct or operate an  
31 electric generating facility, the primary  
32 purpose of which facility is for such  
33 person's own use and not for the primary  
34 purpose of producing electricity, heat,  
35 or steam for sale to or for the public  
36 for compensation.

37 2. Diverting, developing, pumping,  
38 impounding, distributing or furnishing  
39 water to or for the public for  
40 compensation, or operating a public  
41 sewerage system for compensation;  
42 provided, however, that the term "public  
43 utility" shall not include any person or  
44 company whose sole operation consists of

- 1 selling water to less than 10 residential  
2 customers, except that any person or  
3 company which constructs a water system  
4 in a subdivision with plans for 10 or  
5 more lots and which holds itself out by  
6 contracts or other means at the time of  
7 said construction to serve an area  
8 containing more than 10 residential  
9 building lots shall be a public utility  
10 at the time of such planning or holding  
11 out to serve such 10 or more building  
12 lots, without regard to the number of  
13 actual customers connected;
- 14 3. Transporting persons or property by  
15 street, suburban or interurban bus ~~or~~  
16 ~~railways~~ for the public for compensation;
- 17 4. Transporting persons or property by  
18 ~~railways~~ or motor vehicles, or any other  
19 form of transportation or express service  
20 for the public for compensation, except  
21 motor carriers exempted in G.S. 62-260,  
22 except rail carriers, and except carriers  
23 by air;
- 24 5. Transporting or conveying gas, crude oil  
25 or other fluid substance by pipeline for  
26 the public for compensation;
- 27 6. Conveying or transmitting messages or  
28 communications by telephone or telegraph,  
29 or any other means of transmission, where  
30 such service is offered to the public for  
31 compensation.
- 32 b. The term 'public utility' shall for  
33 rate-making purposes include any person  
34 producing, generating or furnishing any of the  
35 foregoing services to another person for  
36 distribution to or for the public for  
37 compensation.
- 38 c. The term 'public utility' shall include all  
39 persons affiliated through stock ownership  
40 with a public utility doing business in this  
41 State as parent corporation or subsidiary  
42 corporation as defined in G.S. 55-2 to such an  
43 extent that the Commission shall find that

1                   such affiliation has an effect on the rates or  
2                   service of such public utility.  
3           d.       The term 'public utility,' except as otherwise  
4                   expressly provided in this Chapter, shall not  
5                   include a municipality, an authority organized  
6                   under the North Carolina Water and Sewer  
7                   Authorities Act, electric or telephone  
8                   membership corporation or nonprofit water  
9                   membership or consumer-owned corporations  
10                  financed by the Farmers Home Administration,  
11                  the United States Department of Housing and  
12                  Urban Development, or any similar or successor  
13                  federal financing agency, provided, that (i)  
14                  any such financing administration, department  
15                  or agency exercise substantial control over  
16                  and regulation of any such corporation's rates  
17                  and terms and conditions of service, and (ii)  
18                  the members or consumer-owners of any such  
19                  corporation, pursuant to the corporation's  
20                  articles of incorporation and bylaws, shall  
21                  elect the governing board of the corporation;  
22                  or any person not otherwise a public utility  
23                  who furnishes such service or commodity only  
24                  to himself, his employees or tenants when such  
25                  service or commodity is not resold to or used  
26                  by others; provided, however, that any person  
27                  other than a nonprofit organization serving  
28                  only its members, who distributes or provides  
29                  utility service to his employees or tenants by  
30                  individual meters or by other coin-operated  
31                  devices with a charge for metered or  
32                  coin-operated utility service shall be a  
33                  public utility within the definition and  
34                  meaning of this Chapter with respect to the  
35                  regulation of rates and provisions of service  
36                  rendered through such meter or coin-operated  
37                  device imposing such separate metered utility  
38                  charge. If any person conducting a public  
39                  utility shall also conduct any enterprise not  
40                  a public utility, such enterprise is not  
41                  subject to the provisions of this Chapter. A  
42                  water or sewer system owned by a homeowners'  
43                  association that provides water or sewer  
44                  service only to members or leaseholds of



- 1 members is not subject to the provisions of  
2 this Chapter.
- 3 e. The term 'public utility' shall include the  
4 University of North Carolina insofar as said  
5 University supplies telephone service,  
6 electricity or water to the public for  
7 compensation from the University Enterprises  
8 defined in G.S. 116-41.1(9).
- 9 f. The term 'public utility' shall include the  
10 Town of Pineville insofar as said town  
11 supplies telephone services to the public for  
12 compensation. The territory to be served by  
13 the Town of Pineville in furnishing telephone  
14 services, subject to the Public Utilities Act,  
15 shall include the town limits as they exist on  
16 May 8, 1973, and shall also include the area  
17 proposed to be annexed under the town's  
18 ordinance adopted May 3, 1971, until January  
19 1, 1975.
- 20 g. The term 'public utility' shall not include a  
21 hotel, motel, time share or condominium  
22 complex operated primarily to serve transient  
23 occupants, which imposes charges to occupants  
24 for local, long-distance, or wide area  
25 telecommunication services when such calls are  
26 completed through the use of facilities  
27 provided by a public utility, and provided  
28 further that the local services received are  
29 rated in accordance with the provisions of  
30 G.S. 62-110(d) and the applicable charges for  
31 telephone calls are prominently displayed in  
32 each area where occupant rooms are located."

33 Sec. 6. G.S. 62-41 reads as rewritten:

34 "§ 62-41. To investigate accidents involving public utilities; to  
35 promote general safety program.

36 The Commission may conduct a program of accident prevention and  
37 public safety covering all public utilities with special emphasis  
38 on highway safety and transport safety and may investigate the  
39 causes of any accident on a ~~railroad or~~ highway involving a  
40 ~~public utility, or any accident in connection with any other~~  
41 public utility. Any information obtained upon such investigation  
42 shall be reduced to writing and a report thereof filed in the  
43 office of the Commission, which shall be subject to public  
44 inspection but such report shall not be admissible in evidence

1 in any civil or criminal proceeding arising from such accident.  
2 The Commission may adopt reasonable rules and regulations for the  
3 safety of the public as affected by public utilities and the  
4 safety of public utility employees. The Commission shall  
5 cooperate with and coordinate its activities for public utilities  
6 with similar programs of the Division of Motor Vehicles, the  
7 Insurance Department, the Industrial Commission and other  
8 organizations engaged in the promotion of highway safety and  
9 employee safety."

10 Sec. 7. G.S. 62-300(a) reads as rewritten:

11 "(a) The Commission shall receive and collect the following  
12 fees and charges in accordance with the classification of  
13 utilities as provided in rules and regulations of the Commission,  
14 and no others:

- 15 (1) Twenty-five dollars (\$25.00) with each notice of  
16 appeal to the Court of Appeals or the Supreme  
17 Court, and with each notice of application for a  
18 writ of certiorari.
- 19 (2) With each application for a new certificate or new  
20 permit for motor ~~and rail~~ carrier rights, the fee  
21 shall be two hundred fifty dollars (\$250.00) when  
22 filed by Class 1 motor ~~and rail~~ carriers, one  
23 hundred dollars (\$100.00) when filed by Class 2  
24 motor ~~and rail~~ carriers, and twenty-five dollars  
25 (\$25.00) when filed by Class 3 motor ~~and rail~~  
26 carriers, and twenty-five dollars (\$25.00) as  
27 filing fee for any amendment thereto so as to  
28 extend or enlarge the scope of operations  
29 thereunder, and twenty-five dollars (\$25.00) for  
30 each broker who applies for a brokerage license  
31 under the provisions of this Chapter.
- 32 (3) With each application for a general increase in  
33 rates, fares and charges and for each filing of a  
34 tariff which seeks general increases in rates,  
35 fares and charges, the fee will be five hundred  
36 dollars (\$500.00) for Class A utilities and Class 1  
37 motor ~~and rail~~ carriers, two hundred fifty dollars  
38 (\$250.00) for Class B utilities and Class 2 motor  
39 ~~and rail~~ carriers, one hundred dollars (\$100.00)  
40 for Class C utilities and twenty-five dollars  
41 (\$25.00) for Class D utilities and Class 3 motor  
42 ~~and rail~~ carriers; provided that in the case of an  
43 application or tariff for a general increase in  
44 rates filed by a tariff agent for more than one

- 1 carrier, the applicable fee shall be the highest  
2 fee prescribed for any motor carrier included in  
3 the application or tariff. This fee shall not apply  
4 to applications for adjustments in particular  
5 rates, fares, or charges for the purpose of  
6 eliminating inequities, preferences or  
7 discriminations or to applications to adjust rates  
8 and charges based solely on the increased cost of  
9 fuel used in the generation or production of  
10 electric power.
- 11 (4) One hundred dollars (\$100.00) ~~with each application~~  
12 ~~for discontinuance of train service, or for a~~  
13 ~~change in or discontinuance of station facilities~~  
14 and with each application by motor carrier of  
15 passengers for the abandonment or permanent or  
16 temporary discontinuance of transportation service  
17 previously authorized in a certificate.
- 18 (5) With each application for a certificate of public  
19 convenience and necessity or for any amendment  
20 thereto so as to extend or enlarge the scope of  
21 operations thereunder, the fee shall be two hundred  
22 fifty dollars (\$250.00) for Class A utilities, one  
23 hundred dollars (\$100.00) for Class B utilities,  
24 and twenty-five dollars (\$25.00) for Class C and D  
25 utilities and twenty-five dollars (\$25.00) for any  
26 other person seeking a certificate of public  
27 convenience and necessity.
- 28 (5a) With each application by a bus company for an  
29 original certificate of authority or for any  
30 amendment thereto or to an existing certificate of  
31 public convenience and necessity so as to extend or  
32 enlarge the scope of operations thereunder the fee  
33 shall be two hundred fifty dollars (\$250.00).
- 34 (6) With each application for approval of the issuance  
35 of securities or for the approval of any sale,  
36 lease, hypothecation, lien, or other transfer of  
37 any property or operating rights of any carrier or  
38 public utility over which the Commission has  
39 jurisdiction, the fee shall be two hundred fifty  
40 dollars (\$250.00) for Class A utilities and Class 1  
41 motor ~~and rail~~ carriers, one hundred dollars  
42 (\$100.00) for Class B utilities and Class 2 motor  
43 ~~and rail~~ carriers, and twenty-five dollars (\$25.00)  
44 for Class C and D utilities and Class 3 motor ~~and~~

- 1           ~~rail~~ carriers; provided, that in the case of sales,  
2           leases and transfers between two or more carriers  
3           or utilities, the applicable fee shall be the  
4           highest fee prescribed for any party to the  
5           transaction.
- 6           (7) Ten dollars (\$10.00) with each application,  
7           petition, or complaint not embraced in (2) through  
8           (6) of this section, wherein such application,  
9           petition, or complaint seeks affirmative relief  
10          against a carrier or public utility over which the  
11          Commission has jurisdiction. This fee shall not  
12          apply to applications for adjustments in particular  
13          rates, fares or charges for the purpose of  
14          eliminating inequities, preferences or  
15          discriminations; nor shall this fee apply to  
16          applications, petitions, or complaints made by any  
17          county, city or town; nor shall this fee apply to  
18          applications or petitions made by individuals  
19          seeking service or relief from a public utility.
- 20          (8) Repealed by Session Laws 1985, c. 454, s.18.
- 21          (9) One dollar (\$1.00) for each page (8 1/2 x 11  
22          inches) of transcript of testimony, but not less  
23          than five dollars (\$5.00) for any such transcript.
- 24          (10) Twenty cents (20¢) for each page of copies of  
25          papers, orders, certificates or other records, but  
26          not less than one dollar (\$1.00) for any such order  
27          or record, plus five dollars (\$5.00) for formal  
28          certification of any such paper, order or record.
- 29          (11), (12) Repealed by Session Laws 1985, c. 454,  
30          s. 18."
- 31          Sec. 8. G.S. 40A-3(a) reads as rewritten:
- 32          "(a) Private Condemnors. -- For the public use or benefit, the  
33          persons or organizations listed below shall have the power of  
34          eminent domain and may acquire by purchase or condemnation  
35          property for the stated purposes and other works which are  
36          authorized by law.
- 37          (1) Corporations, bodies politic or persons have the  
38          power of eminent domain for the construction of  
39          railroads, power generating facilities,  
40          substations, switching stations, microwave towers,  
41          roads, alleys, access railroads, turnpikes, street  
42          railroads, plank roads, tramroads, canals,  
43          telegraphs, telephones, electric power lines,  
44          electric lights, public water supplies, public

