

**LEGISLATIVE
RESEARCH COMMISSION**

**RAILROADS AND
OTHER PUBLIC TRANSPORTATION**



**REPORT TO THE
1993 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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TABLE OF CONTENTS

Letter of Transmittal..... i

Legislative Research Commission Membership..... ii

PREFACE..... 1

COMMITTEE PROCEEDINGS..... 4

 Public Hearings on September 23 and 24, 1992 3

 Meeting on October 30, 1992..... 4

 Meeting on December 3, 1992 5

 Meeting on December 17, 1992..... 5

FINDINGS AND RECOMMENDATIONS..... 6

APPENDICES

Relevant portions of Chapter 754 of the 1991 Session Laws
authorizing the study, House Joint Resolution 700, House
Joint Resolution 1226, and Senate Joint Resolution 906 of
the 1991 Session.....APPENDIX A

Membership of the LRC Committee on Railroads and Other
Public TransportationAPPENDIX B

Legislative Proposal I -- A BILL TO BE ENTITLED AN ACT
TO CREATE A RAIL COUNCIL WITHIN THE
DEPARTMENT OF TRANSPORTATION AND TO
BROADEN THE AUTHORITY OF THE BOARD OF
TRANSPORTATION
and a section-by-section analysis of the billAPPENDIX C

Legislative Proposal II -- A BILL TO BE ENTITLED AN ACT
TO TRANSFER THE RAIL SAFETY SECTION FROM
THE UTILITIES COMMISSION TO THE DEPARTMENT
OF TRANSPORTATION
and a section-by-section analysis of the billAPPENDIX D

Legislative Proposal III -- A BILL TO BE ENTITLED AN ACT
TO REPEAL THE TWO PERCENT RESTRICTION ON
THE USE OF PROCEEDS OF THE REGIONAL
TRANSPORTATION AUTHORITY REGISTRATION TAX
FOR ADMINISTRATIVE PURPOSES
and a section-by-section analysis of the billAPPENDIX E

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
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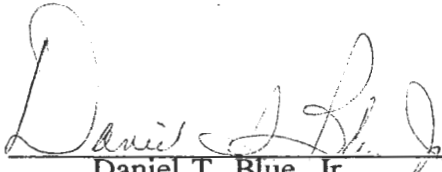



January 15, 1993

TO THE MEMBERS OF THE 1993 GENERAL ASSEMBLY:

The Legislative Research Commission herewith submits to you for your consideration its final 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 Sections 2.1 and 17 of Chapter 754 of the 1991 Session Laws (SB 917).

Respectfully submitted,


Daniel T. Blue, Jr.
Speaker of the House


Henson P. Barnes
President Pro Tempore

Cochairmen
Legislative Research Commission

1991-1992

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of
the Senate
Henson P. Barnes, Cochair

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

Speaker of the House of
Representatives
Daniel T. Blue, Jr., Cochair

Rep. Marie W. Colton
Rep. W. Pete Cunningham
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

Public Hearings on September 23-24, 1992

The LRC Committee on Railroads and Other Public Transportation held its first meeting following the end of the 1992 short session on September 23 and 24, 1992 in the Auditorium of the Legislative Building. This meeting was organized as a two-day public hearing, to allow interested members of the public to share their views on railroad and public transportation issues with the Committee.

The hearing on September 23 was devoted to public transportation issues. The Committee heard presentations from the following persons: Anne Franklin, Raleigh City Council; Mark Rickards, Asheville Transit Authority; Annette Crumpton and Pat Melvin, New Hanover Transportation Services; Chris Turner, N.C. Public Transportation Association; Shirley Marshall, Chapel Hill; Jim Ritchey, Triangle Transit Authority; John Smith, City Manager of Fayetteville; Motte Griffith, Better Transportation in N.C.; Jim Stem, United Transportation Union; Joe McDonald, N.C. Alliance for Transportation Reform; Joyce Brown, Conservation Council of N.C.; Al Capehart, N.C. Rail-Trails; John thomas, Citizen of Durham; Mary Hughes, Durham Area Transit Authority; Helen Newsome, Choanoke Public Transit Authority; Jim Sughrue, Dept. of Transportation; David King, Dept. of Transportation; and Bill Holman, Sierra Club/Conservation Council/NCPTA. Copies of each participant's remarks are included in the committee notebook, which is located in the Legislative Library.