- 1 sewerage systems, flumes, bridges, and pipelines or  
2 mains originating in North Carolina for the  
3 transportation of petroleum products, coal, gas,  
4 limestone or minerals. Land condemned for any  
5 liquid pipelines shall:
- 6 a. Not be less than 50 feet nor more than 100  
7 feet in width; and
- 8 b. Comply with the provisions of G.S. 62-190(b).  
9 The width of land condemned for any natural gas  
10 pipelines shall not be more than 100 feet.
- 11 (2) School committees or boards of trustees or of  
12 directors of any corporation holding title to real  
13 estate upon which any private educational  
14 institution is situated, have the power of eminent  
15 domain in order to obtain a pure and adequate water  
16 supply for such institution.
- 17 (3) Franchised motor vehicle carriers or union bus  
18 station companies organized by authority of the  
19 Utilities Commission, have the power of eminent  
20 domain for the purpose of constructing and  
21 operating union bus stations: Provided, that this  
22 subdivision shall not apply to any city or town  
23 having a population of less than 60,000.
- 24 (4) Any railroad company has the power of eminent  
25 domain for the purposes of: constructing union  
26 depots; maintaining, operating, improving or  
27 straightening lines or of altering its location;  
28 constructing double tracks; constructing and  
29 maintaining new yards and terminal facilities or  
30 enlarging its yard or terminal facilities;  
31 connecting two of its lines already in operation  
32 not more than six miles apart; or constructing an  
33 industrial siding ordered by the Utilities  
34 Commission as provided in G.S. 62-232. Department  
35 of Transportation as provided in G.S. 136-203.
- 36 The width of land condemned for any single or double track  
37 railroad purpose shall be not less than 80 feet nor more than 100  
38 feet, except where the road may run through a town, where it may  
39 be of less width, or where there may be deep cuts or high  
40 embankments, where it may be of greater width.
- 41 No rights granted or acquired under this subsection shall in  
42 any way destroy or abridge the rights of the State to regulate or  
43 control any railroad company or to regulate foreign corporations  
44 doing business in this State. Whenever it is necessary for any

1 railroad company doing business in this State to cross the street  
2 or streets in a town or city in order to carry out the orders of  
3 the ~~Utilities Commission~~, Department of Transportation to  
4 construct an industrial siding, the power is hereby conferred  
5 upon such railroad company to occupy such street or streets of  
6 any such town or city within the State. Provided, license so to  
7 do be first obtained from the board of aldermen, board of  
8 commissioners, or other governing authorities of such town or  
9 city.

10 No such condemnor shall be allowed to have condemned to its  
11 use, without the consent of the owner, his burial ground, usual  
12 dwelling house and yard, kitchen and garden, unless condemnation  
13 of such property is expressly authorized by statute.

14 The power of eminent domain shall be exercised by private  
15 condemnors under the procedures of Article 2 of this Chapter."

16 Sec. 9. G.S. 160A-195 reads as rewritten:

17 "**§ 160A-195. Regulating speed of trains.**

18 A city may by ordinance regulate the speed at which railroad  
19 trains may be operated within the corporate limits. Any such  
20 ordinance shall be filed with the ~~Utilities Commission~~ Department  
21 of Transportation as required by ~~G.S. 62-238.1~~, G.S. 136-210."

22 Sec. 10. G.S. 136-17.2 reads as rewritten:

23 "**§ 136-17.2. Members of the Board of Transportation represent**  
24 **entire State.**

25 The chairman and members of the Board of Transportation shall  
26 represent the entire State in highway transportation matters and  
27 not represent any particular person, persons, or area. The Board  
28 shall, from time to time, provide that one or more of its members  
29 or representatives shall publicly hear any person or persons  
30 concerning highway transportation matters in each of said  
31 geographic areas of the State."

32 Sec. 11. G.S. 136-18 is amended by adding a new  
33 subdivision to read:

34 "(30) The Department of Transportation shall have  
35 and exercise such general power and authority  
36 to supervise and control the railroads of the  
37 State as may be necessary to carry out the  
38 laws providing for their regulation, and all  
39 other powers and duties as may be necessary or  
40 incident to the proper discharge of its  
41 duties."

42 Sec. 12. Article 11 of Chapter 62 of the General  
43 Statutes, G.S. 62-220 to 62-247, is recodified as Article 15 of  
44 Chapter 136 of the General Statutes, G.S. 136-191 to 136-219.

1 G.S. 62-192 is recodified as G.S. 136-220 and included within  
 2 Article 15. G.S. 62-319 is recodified as G.S. 136-221 and  
 3 included within Article 15. G.S. 62-322 is recodified as G.S.  
 4 136-222 and included within Article 15. The Revisor of Statutes  
 5 shall change any references to "the Commission" to "the  
 6 Department of Transportation" and shall change the reference to  
 7 "G.S. 62-238.1(b)" in G.S. 62-239, recodified as G.S. 136-211, to  
 8 "G.S. 136-210".

9 The following table serves as a locator for the statutes  
 10 recodified by this section:

11	<u>Original Section Number</u>	<u>Recodified Section Number</u>
12	G.S. 62-220	G.S. 136-191
13	G.S. 62-221	G.S. 136-192
14	G.S. 62-222	G.S. 136-193
15	G.S. 62-223	G.S. 136-194
16	G.S. 62-224	G.S. 136-195
17	G.S. 62-225	G.S. 136-196
18	G.S. 62-226	G.S. 136-197
19	G.S. 62-227	G.S. 136-198
20	G.S. 62-228	G.S. 136-199
21	G.S. 62-229	G.S. 136-200
22	G.S. 62-230	G.S. 136-201
23	G.S. 62-231	G.S. 136-202
24	G.S. 62-232	G.S. 136-203
25	G.S. 62-233	G.S. 136-204
26	G.S. 62-234	G.S. 136-205
27	G.S. 62-235	G.S. 136-206
28	G.S. 62-236	G.S. 136-207
29	G.S. 62-237	G.S. 136-208
30	G.S. 62-238	G.S. 136-209
31	G.S. 62-238.1	G.S. 136-210
32	G.S. 62-239	G.S. 136-211
33	G.S. 62-240	G.S. 136-212
34	G.S. 62-241	G.S. 136-213
35	G.S. 62-242	G.S. 136-214
36	G.S. 62-243	G.S. 136-215
37	G.S. 62-244	G.S. 136-216
38	G.S. 62-245	G.S. 136-217
39	G.S. 62-246	G.S. 136-218
40	G.S. 62-247	G.S. 136-219
41	G.S. 62-192	G.S. 136-220
42	G.S. 62-319	G.S. 136-221
43	G.S. 62-322	G.S. 136-222

1           Sec. 13. Article 15 of Chapter 136 of the General  
2 Statutes, as created by Section 12 of this act, is amended by  
3 adding a new section to read:

4 "§ 136-190. Power to make and enforce rules for railroads.

5       (a) The Department of Transportation shall administer and  
6 enforce the provisions of this Article, and may adopt rules  
7 needed to accomplish the administration and enforcement of the  
8 provisions of this Article."

9           Sec. 14. Article 15 of Chapter 136 of the General  
10 Statutes, as created by Section 12 of this act, is amended by  
11 adding a new section to read:

12 "§ 136-222. Tickets; conduct of passengers.

13 The provisions of G.S. 62-149, 62-150, and 62-151, regarding  
14 the use of tickets and the conduct of passengers on common  
15 carriers, apply to railroads regulated under this Article."

16           Sec. 15. G.S. 62-235, as recodified as G.S. 136-205 by  
17 Section 12 of this act, reads as rewritten:

18 "§136-205. Department of Transportation to inspect railroads as  
19 to equipment and facilities, and to require repair.

20       (a) The Department of Transportation is empowered and directed,  
21 from time to time, to carefully examine into and inspect the  
22 condition of each railroad, its equipment and facilities, in  
23 regard to the safety and convenience of the public and the  
24 railroad employees; and if any are found by it to be unsafe, it  
25 shall at once notify and require the railroad company to put the  
26 same in repair.

27       (b) The Department of Transportation may conduct a program of  
28 accident prevention and public safety covering all railroads and  
29 may investigate the cause of any railroad accident. In order to  
30 facilitate this program, any railroad involved in an accident  
31 that must be reported to the Federal Railroad Administration  
32 shall also notify the Department of Transportation of the  
33 occurrence of the accident."

34           Sec. 16. G.S. 62-236, as recodified as G.S. 136-206 by  
35 Section 12 of this act, reads as rewritten:

36 "§136-206. To require installation and maintenance of block  
37 system railroad traffic signal and control systems,  
38 block signal systems, and safety devices; automatic  
39 signals at railroad intersections.

40       (a) The Department of Transportation is empowered and directed  
41 to may require any railroad company to install and put in  
42 operation and maintain upon the whole or any part of its road an  
43 appropriate system of railroad signals and controls, a block  
44 signal system, system of telegraphy or any other reasonable



1 safety device, but no railroad company shall be required to  
2 install a block system upon any part of its road unless at least  
3 eight trains each way per day are operated on that part.

4 (b) The Department of Transportation ~~is empowered and directed~~  
5 to may require, when public safety demands, where two or more  
6 railroads cross each other at a common grade, or any railroad  
7 crosses any stream or harbor by means of a bridge, to install and  
8 maintain such a system of ~~interlocking or automatic interlocking,~~  
9 block, automatic, or automatic block signals as will render it  
10 safe for engines and trains to pass over such crossings or bridge  
11 without stopping, and to apportion the cost of installation and  
12 maintenance between said railroads as may be just and proper."

13 Sec. 17. There is appropriated from the Highway Fund to  
14 the Department of Transportation the sum of \$300,000 for the  
15 1992-93 fiscal year to implement the provisions of this act.  
16 The Legislative Research Commission's Committee on Railroads and  
17 Other Public Transportation shall study the issue of funding for  
18 the railroad supervision and railroad safety supervision programs  
19 transferred to the Department of Transportation in this act and  
20 shall make a recommendation on future funding to the 1993 General  
21 Assembly.

22 Sec. 18. This act becomes effective July 1, 1992,  
23 provided that adequate funds are appropriated by the General  
24 Assembly.

## EXPLANATION OF LEGISLATION

This bill transfers all railroad safety inspection and other regulatory functions currently performed by the Utilities Commission to the Department of Transportation. All Utilities Commission statutes pertaining to railroad regulation are transferred to Chapter 136, and a new Article 15 is created providing for regulation by DOT; all references to railroads in statutes dealing with regulatory activities of the Utilities Commission are removed. DOT is given the power to administer and enforce the railroad regulation statutes transferred to it and to adopt rules necessary to do so.

The bill also adds to the safety inspection powers transferred by (1) authorizing an accident prevention and public safety program; (2) authorizing investigations into the cause of any railroad accident; and (3) requiring any railroad involved in an accident that must be reported to the Federal Railroad Administration to notify DOT of the occurrence of the accident. The responsibilities of the Board of Transportation are expanded from representation of the State in "highway matters" to "transportation matters".

The bill appropriates \$300,000 to DOT from the Highway Fund for the 1992-93 fiscal year to implement the transfer, and provides that the Committee on Railroads and Other Public Transportation shall study the issue of future funding and make a recommendation to the 1993 General Assembly. The \$300,000 for 1992-93 represents the estimated amount needed to cover the salaries of three rail safety inspectors transferred from the Utilities Commission and other costs connected with regulatory activities.

A section-by-section explanation of the bill follows:

Section 1           Transfers the Rail Safety Section of Transportation Division of the Utilities Commission to the Department of Transportation.

- Sections 2-5 Rewrite the definitions of "common carrier", "contract carrier", "private carrier", and "public utility" within Utilities Commission statutes to exclude rail carriers.
- Section 6 Removes the authority of the Utilities Commission to conduct accident prevention program and investigate accidents on a railroad.
- Section 7 Removes the authority of the Utilities Commission to collect specified fees from rail carriers.
- Section 8 Technical change to a reference in G.S. 40A-3(a) from "Utilities Commission" to "Department of Transportation".
- Section 9 Technical change requires a city passing ordinance regulating train speed to file with DOT rather than the Utilities Commission.
- Section 10 Expands the responsibility of the Board of Transportation from representation of the entire State in "highway matters" to "transportation matters."
- Section 11 Grants authority to DOT for the regulation of railroads.
- Section 12 Transfers Utilities Commission statutes pertaining to railroad regulation (G.S. 62-220 through 62-247, 62-192, 62-319, and 62-322) to Chapter 136, creating a new Article 15 providing for regulation by DOT;  
 Except as noted below these statutes are transferred intact, making only technical changes in statutory designations and references, and departmental references.
- Section 13 Adds a new section to new Article 15 of Chapter 136, providing DOT with the power to administer and enforce railroad regulation statutes transferred from the Utilities Commission and to adopt rules necessary to do so.

- Section 14 Adds a new section providing that statutes regarding the use of tickets and conduct of passengers, applicable to common carriers regulated by the Utilities Commission, continue to apply to railroads regulated by DOT.
- Section 15 Adds to the safety inspection powers transferred to DOT from Utilities Commission by
- (1) authorizing an accident prevention and public safety program;
  - (2) authorizing investigation into the cause of any railroad accident; and
  - (3) requiring any railroad involved in an accident that must be reported to the Federal Railroad Administration to notify DOT of the occurrence of the accident.
- Section 16 Modernizes DOT's authority to require traffic signal and control systems along a railroad and at grade crossings and bridges.
- Section 17 Appropriates \$300,000 from the Highway Fund to DOT for 1992-93 fiscal year to implement the act, and provides that the Committee on Railroads and Other Public Transportation shall study the issue of future funding and make a recommendation to the 1993 General Assembly.
- Section 18 Makes act effective July 1, 1992, provided that adequate funds are appropriated.