The hearing of September 24 was devoted to railroad issues. The Committee heard presentations from Lt Governor Bob Jordan; Sam Holcomb, President of the N.C. Railway Assoc.; Cathy Howell, General Manager, Mid-Atlantic RR; David King,

Dept. of Transportation; Tom Thompson, Craven County Industrial Development Commission, Michael K. Geouge, Nantahala Power & Light; Steve Shook, General Counsel, CSX RR; Jim Stem, United Transportation Union; Bob Wasson, Sierra Club; and Al Capehart, N.C. Rail-Trails. Copies of each participant's remarks are included in the Committee notebook, which is located in the Legislative Library.

Meeting on October 30, 1992

The second meeting of the Committee was held on October 30, 1992 at 9:00 a.m. in Room 1124 of the Legislative Building. The Committee first heard from Mr. Christopher Clune, Director of Railroad Safety, Southeastern Region, Federal Railroad Administration, U.S. Department of Transportation. Mr. Clune gave an overview of the Federal Rail Safety Program and its relationship to the N.C. rail safety inspection program.

Following Mr. Clune, the Committee heard a presentation by Richard Bostic, Fiscal Research Division, on transit and rail spending in N.C. for fiscal year 1991-92.

Next, the Committee heard a presentation by Mr. Paul L. Lariviere, Assistant Division Administrator, Federal Highway Administration. Mr. Lariviere spoke on the topic "The Impact of ISTEA on Rail and Transit Funding in N.C."

The final speaker was Mr. Bob Stanley of the American Public Transportation Association, who spoke on the impact of ISTEA (Intermodal Surface Transportation Efficiency Act) on public transportation funding.

Summaries of each speaker's remarks may be found in the committee notebook, located in the Legislative Library.

At the end of the meeting, staff passed out draft legislation for the Committee to consider before the next meeting.

Meeting on December 3, 1992

The third meeting of the Committee was held December 3, 1992 at 10:00 a.m. in Room 1124 of the Legislative Building. The Committee first heard a presentation on rail crossing safety by Bill Marley, State Highway Administrator, and Jimmy Lynch, State Traffic Engineer. Next, the Committee heard an update from Carlton Myrick of the State Construction Office on the progress of the commuting study, authorized by Section 10.1 of Chapter 1044 of the 1991 Session Laws. Next, the Committee heard a brief update from Bob Graberek of the Rail Section, DOT, on the designation of the Raleigh to Charlotte line as eligible for Federal funds for upgrading to increase speeds.

At the conclusion of the presentations, the Committee discussed and tentatively approved a proposal to create a Rail Council within the Department of Transportation, a proposal to transfer the Rail Safety Section from the Utilities Commission to DOT, and a proposal to repeal the restriction on the use of the proceeds of the regional transportation authority registration tax for administrative purposes.

Finally, the Committee discussed and took no action on a proposal by Rep. Luebke to provide operating assistance to urban and rural transportation systems.

Meeting on December 17, 1992

The fourth meeting of the Committee was held December 17, 1992 at 10:00 a.m. in Room 1425 of the Legislative Building. The Committee reviewed and approved this report to the 1993 General Assembly.

FINDINGS AND RECOMMENDATIONS

RECOMMENDATION ONE: That the General Assembly enact the bill found in Appendix C, which creates a North Carolina Rail Council in the Department of Transportation, and which also broadens the duties of the Board of Transportation to include all transportation matters.

The Committee find that railroads are vital to North Carolina's economy and future growth. The Committee finds that during the last several years, the Governor's Rail Task Force has been an important advocacy group for railroads in North Carolina. In order to continue support for a strong and healthy railroad system in North Carolina, the Committee believes that a permanent Rail Council should be established within the Department of Transportation to advise the Governor, Secretary of Transportation, and the General Assembly on rail policy.

The Committee also finds that the Department of Transportation, as its name indicates, is involved in the development of all modes of transportation in North Carolina. The Committee finds that the powers of the Department, and the name of its Highway Engineering Divisions, do not clearly reflect the broad mission of the Department to develop all types of transportation in North Carolina. As a result, the Committee recommends that the powers of the Department and the names of the Divisions be clarified to reflect this broad mission.

RECOMMENDATION TWO: That the General Assembly enact the bill found in Appendix D, which transfers the Railroad Safety Section from the Utilities Commission to the Department of Transportation. The bill allows rail regulatory functions other than safety inspection to remain with the Utilities Commission.

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 the Rail Safety Section to the Department of Transportation. In addition partially 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 rail safety inspection with the same agency charged with responsibility over other modes of transportation.

RECOMMENDATION THREE: That the General Assembly enact the bill found in Appendix E, which would repeal the current two percent (2%) restriction on the use of proceeds of the regional transportation authority registration tax for administrative purposes.

The Committee finds that the current transit tax administrative cost restriction is too restrictive on the Triangle Transit Authority, and prevents it from exercising needed flexibility in its management decisions.

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.

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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

Sponsors: Representatives Hurley; and Warner.

Referred to: Rules, Appointments and Calendar.

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

Sponsors: Representatives Abernethy; and Bowman.

Referred to: Rules, Appointments and Calendar.

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*

Sponsors: Senator Block.

Referred to: Appropriations.

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
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Wilmington, NC 28401
(919) 763-3463

Sen. N. Leo Daughtry
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Smithfield, NC 27577
(919) 934-5013

Mr. Cecil Hill
The Legal Building
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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
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(919) 483-6210

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Mr. Wendell Edwards, Executive Director
Choanoke Public Transportation Authority
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Rep. Aaron E. Fussell
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Rep. Jack Hunt
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Rep. Albert S. Lineberry, Sr.
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Staff:

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

Clerk:

Ms. Ginny McCann

APPENDIX C

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

D

93-LL-002B

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: N.C. Rail Council.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A RAIL COUNCIL WITHIN THE DEPARTMENT OF
3 TRANSPORTATION AND TO BROADEN THE AUTHORITY OF THE BOARD OF
4 TRANSPORTATION.
5 The General Assembly of North Carolina enacts:
6 Section 1. Chapter 143B of the General Statutes is
7 amended by adding a new Part to read:
8 "Part 9. North Carolina Rail Council.
9 "§ 143B-361. Findings.
10 The General Assembly finds that:
11 (1) The rail system in North Carolina is an
12 irreplaceable transportation resource;
13 (2) The promotion and preservation of railroads
14 operating within North Carolina as transportation
15 resources and economic development tools is vital
16 to the State's economy, and the continued economic
17 viability of railroads is a necessary part of the
18 free enterprise system;
19 (3) A healthy rail system is vital to a competitive
20 State economy, and railroads must be allowed,
21 through effective public policy, to compete fairly
22 in the transportation marketplace and to provide
23 those transportation services for which rail is
24 suitable;

- 1 (4) The preservation of rail corridors, through branch
2 line rehabilitation and State acquisition of
3 strategic corridors, is in the public interest and
4 is an integral and necessary part of a balanced
5 transportation system; and
6 (5) As the owner of the majority interest in the North
7 Carolina Railroad Company, the State has a vested
8 interest in the preservation, development, and
9 well-being of the North Carolina Railroad.

10 "§ 143B-362. North Carolina Rail Council - creation;
11 powers and duties.

12 There is created the North Carolina Rail Council of the
13 Department of Transportation. The Rail Council shall:

- 14 (1) Advise the Governor, Secretary of Transportation,
15 Board of Transportation, and General Assembly on
16 policy concerning the preservation and enhancement
17 of the State's rail system, including the
18 acquisition and management of existing rail
19 corridors, revitalization and rehabilitation of
20 active freight and passenger railways, improvements
21 in rail safety, and promotion of competitive rail
22 passenger services;
23 (2) Designate a Strategic Rail System, with the North
24 Carolina Railroad as its foundation, to be approved
25 by the Board of Transportation;
26 (3) Recommend to the Board of Transportation funding
27 sources and levels to accomplish the purposes of
28 this act;
29 (4) Plan and recommend the distribution of financial
30 assistance for the revitalization of railroads and
31 conservation of rail corridors as authorized in
32 G.S. 136-44.36;
33 (5) Plan and recommend the acquisition of rail
34 corridors for future use as authorized in G.S. 136-
35 44.36A, and oversee the protection and maintenance
36 of preserved rail corridors;
37 (6) Otherwise assist in the preservation of the rail
38 system in North Carolina through branch line
39 rehabilitation and revitalization and through
40 corridor acquisition by the Department of
41 Transportation, and encourage cooperation between
42 the Department of Transportation and railroad
43 companies in preserving the linear integrity of
44 strategic corridors;