**APPENDIX D**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

**DRAFT**  
**FOR REVIEW ONLY**

S/H

D

91-LLZ-204(3.23)

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Prop. Taxes for Pub. Transport.

(Public)

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Sponsors: .

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW CITIES AND COUNTIES TO USE PROPERTY TAXES TO  
3 SUPPORT PUBLIC TRANSPORTATION WITHOUT CALLING A REFERENDUM.  
4 The General Assembly of North Carolina enacts:  
5           Section 1. G.S. 153A-149(c) reads as rewritten:  
6   "(c) Each county may levy property taxes for one or more of  
7 the purposes listed in this subsection up to a combined rate of  
8 one dollar and fifty cents (\$1.50) on the one hundred dollars  
9 (\$100.00) appraised value of property subject to taxation.  
10 Authorized purposes subject to the rate limitation are:  
11           (1) To provide for the general administration of the  
12           county through the board of county commissioners,  
13           the office of the county manager, the office of the  
14           county budget officer, the office of the county  
15           finance officer, the office of the county assessor,  
16           the office of the county tax collector, the county  
17           purchasing agent, and the county attorney, and for  
18           all other general administrative costs not  
19           allocated to a particular board, commission,  
20           office, agency, or activity of the county.  
21           (2) Agricultural Extension. -- To provide for the  
22           county's share of the cost of maintaining and  
23           administering programs and services offered to

- 1 agriculture by or through the Agricultural  
2 Extension Service or other agencies.
- 3 (3) Air Pollution. -- To maintain and administer air  
4 pollution control programs.
- 5 (4) Airports. -- To establish and maintain airports and  
6 related aeronautical facilities.
- 7 (5) Ambulance Service. -- To provide ambulance  
8 services, rescue squads, and other emergency  
9 medical services.
- 10 (6) Animal Protection and Control. -- To provide animal  
11 protection and control programs.
- 12 (6a) Arts Programs and Museums. -- To provide for arts  
13 programs and museums as authorized in G.S.  
14 160A-488.
- 15 (6b) Auditoriums, coliseums, and convention and civic  
16 centers. -- To provide public auditoriums,  
17 coliseums, and convention and civic centers.
- 18 (7) Beach Erosion and Natural Disasters. -- To provide  
19 for shoreline protection, beach erosion control,  
20 and flood and hurricane protection.
- 21 (8) Cemeteries. -- To provide for cemeteries.
- 22 (9) Civil Preparedness. -- To provide for civil  
23 preparedness programs.
- 24 (10) Debts and Judgments. -- To pay and discharge any  
25 valid debt of the county or any judgment lodged  
26 against it, other than debts and judgments  
27 evidenced by or based on bonds and notes.
- 28 (10a) Defense of Employees and Officers. -- To provide  
29 for the defense of, and payment of civil judgments  
30 against, employees and officers or former employees  
31 and officers, as authorized by this Chapter.
- 32 (10b) Economic Development. -- To provide for economic  
33 development as authorized by G.S. 158-12.
- 34 (11) Fire Protection. -- To provide fire protection  
35 services and fire prevention programs.
- 36 (12) Forest Protection. -- To provide forest management  
37 and protection programs.
- 38 (13) Health. -- To provide for the county's share of  
39 maintaining and administering services offered by  
40 or through the county or district health  
41 department.
- 42 (14) Historic Preservation. -- To undertake historic  
43 preservation programs and projects.

- 1 (15) Hospitals. -- To establish, support and maintain  
2 public hospitals and clinics, and other related  
3 health programs and facilities, or to aid any  
4 private, nonprofit hospital, clinic, related  
5 facility, or other health program or facility.
- 6 (15a) Housing Rehabilitation. -- To provide for personnel  
7 costs related to planning and administration of  
8 housing rehabilitation programs authorized by G.S.  
9 153A-376. This subdivision only applies to  
10 counties with a population of 400,000 or more,  
11 according to the most recent decennial federal  
12 census.
- 13 (16) Human Relations. -- To undertake human relations  
14 programs.
- 15 (16a) Industrial Development. -- To provide for  
16 industrial development as authorized by G.S.  
17 158-7.1.
- 18 (17) Joint Undertakings. -- To cooperate with any other  
19 county, city, or political subdivision in providing  
20 any of the functions, services, or activities  
21 listed in this subsection.
- 22 (18) Law Enforcement. -- To provide for the operation of  
23 the office of the sheriff of the county and for any  
24 other county law-enforcement agency not under the  
25 sheriff's jurisdiction.
- 26 (19) Libraries. -- To establish and maintain public  
27 libraries.
- 28 (20) Mapping. -- To provide for mapping the lands of the  
29 county.
- 30 (21) Medical Examiner. -- To provide for the county  
31 medical examiner or coroner.
- 32 (22) Mental Health. -- To provide for the county's share  
33 of the cost of maintaining and administering  
34 services offered by or through the area mental  
35 health, developmental disabilities, and substance  
36 abuse authority.
- 37 (23) Open Space. -- To acquire open space land and  
38 easements in accordance with Article 19, Part 4,  
39 Chapter 160A of the General Statutes.
- 40 (24) Parking. -- To provide off-street lots and garages  
41 for the parking and storage of motor vehicles.
- 42 (25) Parks and Recreation. -- To establish, support and  
43 maintain public parks and programs of supervised  
44 recreation.



- 1           (26) Planning. -- To provide for a program of planning  
2           and regulation of development in accordance with  
3           Article 18 of this Chapter and Article 19, Parts 3A  
4           and 6, of Chapter 160A of the General Statutes.
- 5    ~~(27)~~ (26a) Ports and Harbors. -- To participate in programs  
6           with the North Carolina Ports Authority and provide  
7           for harbor masters.
- 8           (27) Public Transportation. -- To provide (i) public  
9           transportation systems, facilities, or equipment,  
10          including bus, truck, ferry, and railroad  
11          terminals, depots, trackages, vehicles, and  
12          ferries, and (ii) mass transit systems.
- 13          (27a) Railway Corridor Preservation. -- To acquire  
14          property for railroad corridor preservation as  
15          authorized by G.S. 160A-498.
- 16          (28) Register of Deeds. -- To provide for the operation  
17          of the office of the register of deeds of the  
18          county.
- 19          (29) Sewage. -- To provide sewage collection and  
20          treatment services as defined in G.S. 153A-274(2).
- 21          (30) Social Services. -- To provide for the public  
22          welfare through the maintenance and administration  
23          of public assistance programs not required by  
24          Chapters 108A and 111 of the General Statutes, and  
25          by establishing and maintaining a county home.
- 26          (31) Solid Waste. -- To provide solid waste collection  
27          and disposal services, and to acquire and operate  
28          landfills.
- 29          (31a) Stormwater. -- To provide structural and natural  
30          stormwater and drainage systems of all types.
- 31          (32) Surveyor. -- To provide for a county surveyor.
- 32          (33) Veterans' Service Officer. -- To provide for the  
33          county's share of the cost of services offered by  
34          or through the county veterans' service officer.
- 35          (34) Water. -- To provide water supply and distribution  
36          systems.
- 37          (35) Watershed Improvement. -- To undertake watershed  
38          improvement projects.
- 39          (36) Water Resources. -- To participate in federal water  
40          resources development projects.
- 41          (37) Armories. -- To supplement available State or  
42          federal funds to be used for the construction  
43          (including the acquisition of land), enlargement or

1 repair of armory facilities for the North Carolina  
2 national guard."

3 Sec. 2. G.S. 160A-209(d) reads as rewritten:

4 "(c) Each city may levy property taxes for one or more of the  
5 following purposes subject to the rate limitation set out in  
6 subsection (d):

- 7 (1) Administration. -- To provide for the general  
8 administration of the city through the city  
9 council, the office of the city manager, the office  
10 of the city budget officer, the office of the city  
11 finance officer, the office of the city tax  
12 collector, the city purchasing agent, the city  
13 attorney, and for all other general administrative  
14 costs not allocated to a particular board,  
15 commission, office, agency, or activity.
- 16 (2) Air Pollution. -- To maintain and administer air  
17 pollution control programs.
- 18 (3) Airports. -- To establish and maintain airports and  
19 related aeronautical facilities.
- 20 (4) Ambulance Service. -- To provide ambulance  
21 services, rescue squads, and other emergency  
22 medical services.
- 23 (5) Animal Protection and Control. -- To provide animal  
24 protection and control programs.
- 25 (5a) Arts Programs and Museums. -- To provide for arts  
26 programs and museums as authorized in G.S.  
27 160A-488.
- 28 (6) Auditoriums, Coliseums, and Convention Centers. --  
29 To provide public auditoriums, coliseums, and  
30 convention centers.
- 31 (7) Beach Erosion and Natural Disasters. -- To provide  
32 for shoreline protection, beach erosion control and  
33 flood and hurricane protection.
- 34 (8) Cemeteries. -- To provide for cemeteries.
- 35 (9) Civil Defense. -- To provide for civil defense  
36 programs.
- 37 (9a) Community Development. -- To provide for community  
38 development as authorized by G.S. 160A-456 and  
39 160A-457.
- 40 (10) Debts and Judgments. -- To pay and discharge any  
41 valid debt of the city or any judgment lodged  
42 against it, other than debts or judgments evidenced  
43 by or based on bonds or notes.

- 1 (10a) Defense of Employees and Officers. -- To provide  
2 for the defense of, and payment of civil judgments  
3 against, employees and officers or former employees  
4 and officers, as authorized by this Chapter.
- 5 (10b) Economic Development. -- To provide for economic  
6 development as authorized by G.S. 158-12.
- 7 (10c) Drainage. -- To provide for drainage projects or  
8 programs in accordance with Chapter 156 of the  
9 General Statutes or in accordance with this  
10 Chapter.
- 11 (11) Elections. -- To provide for all city elections and  
12 referendums.
- 13 (12) Electric Power. -- To provide electric power  
14 generation, transmission, and distribution  
15 services.
- 16 (13) Fire Protection. -- To provide fire protection  
17 services and fire prevention programs.
- 18 (14) Gas. -- To provide natural gas transmission and  
19 distribution services.
- 20 (15) Historic Preservation. -- To undertake historic  
21 preservation programs and projects.
- 22 (15a) Housing. -- To undertake housing projects as  
23 defined in G.S. 157-3, and urban homesteading  
24 programs under G.S. 160A-457.2.
- 25 (16) Human Relations. -- To undertake human relations  
26 programs.
- 27 (17) Hospitals. -- To establish, support and maintain  
28 public hospitals and clinics, and other related  
29 health programs and facilities, and to aid any  
30 private, nonprofit hospital, clinic, related  
31 facility, or other health program or facility.
- 32 (17a) Industrial Development. -- To provide for  
33 industrial development as authorized by G.S. 158-  
34 7.1.
- 35 (18) Jails. -- To provide for the operation of a jail  
36 and other local confinement facilities.
- 37 (19) Joint Undertakings. -- To cooperate with any other  
38 county, city, or political subdivision of the State  
39 in providing any of the functions, services, or  
40 activities listed in this subsection.
- 41 (20) Libraries. -- To establish and maintain public  
42 libraries.
- 43 (21) Mosquito Control.

- 1 (22) Off-Street Parking. -- To provide off-street lots  
2 and garages for the parking and storage of motor  
3 vehicles.
- 4 (23) Open Space. -- To acquire open space land and  
5 easements in accordance with Article 19, Part 4, of  
6 this Chapter.
- 7 (24) Parks and Recreation. -- To establish, support and  
8 maintain public parks and programs of supervised  
9 recreation.
- 10 (25) Planning. -- To provide for a program of planning  
11 and regulation of development in accordance with  
12 Article 19 of this Chapter.
- 13 (26) Police. -- To provide for law enforcement.
- 14 ~~(27)~~ (26a) Ports and Harbors. -- To participate in programs  
15 with the North Carolina Ports Authority and to  
16 provide for harbor masters.
- 17 (27) Public Transportation. -- To provide (i) public  
18 transportation systems, facilities, or equipment,  
19 including bus, truck, ferry, and railroad  
20 terminals, depots, trackages, vehicles, and  
21 ferries, and (ii) mass transit systems.
- 22 (27a) Railroad Corridor Preservation. -- To acquire  
23 property for railroad corridor preservation.
- 24 (27b) Senior Citizens Programs. -- To undertake programs  
25 for the assistance and care of its senior citizens.
- 26 (28) Sewage. -- To provide sewage collection and  
27 treatment services as defined in G.S. 160A-311(3).
- 28 (29) Solid Waste. -- To provide solid waste collection  
29 and disposal services, and to acquire and operate  
30 landfills.
- 31 (30) Streets. -- To provide for the public streets,  
32 sidewalks, and bridges of the city.
- 33 (31) Traffic Control and On-Street Parking. -- To  
34 provide for the regulation of vehicular and  
35 pedestrian traffic within the city, and for the  
36 parking of motor vehicles on the public streets.
- 37 (31a) Urban Redevelopment. -- To provide for urban  
38 redevelopment.
- 39 (32) Water. -- To provide water supply and distribution  
40 services.
- 41 (33) Water Resources. -- To participate in federal water  
42 resources development projects.
- 43 (34) Watershed Improvement. -- To undertake watershed  
44 improvement projects."