- 1 (7) Advise the Department of Transportation on the
2 reinvestment in the State's rail system of the
3 annual dividends received by the State from its
4 ownership of stock in the North Carolina Railroad
5 and appropriated to the Department in G.S. 136-
6 16.6;
7 (8) Promote and assist in the preservation of rail
8 access to the facilities operated by the State
9 Ports Authority and to passenger and cargo airport
10 facilities; and
11 (9) Perform any other duties relating to the promotion
12 and preservation of railroads which the Secretary
13 may recommend.

14 The Council shall report its activities to the General Assembly
15 by March 1 in odd-numbered years and to the Joint Legislative
16 Commission on Governmental Operations by March 1 in even-numbered
17 years.

18 "§ 143B-363. North Carolina Rail Council - members; selection;
19 compensation.

20 (a) The North Carolina Rail Council shall consist of 18
21 members, 14 of which shall be appointed by the Governor, who, in
22 the making the appointments, shall designate one person from each
23 of the 14 transportation engineering divisions of the State. Of
24 the members appointed by the Governor, at least two members shall
25 possess broad knowledge of railroad operations, at least two
26 members shall represent local government interests, and at least
27 two members shall represent the interests of shippers or
28 passengers using rail service. The President Pro Tempore of the
29 Senate and the Speaker of the House of Representatives shall each
30 appoint two members, who may be members of the General Assembly.
31 All members of the Council should have an interest in developing
32 policy for the promotion and preservation of railroads as part of
33 a balanced transportation system.

34 (b) Nine of the initial members appointed by the Governor shall
35 serve on the Council for terms of three years beginning July 1,
36 1993. The remaining members shall be appointed for terms of two
37 years beginning July 1, 1993. Upon the expiration of each
38 member's term, a successor shall be appointed for a term of two
39 years. Any appointment to fill a vacancy on the Council created
40 by the resignation, dismissal, or death of a member shall be for
41 the balance of the unexpired term.

42 (c) Each appointing officer may remove any member of the
43 Council appointed by him for the reasons that members of boards,

1 councils, or committees may be removed by the Governor pursuant
2 to G.S. 143B-16.

3 (d) The Governor shall designate a member of the Council to
4 serve as chairman at his pleasure.

5 (e) Members of the Council shall receive per diem and
6 necessary travel and subsistence expenses in accordance with the
7 provisions of G.S. 138-5.

8 (f) Members of the Council shall be subject to the provisions
9 of G.S. 136-13, G.S. 136-13.1, and G.S. 136-14.

10 (g) All clerical and other services required by the Council
11 shall be supplied by the Secretary of Transportation."

12 Sec. 2. G.S. 136-14.1 reads as rewritten:

13 "§136-14.1. Highway Transportation engineering divisions.

14 For purposes of administering the highway transportation
15 activities, the Department of Transportation shall have authority
16 to designate boundaries of highway transportation engineering
17 divisions for the proper administration of its duties."

18 Sec. 3. G.S. 136-17.2 reads as rewritten:

19 "§136-17.2. Members of the Board of Transportation represent
20 entire State.

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

28 Sec. 4. Effective July 1, 1993, G.S. 143B-350(c) reads
29 as rewritten:

30 "(c) The Board of Transportation shall have 21 members
31 appointed by the Governor. One member shall be appointed from
32 each of the 14 highway transportation engineering divisions and
33 seven six members shall be appointed from the State at large. The
34 chairman of the North Carolina Rail Council shall serve as an ex-
35 officio member, provided that if the chairman of the Rail Council
36 is not serving as a member of the Board on July 1, 1993, he shall
37 become an ex officio member upon the occurrence of the first
38 vacancy in at-large membership on the Board, and there shall be
39 seven at-large members until that time. One at-large member
40 shall be a registered voter of a political party other than the
41 political party of the Governor. At least one at-large member
42 shall possess broad knowledge of public transportation matters,
43 effective no later than the occurrence of the first vacancy in
44 at-large membership on the Board after the chairman of the North

1 Carolina Rail Council begins serving ex officio. No more than
2 two members provided for in this subsection shall reside in the
3 same engineering division while serving in office. The initial
4 members shall serve terms beginning July 1, 1977, and ending
5 January 14, 1981, or until their successors are appointed and
6 qualified. The succeeding terms of office shall be for a period
7 of four years beginning January 15, 1981, and each four years
8 thereafter. The Governor shall have the authority to remove for
9 cause sufficient to himself, any member appointed by the
10 Governor."