1           Sec. 3. This act is effective upon ratification.

## **EXPLANATION OF LEGISLATION**

This bill adds public transportation to the list of purposes for which a city or county may use property taxes without calling a referendum. Section 1 of the bill adds to the list contained in G.S 153A-149(c) applying to counties; Section 2 adds to the list in 160A-209(d) applying to cities. The specific purpose for which use of property taxes is authorized is "[to] provide (i) public transportation systems, facilities, or equipment, including bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and (ii) mass transit systems."

**APPENDIX E**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

D

91-LLZ-205(3.23)

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Public Transit Tax Refund.

(Public)

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Sponsors: .

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PERMIT PUBLIC TRANSPORTATION AUTHORITIES AND REGIONAL  
3 PUBLIC TRANSPORTATION AUTHORITIES TO RECEIVE ANNUAL SALES TAX  
4 REFUNDS.  
5 The General Assembly of North Carolina enacts:  
6           Section 1. G.S. 105-164.14(c) reads as rewritten:  
7   "(c) Certain Governmental Entities. Upon receipt of timely  
8 applications for refund, the Secretary of Revenue shall make  
9 refunds annually to all governmental entities, as hereinafter  
10 defined, of sales and use tax paid under this Article, except  
11 under G.S. 105-164.4(4a) and G.S. 105-164.4(4c), by said  
12 governmental entities on direct purchases of tangible personal  
13 property. Sales and use tax liability indirectly incurred by such  
14 governmental entities on building materials, supplies, fixtures  
15 and equipment which shall become a part of or annexed to any  
16 building or structure being erected, altered or repaired which is  
17 owned or leased by such governmental entities shall be construed  
18 as sales or use tax liability incurred on direct purchases by  
19 such governmental entities, and such entities may obtain refunds  
20 of such taxes indirectly paid. The refund provisions contained in  
21 this subsection shall not apply to any governmental entities not  
22 specifically named herein. In order to receive the refund herein  
23 provided for, governmental entities shall file a written request  
24 for said refund within six months of the close of the fiscal year



1 of the governmental entities seeking said refund, and such  
2 request for refund shall be substantiated by such records,  
3 receipts and information as the Secretary may require. No refunds  
4 shall be made on applications not filed within the time allowed  
5 by this section and in such manner as the Secretary may otherwise  
6 require. The term 'governmental entities,' for the purposes of  
7 this subsection, shall mean all counties, incorporated cities and  
8 towns, water and sewer authorities created and existing under the  
9 provisions of Chapter 162A of the General Statutes, lake  
10 authorities created by a board of county commissioners pursuant  
11 to an act of the General Assembly, sanitary districts, regional  
12 councils of governments created pursuant to G.S. 160A-470, area  
13 mental health, mental retardation, and substance abuse  
14 authorities (other than single-county area authorities)  
15 established pursuant to Article 4 of Chapter 122C of the General  
16 Statutes, district health departments, regional planning and  
17 economic development commissions created pursuant to G.S. 158-14,  
18 regional sports authorities created pursuant to G.S. 160A-479,  
19 regional economic development commissions created pursuant to  
20 G.S. 158-8, regional planning commissions created pursuant to  
21 G.S. 153A-391, regional solid waste management authorities  
22 created pursuant to G.S. 153A-421, public transportation  
23 authorities created pursuant to Article 25 of Chapter 160A of the  
24 General Statutes, regional public transportation authorities  
25 created pursuant to Article 26 of Chapter 160A of the General  
26 Statutes, metropolitan sewerage districts and metropolitan water  
27 districts in this State, the North Carolina Low-Level Radioactive  
28 Waste Management Authority created pursuant to Chapter 104G of  
29 the General Statutes, the North Carolina Hazardous Waste  
30 Management Commission created pursuant to Chapter 130B of the  
31 General Statutes, and the Rockingham County Airport Authority.  
32 Notwithstanding the foregoing provisions of this subsection, the  
33 constituent institutions of The University of North Carolina may  
34 obtain in the manner prescribed by this subsection a refund of  
35 sales and use tax paid by them on or after January 1, 1992, for  
36 tangible personal property acquired by them through the  
37 expenditure of contract and grant funds."

38           Sec. 2. This act is effective upon ratification.

## **EXPLANATION OF LEGISLATION**

This bill adds public transportation authorities created under Article 25 of Chapter 160A of the General Statutes and regional public transportation authorities created under Article 26 of Chapter 160A of the General Statutes to the list of "governmental entities" entitled under G.S. 105-164.14(c) to refunds of sales and use taxes paid on direct purchases of tangible personal property.

**APPENDIX F**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

**DRAFT  
FOR REVIEW ONLY**

D

91-LLZ-209(3.24)

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: State Govt. Commuting Study.

(Public)

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Sponsors: .

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO DIRECT THE DEPARTMENT OF ADMINISTRATION TO STUDY AND  
3 RECOMMEND METHODS FOR ENCOURAGING STATE EMPLOYEES TO USE PUBLIC  
4 TRANSIT IN COMMUTING TO WORK.  
5 The General Assembly of North Carolina enacts:  
6           Section 1. The Department of Administration shall, in  
7 consultation with the Department of Transportation, study and  
8 recommend methods for encouraging State employees to use public  
9 transit, including carpools and vanpools, in commuting to work.  
10 The Department of Administration shall report its findings and  
11 recommendations to the 1993 General Assembly by March 15, 1993.  
12           Sec. 2. This act is effective upon ratification.

## **EXPLANATION OF LEGISLATION**

This bill directs the Department of Administration to study and recommend methods for encouraging State employees to use public transit, including carpooling and vanpooling, in commuting to work. The Department is instructed to consult with the Department of Transportation in conducting its study, and is required to report its findings and recommendations to the 1993 General Assembly by March 15, 1993.

**APPENDIX G**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

2

SENATE BILL 131  
Second Edition Engrossed 3/7/91

Short Title: Preserve Railroad Easements.

(Public)

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Sponsors: Senators Sherron, Allran, Cochrane, Kaplan, and Shaw.

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Referred to: Transportation.

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February 20, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW THE FILING OF AN AFFIDAVIT BY THE SECRETARY  
3 OF TRANSPORTATION OR BY AN OFFICER OF THE RAILROAD TO  
4 STATE AN INTENTION TO PRESERVE A RAILROAD EASEMENT FOR  
5 FUTURE TRANSPORTATION PURPOSES AND NEGATE THE  
6 PRESUMPTION OF ABANDONMENT.  
7 The General Assembly of North Carolina enacts:  
8 Section 1. G.S. 1-44.1 reads as rewritten:  
9 "§ 1-44.1. Presumption of abandonment of railroad ~~right-of-way~~ easement.  
10 (a) Any railroad which has removed its tracks from ~~a right-of-way~~ an easement and  
11 has not replaced them in whole or in part within a period of seven (7) years after such  
12 removal and which has not made any railroad use of any part of such ~~right-of-way~~  
13 easement after such removal of tracks for a period of seven (7) years after such  
14 removal, shall be presumed to have abandoned the railroad ~~right-of-way~~ easement.  
15 (b) Notwithstanding subsection (a) of this section, an abandonment shall not be  
16 presumed if an affidavit executed by (i) an appropriate officer of the railroad holding  
17 railroad easements or (ii) the Secretary of the Department of Transportation is  
18 recorded in the registry of the county in which easements are located stating the  
19 affiant's intention to preserve easements for future transportation use."  
20 Sec. 2. This act is effective upon ratification.

## EXPLANATION OF SENATE BILL 131

Senate Bill 131, A BILL TO BE ENTITLED AN ACT TO ALLOW THE FILING OF AN AFFIDAVIT BY THE SECRETARY OF TRANSPORTATION OR BY AN OFFICER OF THE RAILROAD TO STATE AN INTENTION TO PRESERVE A RAILROAD EASEMENT FOR FUTURE TRANSPORTATION PURPOSES AND NEGATE THE PRESUMPTION OF ABANDONMENT, would authorize the secretary of Transportation or an officer of a railroad company holding a railroad easement to file an affidavit stating the affiant's intention to preserve the easement for future transportation use. The filing of such an affidavit would negate the current presumption of abandonment that arises, pursuant to G.S. 1-44.1, seven years after the tracks are removed from the corridor.

This bill passed the Senate during the 1991 Session and was given a favorable report by the House Committee on Transportation.



**APPENDIX H**

A Summary

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# Intermodal Surface Transportation Efficiency Act of 1991



U.S. Department  
of Transportation

*Moving America*  
*To jobs... To homes... To market*





**Message by  
Transportation Secretary Skinner  
Summary of  
The Intermodal Surface Transportation  
Efficiency Act of 1991**

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**T**he Intermodal Surface Transportation Efficiency Act of 1991, signed into law by President Bush in December 1991, establishes a new vision for surface transportation in America. It represents a victory for the Nation, its citizens, and our economic vitality. The Bill embodies one of the President's top domestic agenda items: the renewal of our surface transportation programs to address the changing needs for America's future. It will create jobs, reduce congestion, and rebuild



our infrastructure. It will help maintain mobility. It will help State and local governments address environmental issues. Finally, it will ensure America's ability to compete in the global marketplace of the 21st Century.

Overall, this landmark Bill embodies the President's vision and direction as stated in his National Transportation Policy.

It maintains and expands the Nation's Transportation system; fosters a sound financial base for transportation; keeps the industry strong and competitive; and promotes safety, protects the environment, and improves the quality of life.

To all our partners in the transportation community, who worked so hard and long for this Bill, best wishes for every success as you take this Bill and create our transportation system of the 21st Century.

Samuel K. Skinner  
Secretary of Transportation

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## Intermodal Surface Transportation Efficiency Act of 1991

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In December 1991, the President signed the Intermodal Surface Transportation Efficiency Act of 1991 providing authorizations for highways, highway safety, and mass transportation for the next 6 years. Total funding of about \$155 billion will be available in fiscal years (FY) 1992-1997. (See authorization table on pages 38-41 for a summary of funding by program.)

The purpose of the Act is clearly enunciated in its statement of policy:

*“to develop a National Intermodal Transportation System that is economically efficient, environmentally sound, provides the foundation for the Nation to compete in the global economy and will move people and goods in an energy efficient manner.”*

The provisions of the Act reflect these important policy goals. Some of the major features include:

- ★ A National Highway System (NHS), consisting primarily of existing Interstate routes and a portion of the Primary System, is established to focus Federal resources on roads that are the most important to interstate travel and national defense, roads that connect with other modes of transportation, and are essential for international commerce.
- ★ State and local governments are given more flexibility in determining transportation solutions, whether transit or highways, and the tools of enhanced planning and management systems to guide them in making the best choices.
- ★ New technologies, such as intelligent vehicle-highway systems and prototype magnetic levitation systems, are funded to push the Nation forward into thinking of new approaches in providing 21st Century transportation.

- ★ The private sector is tapped as a source for funding transportation improvements. Restrictions on the use of Federal funds for toll roads have been relaxed and private entities may even own such facilities.
- ★ The Act continues discretionary and formula funds for mass transit.
- ★ Highway funds are available for activities that enhance the environment, such as wetland banking, mitigation of damage to wildlife habitat, historic sites, activities that contribute to meeting air quality standards, a wide range of bicycle and pedestrian projects, and highway beautification.
- ★ Highway safety is further enhanced by a new program to encourage the use of safety belts and motorcycle helmets.
- ★ State uniformity in vehicle registration and fuel tax reporting is required. This will ease the recordkeeping and reporting burden on businesses and contribute substantially to increased productivity of the truck and bus industry.

The bill's comprehensive coverage is reflected in its eight titles:

- TITLE I —  
Surface Transportation (related to highways)
- TITLE II —  
Highway Safety
- TITLE III —  
Federal Transit Act Amendments of 1991
- TITLE IV —  
Motor Carrier Act of 1991
- TITLE V —  
Intermodal Transportation
- TITLE VI —  
Research
- TITLE VII —  
Air Transportation
- TITLE VIII —  
Extension of Highway-Related Taxes and Highway Trust Fund.

## TITLE I

# Surface Transportation

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This title covers matters relating mainly to highways. Authorizations of \$121 billion are provided in this title through programs that have been dramatically restructured from previous highway law. Some of the program funds are distributed through procedures that are significantly different from the formulas of the past. Layered on these differences are revised program eligibilities and requirements.

### PROGRAMS

The Federal-Aid Highway Program, for the past 20 years, had been directed primarily toward the construction and improvement of four Federal-aid systems – Interstate, Primary, Secondary and Urban – which constituted about 851,000 miles of the 3.9 million miles of roads in the United States. Now, instead of four Federal-aid systems, there are two systems:

- the National Highway System, and
- the Interstate System, which is a component of the NHS.

Plus, a new block grant type program, the Surface Transportation Program, will be available for all roads not functionally classified as local or rural minor collector. Thus, the Federal-aid program will encompass about 920,000 miles and will be based on a new framework.

The major Federal-aid programs are discussed below. For a more complete list of authorizations and programs refer to Table 1 on pages 38-41. Federal shares and availability periods are also shown on Table 2 on page 42.

### National Highway System

The National Highway System will consist of 155,000 miles (plus or minus 15 percent) of major roads in the United States. Included will be all Interstate routes, a large percentage of urban and rural principal arterials, the defense strategic highway network, and strategic highway connectors. The system, which will be

proposed by the Secretary of Transportation, after consultation with the States, must be designated by law by September 30, 1995. In the interim, the NHS will consist of highways classified as principal arterials.

The NHS funding level is \$21 billion for the 6 years. The formula for distribution is the same as for the Surface Transportation Program (STP) program (see discussion below). A State may choose to transfer 50 percent of the NHS funds to the new STP program; if the Secretary approves, 100 percent may be transferred.

### Interstate

Although a part of the NHS, the Interstate System will retain its separate identity and will receive separate funding. Provided is:

- Complete funding of Interstate Construction (\$7.2 billion).
- Interstate Substitute highway projects (\$960 million) (Interstate Substitute transit projects are funded at \$325 million in Title III).
- An Interstate Maintenance program, at a total of \$17 billion, finances projects to rehabilitate, restore, and resurface the Interstate System. Reconstruction is also eligible if it does not add capacity. However, high-occupancy-vehicle – HOV – and auxiliary lanes can be added.

The formulas for the three Interstate programs are basically the same as in previous law. Interstate Construction and Interstate Substitute are based on an estimate of cost to complete. The factors used for Interstate Maintenance, like the previous Interstate Resurfacing, Restoration, Rehabilitation, and Reconstruction, (4R) program, are lane miles and vehicle miles travelled.

### Surface Transportation Program

The Surface Transportation Program (STP) is a new block grant type program that may be used by the States and localities for any roads (including NHS) that are not functionally classified as local or rural minor collectors. These roads are now collectively referred to as Federal-aid roads. Bridge projects paid for with STP funds are not restricted to Federal-aid roads but may be on any

public road. Transit capital projects are also eligible under this program.

The total funding for the STP over the 6 years is \$23.9 billion. However, this level may be augmented by the transfer of funds from other programs and by the equity funds (Donor State Bonus, Reimbursement, Hold Harmless, and 90 Percent of Payments) which may be used as if they were STP funds. In addition, Minimum Allocation funds may be used for STP projects, as well as for projects under certain other categories.

The formula for distribution of funds is based on each State's FY 1987-1991 share of total national funding with appropriate adjustment for Interstate Maintenance and Bridge apportionments.

Once the funds are distributed to the States, each State must set aside 10 percent for safety construction activities, i.e., hazard elimination and rail-highway crossings, and 10 percent for transportation enhancements, which encompass a broad range of environmental-related activities. The State must divide 50 percent (62.5 percent of remaining 80 percent) of the funds by population between each of its areas over 200,000 and the remaining areas of the State. The remaining 30 percent can be used in any area of the State. Areas of 5,000 population or less are guaranteed an amount based on previous Secondary funding.

#### Congestion Mitigation and Air Quality Improvement Program

The Congestion Mitigation and Air Quality Improvement Program directs funds toward transportation projects in Clean Air Act non-attainment areas for ozone and carbon monoxide. These projects will contribute to meeting the attainment of national ambient area air quality standards. If a State has none of these non-attainment areas, the funds may be used as if they were STP funds.

Total funding for the program is \$6 billion. The funds are distributed based on each State's share of the population of air quality non-attainment areas weighted by degree of air pollution. A 1/2 percent minimum apportionment is guaranteed to each State.

#### Bridge Replacement and Rehabilitation Program

The Bridge Replacement and Rehabilitation Program is continued at a total authorization level of \$16.1 billion to provide assistance for any bridge on a public road. The program is basically unchanged from previous years in its formula and requirements. However, newly eligible are bridge painting, seismic retrofitting, and calcium magnesium applications. A timber bridge research and construction discretionary program is established with \$50.5 million in funding. Forty percent of a State's bridge funds may be transferred to the NHS or the STP; the transferred amounts are not subject to the STP set-asides and sub-State distribution requirements.

#### Federal Lands

The Federal Lands Program authorizations, previously available through four categories, are now provided through three categories —

- Indian Reservation Roads,
- Parkways and Park Roads, and
- Public Lands Highways, which incorporates the previous Forest Highway category.

Total funding for Federal Lands is \$2.6 billion. The funds are allocated on the basis of relative needs. The Forest Highway portion of Public Lands Highways and the Indian Reservation Roads authorizations are allocated by administrative formula.

#### Special Grant Programs

★ **Special Projects** — There are 539 Congressionally-designated highway projects in 6 broad groups:

- High Cost Bridge;
- Congestion Relief;
- High Priority Corridors on NHS;
- Rural and Urban Access;
- Priority Intermodal; and
- Innovative Projects.

There are other projects throughout the Act that receive separate funding, some with contract authority and some requiring annual appropriations.

- ★ **National High-Speed Ground Transportation Programs** — A magnetic levitation (Maglev) prototype development program is authorized at a sum of \$725 million (\$500 million from the Trust Fund and \$225 million from the general fund). These funds will be directed toward the development of one prototype project, selected from applicants across the Nation.

A separately funded (\$25 million from the Highway Trust Fund and \$25 million from the general fund) high-speed ground transportation demonstration program will fund selected projects that demonstrate new technologies related to any high-speed ground transportation projects, rail or maglev, already under construction or in operation.

- ★ **Scenic Byways Program** — Grant funds totaling \$50 million are authorized for the planning, design, and development of State scenic byway programs. In addition, an interim Scenic Byways grant program is funded at \$30 million to allow States to undertake scenic byways projects. Scenic byways, additionally, may be funded through the 10 percent set-aside of STP funds for enhancement activities.
- ★ **Use of Safety Belts and Motorcycle Helmets** — The Act permits the Secretary to provide grants to States that enact motorcycle helmet and safety belt use laws. To carry out this program an authorization of \$17 million is provided in the first year. Thereafter, the program will be funded by set-asides from Section 402 funds totalling \$48 million. States that do not enact these laws by FY 1994 will have penalties applied to their STP, NHS, and Congestion Mitigation and Air Quality funds. The penalty amounts must be transferred and used for the State's 402 Safety program.
- ★ **National Recreational Trails Funding Program** — Recreational trails for non-motorized and motorized uses will be funded from the Highway Trust Fund (see Title VIII discussion). Funds will be allocated to the States based in part on the amount of non-highway recreational fuel use and may be used for a variety of activities to construct and maintain recreational trails. The program will be administered by the Department of Transportation (DOT) in consultation with the Department of the Interior.

## Equity Adjustment Categories

Equity adjustment categories are the funds that were legislated to achieve equity in funding levels among the States. They cannot be considered programs because they are not directed toward a particular group of roads or activities. However, they do represent amounts of funds that will be distributed to the States. Following is a brief description of each category's formula and eligible uses.

- ★ **90 Percent Minimum Allocation** — Each State is guaranteed an amount so that its total apportionments and prior year allocations for the base programs (Interstate Construction, Interstate Maintenance, Interstate Substitute, NHS, STP, Bridge, Scenic Byways, and Safety Belt and Motorcycle Helmet grants) equal 90 percent (compared to 85 percent in previous law) of the percentage of its estimated contributions to the Highway Account of the Highway Trust Fund. One-half of the amount distributed to each State is subject to the sub-State distribution rules of the STP.

Minimum Allocation funds may be used for the following: Interstate, Interstate Substitute, Bridge, NHS, STP, Congestion Mitigation and Air Quality, Hazard Elimination, and Rail Highway Crossing projects.

- ★ **Donor State Bonus** — Donor States (those that contribute more to the Highway Trust Fund than they receive back in Federal-aid highway programs) receive a predetermined amount (\$3 billion dollars over the 6 years) based on a comparison of a projection of all payments into the Highway Trust Fund and the amount received in Federal-aid apportionments. Starting with the State with the lowest return, States are brought up to the level of return for States with the next higher level of return until available funds are depleted.

These bonus amounts effectively are treated as STP funds, except that the amounts are available until expended and one-half of the amount is subject to the sub-State distribution rules of the STP.

- ★ **Reimbursement** — This category reflects each State's share of the cost of routes incorporated into the Interstate System in 1956. For each of FYs 1996 and



1997, \$2 billion is authorized. A 1/2 percent minimum apportionment is guaranteed to each State.

These funds will be used as if they were STP funds; however, one-half of the amount will not be subject to the set-asides and sub-State distribution requirements of the STP.

- ★ **Hold Harmless** — The Act establishes a legislative percentage each State must receive of the Nation's funding annually. The funding programs included in this adjustment process, which includes apportionments and prior year allocations, are: Interstate Construction, Interstate Maintenance, NHS, STP, Congestion and Air Quality, Interstate Substitution, Bridge, Minimum Allocation, Federal Lands, Reimbursement, and Donor State Bonus.

Additions are made to the STP apportionment so that each State's total will achieve the legislative percentage. One-half of Hold Harmless funds received is subject to the set-asides and sub-State distribution requirements of the STP. The 90 percent guarantee and priority projects are not included in this hold harmless adjustment.

- ★ **90 Percent of Payments Guarantee** — This category guarantees all States 90 cents in return for every dollar they are estimated to have contributed to the Highway Trust Fund (other than the Mass Transit Account) for each year of the Act. The computation is based on all highway funds in the bill, except for special projects.

These also will be used as if they were STP funds; however, one-half of the amount is not subject to the set-asides and sub-State distribution requirements of the STP.

## OTHER IMPORTANT PROVISIONS

### Eligible Activities

The Act greatly expands the type of projects and activities that are now eligible under the basic programs. Some of the notable eligibilities are:

- ★ Transit capital improvements are eligible for use under the STP program, as noted before. Previous law only allowed the Federal-aid Urban Program funds to be used for transit capital. Also, transit projects (and non-NHS highway projects) are eligible for NHS funds, under certain conditions, in the corridor of fully access-controlled NHS routes.
- ★ A State may choose to use an unrestricted amount of NHS and STP funds on transportation planning, and research and development. Transit research and development is also eligible for STP funds.
- ★ Participation in wetland mitigation efforts is now eligible use of NHS and STP funds.
- ★ Start up costs for traffic management and control (limited to 2 years on the NHS) is eligible for both NHS and STP funds.
- ★ Improvements necessary to accommodate other transportation modes are eligible uses of both NHS and STP funds.

### Metropolitan Planning and Project Selection

The metropolitan planning provisions of the Act feature an enhanced role for local governments. The metropolitan planning organization (MPO) is responsible for developing, in cooperation with the State and affected transit operators, a long-range transportation plan and a transportation improvement program (TIP) for the area. The TIP must be consistent with this plan and must include all projects in the metropolitan area that are proposed for funding with either Title 23 or Federal Transit Act monies.

The planning process must now include additional considerations such as land use, intermodal connectivity methods to enhance transit service, and needs identified through the management systems.

Projects in areas over 200,000 population, which must be designated as Transportation Management Areas (TMA), are to be selected by the MPO in consultation with the State, except that projects on the NHS, Bridge, and Interstate Maintenance projects are selected by the State in cooperation with the MPO. In other areas, projects are selected by the State in cooperation with the MPO.

Metropolitan planning is funded by 1 percent of the funds authorized for the NHS, STP, Congestion Mitigation and Air Quality Program, Interstate Maintenance Program and Bridge Program. In addition, metropolitan planning is an eligible activity under the NHS and STP.

#### Statewide Planning

Newly required under this Act are:

- a statewide planning process,
- statewide transportation plan, and
- a statewide transportation program.

The statewide TIP must include all projects in the State proposed for funding with Title 23 or Federal Transit Act funds, and must be consistent with the long-range plan. The States' funds that are earmarked for planning and research under 23 U.S.C. 307(c)(1), which amount to 2 percent of the major program funds, are available to carry out the statewide planning requirements, with some conditions. Statewide planning also is an eligible activity under the NHS and STP.

#### Management Systems

In addition to carrying out the statewide and metropolitan planning requirements, the State must develop, establish, and implement six management systems —

- highway pavement,
- bridge,
- highway safety,
- traffic congestion,
- public transportation facilities and equipment, and
- intermodal transportation facilities and systems.

The States can finance the management systems with NHS, STP, Congestion Mitigation and Air Quality, apportioned Bridge, and Planning funds.

In metropolitan areas, the systems must be developed and implemented in cooperation with MPO's, and in TMA's the traffic congestion management system must be developed through the transportation planning process. In TMA's that include non-attainment areas for ozone and carbon monoxide, highway projects which significantly increase capacity for single-occupant vehicles must be part of an approved congestion management system. Non-implementation of the systems by FY 1996 will result in a 10 percent penalty of apportioned highway funds and transit funds.

#### Program Operation

States have more responsibility for standards applying to highways under the new law. All non-NHS projects must be constructed in accord with standards established under State law. Standards approved by the Secretary need only apply to NHS new construction, NHS reconstruction and NHS 3R (resurfacing, restoring, and rehabilitating) on multilane limited-access highways.

The States may approve plans, specifications, and estimates (PS&E) on NHS 3R projects if all work meets or exceeds standards. Also, the State can approve PS&E on any NHS project costing less than \$1 million and on all non-NHS projects.

Certification acceptance is retained substantially as it existed. It will apply to all apportioned programs (NHS, STP, Congestion Mitigation and Air Quality, and Bridge), except for Interstate projects. Final inspection of each project is no longer required.

#### Toll Roads

Tolls are permitted to a much greater degree than in the past on Federal-aid facilities, i.e., roads, bridges and tunnels. Types of work that may be done are:

- 1) Initial construction of toll facilities (except for Interstate),
- 2) 4R work on toll facilities,
- 3) Reconstruction or replacement of free bridges or tunnels and conversion to toll facilities,
- 4) Reconstruction of free highways (except Interstate roads) to convert to toll, and

- 5) preliminary studies to determine the feasibility of the above work.

The tolls may be continued if used for transportation purposes under Title 23.

For the first time private entities may own the toll facilities. However, the applicable public authority, regardless of ownership, must ensure that Title 23 requirements are being carried out. A State may loan the Federal share of a project's cost to another public or a private agency constructing the project. Repaid funds may be used for any of the funding program purposes.

#### Congestion Pricing

A congestion pricing pilot program that could involve the imposition of tolls will be initiated and will consist of five projects. Up to three of the projects may be on the Interstate System. The program will be funded by \$25 million of FHWA's administrative funds for each of the FY's 1992-1997.

#### Outdoor Advertising

States may now use their regularly apportioned highway funds for removal of any lawfully erected nonconforming outdoor advertising sign, display, or device. Outdoor advertising controls will apply to the Interstate System and roads that were on the Federal-aid Primary System as it existed on June 1, 1991, and any highway which is not included above but which is on the National Highway System.

#### National Maximum Speed Limit Compliance Program

The Act amends the speed limit law to:

- 1) Make permanent the law allowing 65 mph speed limit on some non-Interstate highways that are constructed to Interstate standards,
- 2) Provide for data collection on roads posted at 65 mph as well as 55 mph, and
- 3) Require regulations for a new speed limit monitoring and compliance program that will take into account different types of roads and the degree to which the speed limit is exceeded.

Transfer of funds as determined through rulemaking will be required if the States fail to enforce the speed limit. However, an enforcement moratorium is provided for failure to comply, in FYs 1990 and 1991, with the speed limit requirements in effect before the Act's effective date.

## Highway Safety

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The non-construction highway safety programs, which are covered under this title, are basically unchanged from existing law. A total of \$1.63 billion is authorized. The major programs are discussed below; a full listing of authorized programs can be found in the authorization table on pages 38-41.

### MOTOR VEHICLE SAFETY AND COST SAVINGS

The Act provides funding to continue the provisions of the National Traffic and Motor Vehicle Safety Act of 1966, and the Motor Vehicle Information and Cost Savings Act.

The Act includes a number of motor vehicle safety rulemaking requirements and additional directions for rulemaking, including:

- ★ Rollover protection for occupants of passenger cars, multipurpose passenger vehicles, and light trucks.
- ★ Side impact protection for occupants of multipurpose passenger vehicles.
- ★ Improved head impact protection (from interior components) for occupants of passenger cars.
- ★ Air bag crash protection systems for drivers and right front passengers in new passenger cars and new light trucks (including light buses) and multipurpose passenger vehicles.

### STATE AND COMMUNITY GRANTS — 402 PROGRAM

The Act expands the list of uniform guidelines for the State and Community Highway Safety Grant Program under 23 USC 402, requiring the Secretary to issue guidelines for programs on: speed limits, occupant protection, impaired driving, motorcycle safety, school buses, law enforcement services, and the collection and reporting of data on traffic-related deaths and injuries.

Beginning in FY 1993, the amounts are made available out of Section 402 authorizations for specific purposes (Section 410 alcohol incentive grants; motorcycle helmet and safety belt use law grants; and the National Driver Register).

### SAFETY RESEARCH AND DEVELOPMENT — 403 PROGRAM

Much of the language of Section 403 Highway Safety Research and Development Program is restated for clarity, but the substance of the program is not materially affected.

### ALCOHOL-IMPAIRED DRIVING INCENTIVE GRANT — 410 PROGRAM

The Act revises the existing Section 410 Alcohol-Impaired Driving Incentive Grant Program, making a new 6-year incentive program. Under this program the Secretary will make basic and supplemental grants to States that adopt and implement specific programs such as prompt suspension of the driver's license of impaired drivers and mandatory sentences for persons who drive while under the influence of alcohol or a controlled substance.

For FY 1992, \$25 million is authorized, and in the next 5 years, a total of \$125 million is authorized from the sums made available for the Section 402 program.

### DRUG RECOGNITION EXPERT TRAINING PROGRAM

A regional program is established to implement drug recognition programs and for training law enforcement officers to recognize and identify people operating a motor vehicle while impaired by alcohol, a controlled substance, or other drug.

### NATIONAL DRIVER REGISTER ACT

The National Driver Register Act of 1982 is reauthorized without change in its provisions.

### TITLE III

## Federal Transit Act Amendments of 1991

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The transit formula and discretionary programs requirements and program structure remain basically unchanged from previous law, but achieve such objectives as transit and highway funding flexibility and identical matching shares, rail modernization funding by formula, increased use of the trust fund, and an expanded research program. However, a number of programs, including planning and research, are now funded as percentage takedowns from the total amount of funding provided rather than as separate line items.

Reflecting the broader mandates of the transit program, the Urban Mass Transportation Administration is renamed the Federal Transit Administration (FTA).

A total of \$31.5 billion is authorized over the 6 year period of the Act. Of this amount \$18.2 billion (58 percent) is to come from the Mass Transit Account of the Highway Trust Fund and is contract authority. The remaining \$13.3 billion is authorization of appropriations from the general fund. The authorization table on pages 38-41 lists all the programs and funding by year.

#### TRANSIT FORMULA PROGRAMS

The formula grant programs, Sections 9, 16(b)(2), and 18, are authorized at a \$17.4 billion level over the 6 years.

The Section 9 formula grant program makes funds available on the basis of a statutory formula to all urbanized areas in the country. The program is authorized at \$16.1 billion for the 6 years. For the first time, Section 9 funds may be used for highway projects in "Transportation Management Areas" (all areas over 200,000 and any other areas which the Governor requests), if all needs related to the Americans with Disabilities Act are met, the MPO approves, and there is a balanced local approach to funding highways and transit.

The Section 18 program provides funds on the basis of a statutory formula to rural areas. The program is funded at \$937 million for the 6 years. Its share is established at 5.5 percent of the total for Sections 9 and 18, up from 2.93 percent in previous law. A new requirement is that a State must use 5 percent of the funds it receives in FY 1992, 10 percent in FY 1993, and 15 percent in FY 1994 for intercity bus service projects, unless the State certifies that intercity bus needs have been met.

The formula factors do not change. However, areas under 200,000 get a slightly larger share: 9.32 percent of the Section 9 amount, and larger areas receive 90.68 percent.

The Section 16(b)(2) program provides transportation services for elderly and disabled persons. The program authorization is established at 1.34 percent of the total program or \$428 million. The current administrative practice to allocate these funds to the States is made statutory. The funds may go to private, non-profit organizations or to public bodies which coordinate service. Funds can continue to be used for capital costs or for capital costs of contracting for services.

Operating assistance is continued as an eligible expense under Section 9. Operating assistance caps will be adjusted for inflation for all areas, not just those under 200,000 as is the case in previous law.

#### SECTION 3 DISCRETIONARY AND FORMULA CAPITAL PROGRAM

The Section 3 program is authorized at \$12.4 billion for the 6 years. Funds are split 40 percent for New Starts, 40 percent for Rail Modernization, and 20 percent for bus and other.

#### New Starts

Authorizations for new starts total \$5.0 billion. New Starts projects must meet the criteria that they are:

- 1) Based on the results of alternatives analysis and preliminary engineering;

- 2) Justified based on mobility improvement, environmental benefit, cost effectiveness, and operating efficiency; and
- 3) Supported by an acceptable degree of local financial commitment.

Projects may not advance from alternative analysis to preliminary engineering, unless the project meets the requirements for project justification and local financial commitment, and is considered likely to do so at the end of preliminary engineering.

The criteria are waived if:

- 1) The project is in an extreme or severe non-attainment area and the plan is on the State Implementation Plan,
- 2) The project requires less than \$25 million in Section 3 funds,
- 3) The Federal share is less than one-third, or
- 4) The project is funded entirely with FHWA funds.

A substantial number of New Starts projects are earmarked in the bill.

Projects are to be funded using Letters of Intent and Full Funding Grant Agreements. The sum of outyear commitments may not exceed the amount authorized, although contingent commitments equal to one-half the uncommitted cash balance in the Mass Transit Account may be made.

#### Rail Modernization

Authorizations for the Section 3 Rail Modernization Funds, a total of \$5 billion over the 6 years, are allocated by formula rather than on a discretionary basis as in previous law. The formula uses statutory percentages to allocate the first \$492 million to the 11 historic rail cities. The next \$70 million is allocated one-half to the historic rail cities and one-half to all cities with fixed guideways at least 7-years-old (and any other fixed guideway city which can demonstrate rehabilitation needs), on the basis of the Section 9 Rail Tier formula factors. Any remaining funds are allocated to the same cities.

#### Bus and Other

Authorizations for bus and other projects total \$2.5 billion.

At least 5.5 percent of Section 3 Bus funds must be used in non-urbanized areas.

#### MATCHING RATIO

The basic matching ratio for capital projects is 80 percent Federal, the same as for highway projects in the FHWA program. This is the same as previous law for Section 9, but is an increase from the present 75 percent for Section 3.

The matching ratio is 90 percent Federal for the incremental costs of bus-related equipment needed to meet the requirements for the Clean Air Act and Americans with Disabilities Act.

The matching ratio for operating assistance remains at 50 percent of net operating costs.

#### TRANSIT PLANNING AND RESEARCH PROGRAM

A new comprehensive transit planning and research program is funded as a 3 percent takedown of the total amount of funding provided. A total of \$944 million is authorized over 6 years. This program combines the former Sections: 6 Research, 8 Planning, 10 Managerial Training, 11(a) University Research, 18(h) Rural Transportation Assistance Program (RTAP), and 20 Human Resources Programs. Of these funds, 45 percent is for Metropolitan Planning, 5 percent for RTAP, 10 percent will go to States for planning, research, and training, 10 percent for a new Transit Cooperative Research Program, and 30 percent for a National Planning and Research Program.

The National Planning and Research Program includes a transit technology development program, and establishes an Industry Technical Panel to assist in identification of priority technology development areas.

A new Transit Cooperative Research Program, modeled after the National Cooperative Highway Research Program, will conduct problem solving research for transit operators. The program will have an independent governing board and will be managed by the National Academy of Sciences.

The metropolitan planning provisions in this title basically parallel those in the highway title. Metropolitan planning funds are allocated to the States under a formula apportionment on behalf of MPO's. States will pass through these funds to MPO's based on a State formula cooperatively developed with MPO's and approved by the Secretary.

## TITLE IV

### Motor Carrier Act of 1991

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**T**itle IV of the Act relates to motor carriers. It reauthorizes the Motor Carrier Safety Assistance Program, establishes deadlines for States to participate in the International Registration Plan (IRP) and International Fuel Tax Agreement (IFTA), directs the Interstate Commerce Commission (ICC) to establish a new program for motor carriers with ICC operating authority to register with States, and imposes a freeze on State requirements and limitations on the operation of trucks with double or triple trailers that weigh more than 80,000 pounds.

#### MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP)

MCSAP funds State enforcement of Federal truck and bus safety requirements or compatible safety requirements. States also may use MCSAP funds to support drug interdiction, vehicle weight, and traffic enforcement. The Act authorizes a total of \$479 million.

#### STATE PARTICIPATION IN IRP AND IFTA

By September 30, 1996, States must join the International Registration Plan, a base-State agreement for the registration of trucks and buses operating in different States. Likewise, States must join the International Fuel Tax Agreement, a similar agreement for fuel taxes, by September 30, 1996. The Act authorizes a total of \$30 million for grants to States for technical assistance, training, and equipment associated with participation in IRP and IFTA. It also authorizes \$6 million to fund a working group of State and local government officials which must report in 2 years with recommendations on improving IRP and IFTA.

#### SINGLE-STATE REGISTRATION

The Act eliminates the bingo stamp program associated with 39 States' requirements for interstate motor carriers to register their Interstate Commerce Commission operating authority. In its place, the ICC must establish a base-State system, whereby a motor carrier would register its ICC-operating authority and

provide proof of required liability insurance with one State, and that State will distribute the collected fees to other participating States in which the carrier's vehicles operate.

#### **LONGER COMBINATION VEHICLES (LCV)**

The Act limits the operation of double and triple trailer combinations with gross weights in excess of 80,000 pounds to the States in which they were operating on June 1, 1991, and prohibits the expansion of routes or the removal of operating restrictions after that date. States must submit information on LCV limitations and requirements to the FHWA within 60 days of enactment. The FHWA will publish an interim list of the requirements and limitations in the Federal Register within 90 days of enactment and a final list within 180 days. The FHWA also will study the operation and safety of longer combination vehicles.

## TITLE V

### **Intermodal Transportation**

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**T**he purpose of Title V is to promote intermodal transportation.

The focus of the intermodal effort will be a new Office of Intermodalism, established within the Office of the Secretary of Transportation. The office will develop, maintain, and disseminate intermodal transportation data, and coordinate Federal research on intermodal transportation.

The Secretary is authorized to make available \$3 million in grants to States to develop model intermodal transportation plans. These plans must include systems for collecting data.

The Act establishes a National Commission on Intermodal Transportation to study the status of intermodal standardization, intermodal impacts on public works infrastructure, legal impediments to efficient intermodal transportation, financial issues, new technologies, problems in documenting intermodal transfers of freight, research and development needs, and the relationship of intermodal transportation to productivity. The report is due to Congress by September 30, 1993.



TITLE VI  
Research

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**T**his title, covering transportation research, is divided into three parts:

**Part A**— Programs, Studies and Activities,  
**Part B**— Intelligent Vehicle-Highway Systems Act, and  
**Part C**— Advanced Transportation Systems and Electric Vehicles.

**PART A - PROGRAMS, STUDIES, AND ACTIVITIES**

**Research and Technology**

Substantial support is provided for enhanced research and development and the effective application of innovative technology to solve highway problems. An important provision related to this initiative is new authority for collaborative research and development with other public and private entities, with an average Federal share up to 50 percent of the activity costs.

The Act provides a total of \$108 million to implement the products of the completed Strategic Highway Research Program and to continue the Long Term Pavement Performance Program.

To expand technology transfer activities, the Act provides authority to carry out a transportation assistance program to supply modern technology to highway and transportation agencies in rural areas and in urbanized areas of 50,000 to 1,000,000 population. Technology Transfer centers may be established for this purpose.

A new Applied Research and Technology Program is required to provide accelerated testing, evaluation, and implementation of technologies designed to improve the durability, efficiency, environmental impact, productivity, and safety of highway, transit, and intermodal transportation systems. Program guidelines from the Secretary are required within 18 months, and a total of \$240 million is authorized with a Federal share of 80 percent.

The Act provides a strong focus on planning and guidance for the research and development agenda. The Secretary is to develop an integrated national plan for surface transportation research and development. Also, a National Council on Surface Transportation Research, as well as a new Research Advisory Committee, are created. The Council will study: current surface transportation research and technology developments in the United States and abroad; identify gaps and duplication; and determine research areas which may increase efficiency, productivity, safety, and durability in the Nation's surface transportation systems.

The Committee will provide ongoing advice and recommendations to the Secretary regarding issues with respect to short-term and long-term surface transportation research and development.

**International Highway  
Transportation Outreach Program**

A new International Highway Transportation Outreach Program will provide for informing the U.S. highway community of foreign transportation innovations, promoting U.S. highway transportation expertise internationally, and increasing the transfers of U.S. highway transportation technology to foreign countries.

**Bureau of Transportation Statistics**

A Bureau of Transportation Statistics is created in the Department of Transportation to enhance data collection, analysis, and reporting, and to ensure the most cost-effective use of transportation monitoring resources. A total of \$90 million is provided over the 6 years of the Act. The Bureau is to publish a Transportation Statistics Annual Report; the first report is due January 1, 1994.

**National Transit Institute**

A National Transit Institute is established to conduct training programs for all involved in Federal-aid transit work. Funding is \$18 million over the 6 years of the authorization.

## University Transportation Centers/Research Institutes

Five new university transportation centers have been added to the University Transportation Centers (UTC) Program. These centers, as well as the original 10 UTC's are funded by both the FHWA and the FTA.

Also, five additional university research institutes are established. Funding is from the Highway Trust Fund, other than the Mass Transit Account, and is in the amount of \$37.5 million over the 6-year period.

## **PART B - INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT**

An Intelligent Vehicle-Highway Systems (IVHS) Program is established, with approximately \$660 million authorized for the 6-year authorization period.

The Act requires the promotion of compatible standards and protocols to promote widespread use of IVHS technologies, the establishment of evaluation guidelines for IVHS operational tests, and the establishment of an information clearinghouse.

A strategic after plan must be submitted to Congress no later than 1 year after this Act is effective. The plan must include the goals, mile-stones, and objectives of the IVHS program.

The Act also requires development of a completely automated highway and vehicle system which will serve as the prototype for future fully automated IVHS systems. The goal is to have the first fully automated roadway or test track in operation by the end of 1997. An IVHS Corridors program is established to provide for operational tests under "real world" conditions. Corridors which meet certain transportation and environmental criteria can participate in developing and implementing IVHS technologies.

Other provisions relating to IVHS include authority to use advisory committees for carrying out the IVHS program and the availability of planning grants to State and local governments for studying the feasibility for development and implementation of IVHS.

## **PART C - ADVANCED TRANSPORTATION SYSTEMS AND ELECTRIC VEHICLES**

A grant program is established for electrical vehicle and advanced transportation research and development. The grants will be awarded to at least three consortia that must provide services including obtaining funding for the acquisition of plant sites, conversion of plant facilities, and acquisition of equipment for the development or manufacture of advanced transportation systems or electric vehicles, or other related systems or equipment, especially for environmentally benign and cost-effective manufacturing processes. The non-Federal share of the grants must be at least 50 percent.

## TITLE VII

### Air Transportation

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**T**his title concerns amendments to the Metropolitan Washington Airports Act of 1986.

## TITLE VIII

### Extension of Highway-Related Taxes and Highway Trust Fund

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**T**he Highway Trust Fund, which is the source of funding for most of the categories in Titles I, II, III, IV, and VI, is extended to the end of FY 1999. This means that highway-related user taxes, which were scheduled to expire at the end of FY 1995, have been extended 4 years. The tax rate on motor fuel will be reduced by 2.5 cents per gallon after September 30, 1995. The rate per gallon then will be 11.5 cents for gasoline and special fuels and 17.5 cents for highway diesel fuel.

The Mass Transit Account of the Highway Trust Fund will be credited with 1.5 cents per gallon of the motor-fuel taxes, with the remainder going to the Highway Account. This Act allows expenditures from the Mass Transit Account for "capital-related" as well as for "capital" purposes.

A National Recreational Trails Trust Fund is established to support the National Recreational Trails Funding Program. Monies transferred to this Trust Fund will be equivalent to 0.3 percent of total Highway Trust Fund receipts in the first year, and afterwards, to "nonhighway recreational fuel taxes." These taxes are from fuel purchased for use on recreational trails and in outdoor recreational equipment (e.g., camp stoves).

The National Highway Institute, which conducts training programs for Federal, State, and local highway employees, may now include training for employees of private agencies. The Institute also may now charge fees to users of its training programs as long as they do not exceed the costs of the services provided.

TABLE 1 Authorizations (millions)

PROGRAM	1992	1993	1994	1995	1996	1997	Total
<b>TITLE I</b>							
• Interstate Construction Program	1,800.00	1,800.00	1,800.00	1,800.00	0.00	0.00	7,200.00
• Interstate Substitute Program	240.00	240.00	240.00	240.00	0.00	0.00	960.00
• Interstate Maintenance Program	2,431.00	2,913.00	2,914.00	2,914.00	2,914.00	2,914.00	17,000.00
• National Highway System	3,003.00	3,599.00	3,599.00	3,599.00	3,600.00	3,600.00	21,000.00
• Surface Transportation Program	3,418.00	4,096.00	4,096.00	4,096.00	4,097.00	4,097.00	23,900.00
• Congestion Mitigation and Air Quality Improvement Program	858.00	1,028.00	1,028.00	1,028.00	1,029.00	1,029.00	6,000.00
• Bridge Program	2,288.00	2,762.00	2,762.00	2,762.00	2,763.00	2,763.00	16,100.00
• Federal Lands Highway Programs:	371.00	445.00	445.00	445.00	447.00	447.00	2,600.00
• Indian Reservation Roads	(159.00)	(191.00)	(191.00)	(191.00)	(191.00)	(191.00)	(1,114.00)
• Public Lands Highway	(143.00)	(171.00)	(171.00)	(171.00)	(172.00)	(172.00)	(1,000.00)
• Parkways and Park Highways	(69.00)	(83.00)	(83.00)	(83.00)	(84.00)	(84.00)	(486.00)
• Donor State Bonus Amounts	429.00	514.00	514.00	514.00	514.00	515.00	3,000.00
• Reimbursement for non-Federally aided Interstate Segments	0.00	0.00	0.00	0.00	2,000.00	2,000.00	4,000.00
• Hold Harmless **	606.6	606.6	606.6	606.6	606.6	606.6	3,639.60
• 90% of Payment Adjustments **	0.00	83.00	83.00	83.00	83.00	83.00	415.00
• Additional Allocation-Wisconsin	40.00	47.80	47.80	47.80	47.80	47.80	279.00
• Highway Use Tax Evasion Projects	5.00	5.00	5.00	5.00	5.00	5.00	30.00
• Highway Use Tax Evasion Projects-GF	2.50	2.50	2.50	2.50	2.50	2.50	15.00
• Scenic Byways Program	1.00	3.00	4.00	14.00	14.00	14.00	50.00
• Interim Scenic Byways Program	10.00	10.00	10.00	0.00	0.00	0.00	30.00
• Ferry Boat and Facilities Construction	14.00	17.00	17.00	17.00	17.00	18.00	100.00
• Emergency Relief	100.00	100.00	100.00	100.00	100.00	100.00	600.00
• Arkansas Traffic Control Device	1.20	0.00	0.00	0.00	0.00	0.00	1.20
• Minimum Allocation **	1,160.00	803.40	803.40	803.40	803.40	803.40	5,177.00
• Projects:	542.62	1,225.46	1,158.85	1,100.52	1,100.52	1,100.52	6,228.49
• High Cost Bridge Projects	(22.82)	(52.48)	(52.48)	(52.48)	(52.48)	(52.48)	(285.20)
• Congestion Relief Projects	(39.20)	(90.17)	(90.17)	(90.17)	(90.17)	(90.17)	(490.04)
• High Priority NHS Corridors	(94.65)	(270.99)	(204.38)	(204.38)	(204.38)	(204.38)	(1,183.16)
• Rural Access Projects	(73.65)	(169.40)	(169.40)	(169.40)	(169.40)	(169.40)	(920.63)
• Urban Access and Mobility Projects	(44.49)	(102.32)	(102.32)	(102.32)	(102.32)	(102.32)	(556.10)
• Innovative Projects	(232.85)	(459.71)	(459.71)	(401.38)	(401.38)	(401.38)	(2,356.41)
• Priority Intermodal Projects	(34.96)	(80.40)	(80.40)	(80.40)	(80.40)	(80.40)	(436.95)
• High Priority NHS Corridor Studies	8.00	8.00	8.00	8.00	8.00	8.00	48.00
• High Priority NHS Corridor Revolving Fund	0.00	40.00	40.00	40.00	40.00	40.00	200.00
• Infrastructure Awareness Education Program	2.00	0.00	0.00	0.00	0.00	0.00	2.00
• FHWA Highway Safety (402) Program	17.00	20.00	20.00	20.00	20.00	20.00	117.00
• FHWA Highway R&D Safety (403) Program	10.00	10.00	10.00	10.00	10.00	10.00	60.00
• National Magnetic Levitation Dev't.-TF	5.00	45.00	100.00	100.00	125.00	125.00	500.00
• High-Speed Ground Transportation Dev't.-TF	0.00	5.00	5.00	5.00	5.00	5.00	25.00
• National Magnetic Levitation Dev't.-GF	225.00	0.00	0.00	0.00	0.00	0.00	225.00
• High-Speed Ground Transportation Dev't.-GF	25.00	0.00	0.00	0.00	0.00	0.00	25.00
• High-Speed Ground Transportation Development R&D-GF	25.00	0.00	0.00	0.00	0.00	0.00	25.00
• Railroad Relocation Demonstration Program-TF	10.00	10.00	10.00	0.00	0.00	0.00	30.00
• Railroad Relocation Demonstration Program-GF	5.00	5.00	5.00	0.00	0.00	0.00	15.00
• Private Sector Involvement Program-GF	5.00	5.00	5.00	5.00	5.00	5.00	30.00
• Miscellaneous Highway Projects	987.20	0.00	0.00	0.00	0.00	0.00	987.20
• Recreational Trails **	55.00	40.00	40.00	40.00	40.00	40.00	255.00
<b>TITLE I TOTAL</b>	<b>18,700.12</b>	<b>20,488.76</b>	<b>20,479.15</b>	<b>20,405.82</b>	<b>20,396.82</b>	<b>20,398.82</b>	<b>120,869.49</b>

\* CONTRACT AUTHORITY  
 \*\* ESTIMATED AMOUNTS

TABLE 1 Authorizations (millions)

PROGRAM	1992	1993	1994	1995	1996	1997	Total
<b>TITLE II</b>							
• NHTSA Highway Safety (402) Program	126.00	171.00	171.00	171.00	171.00	171.00	981.00
NHTSA Highway R&D Safety (403) Program	44.00	44.00	44.00	44.00	44.00	44.00	264.00
Drug Recognition Expert Training Program	4.00	4.00	4.00	4.00	4.00	4.00	24.00
National Driver Register Act Authorizations	4.00	Continues as	54 drawdown from Sec. 402 for 93 and 94.				4.00
• Alcohol Traffic Safety Incentive Grants	25.00	Continues as	525 drawdown from Sec. 402 for 93 - 97.				25.00
Traffic and Motor Vehicle Safety	68.72	71.33	74.04	76.86	0.00	0.00	290.95
Motor Vehicle Information and Cost Savings Programs	6.49	6.73	6.99	7.25	0.00	0.00	27.46
• Safety Belts and Motorcycle Helmets Trauma Study	7.00 (5.00)	Continues as 0.00	524 drawdown from Sec. 402 for 93 - 94.		0.00	0.00	17.00 (5.00)
<b>TITLE II TOTAL</b>	<b>295.21</b>	<b>297.06</b>	<b>300.03</b>	<b>303.11</b>	<b>219.00</b>	<b>219.00</b>	<b>1,633.40</b>
<b>TITLE III</b>							
• MASS TRANSIT							
Section 3 Discretionary and Formula New Starts	1,342.17 (536.87)	2,030.00 (812.00)	2,050.00 (820.00)	2,050.00 (820.00)	2,050.00 (820.00)	2,900.00 (1,160.00)	12,422.17 (4,968.87)
Rail Modernization Formula	(536.87)	(812.00)	(820.00)	(820.00)	(820.00)	(1,160.00)	(4,968.87)
Bus	(268.43)	(406.00)	(410.00)	(410.00)	(410.00)	(580.00)	(2,484.43)
Section 9 Formula Capital & Operating	1,822.76	2,604.14	2,642.57	2,642.57	2,642.57	3,741.02	16,095.64
Section 18 Rural	106.09	151.56	153.80	153.80	153.80	217.73	936.78
Interstate Transfer-Transit	160.00	164.84	0.00	0.00	0.00	0.00	324.84
Section 16(b)(2)	54.88	70.15	68.68	68.68	68.68	97.15	428.21
Transit Planning and Research	109.12	157.05	153.75	153.75	153.75	217.50	944.92
• National	(39.51)	(45.62)	(44.62)	(44.62)	(44.62)	(63.75)	(282.75)
• State	(8.96)	(14.96)	(14.62)	(14.62)	(14.62)	(21.00)	(88.76)
• Cooperative	(8.96)	(14.96)	(14.62)	(14.62)	(14.62)	(21.00)	(88.76)
• Sec. 8 MPO Planning	(43.69)	(70.67)	(69.19)	(69.19)	(69.19)	(97.88)	(419.80)
Rural Transit Assistance Program	(5.00)	(7.85)	(7.69)	(7.69)	(7.69)	(10.87)	(46.79)
National Transit Institute	(2.99)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(17.99)
University Transportation Centers	6.99	7.00	7.00	7.00	7.00	7.00	41.99
Program Administration	37.00	50.26	49.20	49.20	49.20	69.60	304.46
<b>TITLE III TOTAL</b>	<b>3,639.01</b>	<b>5,235.00</b>	<b>5,125.00</b>	<b>5,125.00</b>	<b>5,125.00</b>	<b>7,250.00</b>	<b>31,499.01</b>
<b>TITLE IV</b>							
MOTOR CARRIER SAFETY							
• Motor Carrier Safety Grants Programs	65.00	76.00	80.00	83.00	85.00	90.00	479.00
Motor Carrier Safety Functions	49.32	0.00	0.00	0.00	0.00	0.00	49.32
Longer Combination Vehicles	1.00	1.00	1.00	0.00	0.00	0.00	3.00
• Uniformity	6.00	Continues as	56 drawdown from MCS Grants for 93 - 97.				6.00
<b>TITLE IV TOTAL</b>	<b>121.32</b>	<b>77.00</b>	<b>81.00</b>	<b>83.00</b>	<b>85.00</b>	<b>90.00</b>	<b>537.32</b>
<b>TITLE VI</b>							
RESEARCH							
• Bureau of Transportation Statistics	5.00	10.00	15.00	15.00	20.00	25.00	90.00
Bus Testing	3.99	0.00	0.00	0.00	0.00	0.00	3.99
• Howard Transportation Information Center	2.24	0.00	0.00	0.00	0.00	0.00	2.24
• Nat'l. Center for Advanced Transportation Technology	2.50	3.00	2.50	0.00	0.00	0.00	8.00
• University Transportation Centers	5.00	6.00	6.00	6.00	6.00	6.00	35.00
• University Research Institutes	6.25	6.25	6.25	6.25	6.25	6.25	37.50
• Intelligent Vehicle Highway Systems	94.00	113.00	113.00	113.00	113.00	113.00	659.00
<b>TITLE VI TOTAL</b>	<b>118.98</b>	<b>138.25</b>	<b>142.75</b>	<b>140.25</b>	<b>145.25</b>	<b>150.25</b>	<b>835.73</b>
<b>TOTAL</b>	<b>22,874.63</b>	<b>26,236.07</b>	<b>26,127.93</b>	<b>26,057.18</b>	<b>25,971.07</b>	<b>28,108.07</b>	<b>155,374.95</b>

\*CONTRACT AUTHORITY-  
TRANSIT CONTRACT AUTHORITY  
NOT SHOWN BY PROGRAM 40

TABLE 2

**Federal Share and Availability  
For Significant Programs**

Program	Federal Share Percent	Availability Years
Interstate Construction	90	1
Interstate Substitution	85	2
Interstate Maintenance	90	4
National Highway System	80	4
Surface Transportation Program	80	4
Congestion Mitigation and Air Quality Program	80	4
Bridge Replacement and Rehabilitation Program	80	4
Federal Lands	100	4
Toll Roads	50 - 80	N/A
Transit Capital		
Section 3	80	Until Expended
Section 9	80	4
Section 18	80	3
Section 16 (b)(2)	80	1
Transit Operating	50	4
National Magnetic Levitation Prototype	75-90	Until Expended
National High-Speed Ground Transportation Technology Demonstration	80	Until Expended
Demonstration Projects	80	Until Expended
Highway Safety Programs	80	4
Motor Carrier Safety Assistance	80	Secretary- until expended; States - 2 years
IVHS Corridors Program	80	4

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION  
PUBLIC TRANSPORTATION & RAIL DIVISION

PUBLIC TRANSPORTATION

Section 18: Formula Grant Program for Non-urban Areas

Program to assist transportation agencies serving the general public in areas of less than 50,000 population. Depending on service, funds may be available for capital, operating, administration, and planning assistance to state agencies, local public bodies, nonprofit organizations, Indian tribes and operators of public transportation services. North Carolina has thirty-one Section 18 systems covering forty-six counties.

Annual Federal Funds Available: \$4,775,541

Section 18(h): Rural Transit Assistance Program (RTAP)

Program to provide training, technical assistance, research and other support services to personnel in non-urban transit systems. North Carolina's program annually provides training and technical assistance to local program managers, bookkeepers, dispatchers, board members, and drivers. In North Carolina, on-site training is provided in a specially-equipped bus.

Annual Federal Funds Available: \$124,198

Section 16(b)(2): Formula Grant Program for Elderly and Disabled Individuals

Program provides capital funds to private, non-profit organizations or to public bodies for meeting the special transportation needs of the elderly and disabled in urban, small urban and rural areas. Funds may be used to purchase vans, buses, lifts, radios or other capital items. Systems in approximately twenty-five counties are provided with assistance each year.

Annual Federal Funds Available: \$1,373,830

Section 9: Formula Grant Program for Urban Areas

Program to assist transportation agencies serving the general public in North Carolina's seventeen urbanized areas (greater than 50,000 population). Funds are available for planning, capital and operating assistance purposes.

For urban areas of under 200,000 population, the governor or the governor's designee is responsible for apportioning federal funds. While North Carolina receives a formula allocation for thirteen such areas, eight

currently operate transit systems. Within the next year Rocky Mount and Greenville will be added to the formula pool.

For urban areas of over 200,000 population, the Federal Transportation Administration (FTA) is responsible for directly apportioning funds. While North Carolina has four Direct Apportionment areas, there are five transit systems since the Chapel Hill Transit System is included in the Durham urbanized area.

Annual Federal Funds Available: \$14,695,495

#### Section 8: Planning and Technical Studies Program

Program provides financial assistance to local governments of greater than 50,000 population to conduct planning activities for mass transportation. Funds are awarded to local metropolitan planning organizations (MPOs). North Carolina currently has eleven MPOs receiving Section 8 funds. Within the next year Rocky Mount and Greenville will be added.

Annual Federal Funds Available: \$522,287

#### Section 26(a)(2): State Planning and Research Program

The Intermodal Surface Transportation Efficiency Act established a new program that provides funds to state and local governments for planning, research, and training.

Annual Federal Funds Available: \$133,994

#### Section 3: Discretionary Capital Grants and Loans

Program is earmarked for financing rail modernization and fixed guideway activities; replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities; and special federal programs.

Annual Federal Funds Available: Discretionary

#### Statewide Public Transportation Grant Program

Program provides financial assistance to support technical assistance and training activities, research and planning studies, service demonstrations, statewide meetings and workshops, and matching share funds to acquire federal grants.

Annual State Funds Available: \$3,038,766



Federal Transit Aid Formula Apportionments

	FY1991	FY1992
Section 18	\$ 2,983,374	\$ 4,775,541
Section 18(h): RTAP	122,804	124,198
Section 16(b)(2)	806,054	1,373,830
Section 9	12,195,254	14,695,495
Section 8	440,600	522,287
Section 26(a)(2)	---	133,994
Subtotal	\$16,548,086	\$21,625,345

Federal Transit Aid Discretionary Apportionment

Section 3	\$ 6,000,000	(pending)	\$ 4,400,000
Subtotal	\$ 6,000,000		\$ 4,400,000
Total	\$22,548,086		\$26,025,345

Elderly and Handicapped Transportation Assistance Program

Program provides operating assistance to local governments and transportation systems to provide additional transportation to the elderly and handicapped. There are presently ninety-two counties receiving program funds.

Annual State Funds Available: \$2,000,000

Medical Transportation Assistance Program

Program provides financial assistance to local governments and transportation systems to provide improved services for pregnant women and children on Medicaid. There are presently eighty-nine counties receiving program funds.

Annual State Funds Available: \$300,000

## RAIL

### State Rail Grant Program

Stock dividends from the North Carolina Railroad are used for rail revitalization projects, which may include acquisition, construction or rehabilitation of railroad tracks. State funds are matched with local funds.

Annual State Funds Available: The greater of the stock dividends from the North Carolina Railroad (\$126,000 in 1991) or \$100,000 in general fund monies.

### Local Rail Freight Program

The state solicits proposals and annually makes application to the Federal Railroad Administration for funding under the Local Rail Freight Program (LRFP). LRFP funds are available on a competitive basis and require a local matching share. Grant awards vary in amount with no more than a single project per state being funded in any one year.

Annual State Funds Available: \$0

### State Construction Funds for "alternatives to Highway Construction"

The Highway Trust Fund Law of 1989 added a new subsection (d) to General Statute 136-44.20 which reads:

"(d) Of the amount appropriated to the Department each year for State construction under the Transportation Improvement Program, the Department may use up to five million dollars (\$5,000,000) to develop economical transit alternatives to highway construction. These alternatives may include high occupancy vehicle lanes and rail routes."

These funds are used for operating and capital costs associated with the Carolinian passenger service, and to program the acquisition and maintenance of rail corridors.

Annual State Funds Available: Up to \$5,000,000