11 Sec. 5. This act becomes effective July 1, 1993.

EXPLANATION OF A BILL TO BE ENTITLED AN ACT TO CREATE A RAIL
COUNCIL WITHIN THE DEPARTMENT OF TRANSPORTATION AND TO BROADEN
THE AUTHORITY OF THE BOARD OF TRANSPORTATION.

Section 1 of the bill establishes a North Carolina Rail Council. G.S. 143B-361 makes findings regarding the importance of railroads to North Carolina's economy and the need to maintain a healthy rail system. G.S. 143B-362 establishes the Rail Council and provides that the Council's duties are to: (1) Advise the Governor, Secretary of Transportation, Board of Transportation, and General Assembly on rail policy; (2) Designate a strategic rail corridor for approval by the Board of Transportation; (3) Recommend funding sources for rail purposes to the Board of Transportation; (4) Recommend distribution of State and federal financial assistance for rail revitalization and corridor preservation; (5) Recommend corridors for acquisition and oversee protection and maintenance of preserved corridors; (6) Otherwise assist in branch line rehabilitation and revitalization and corridor acquisition, and encourage cooperation between the Department of Transportation and railroad companies; (7) Advise the Department of Transportation on reinvestment in the rail system of dividends from the N.C. Railroad Company; (8) Promote and assist in preservation of rail access to the State Ports and to passenger and air cargo facilities; and (9) Perform any other duties recommended by the Secretary of Transportation.

G.S. 143B-362 also provides that the Rail Council will report its activities to the long session of the General Assembly and to the Joint Legislative Commission on Governmental Operations in short session years.

G.S. 143B-363 provides that the Council would consist of 18 members: 14 appointed by the Governor (one from each of the

transportation engineering divisions of the State), and two each appointed by the Speaker and the President Pro Tempore. Of the members appointed by the Governor, at least two are to have broad knowledge of railroad operations, at least two are to represent local government interests, and at least two are to represent shippers or passengers using rail service. All members of the Council should have an interest in developing policy for the promotion and preservation of railroads as part of a balanced transportation system. Half of the members will initially be appointed to three-year terms; thereafter, all members will serve staggered, two-year terms. The Governor will designate one member to serve as chairman.

Section 2 redesignates what are currently referred to as "highway engineering divisions" as "transportation engineering divisions." Section 3 changes the responsibility of the Board of Transportation to representation of the State in transportation matters, rather than simply highway matters.

Section 4 adds the chairman of the Rail Council as an ex-officio member of the Board of Transportation, and requires that one at-large member of the Board of Transportation possess broad knowledge of public transportation matters. These changes do not increase the numbers of members serving on the Board, but take effect upon the first available vacancies.

Section 5 makes the act effective July 1, 1993.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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93-LL-013

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Transfer Rail Safety.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO TRANSFER THE RAIL SAFETY SECTION FROM THE UTILITIES
3 COMMISSION TO THE DEPARTMENT OF TRANSPORTATION.
4 The General Assembly of North Carolina enacts:
5 Sec. 1. The statutory authority, powers, duties, and
6 functions, records, personnel, property, unexpended balances of
7 appropriations, allocations or other funds, including the
8 functions of budgeting and purchasing, of the Rail Safety Section
9 of the Transportation Division of the North Carolina Utilities
10 Commission, is transferred to the Department of Transportation.
11 Sec. 2. G.S. 62-41 reads as rewritten:
12 "**§62-41. To investigate accidents involving public utilities; to**
13 **promote general safety program.**
14 The Commission may conduct a program of accident prevention and
15 public safety covering all public utilities with special emphasis
16 on highway safety and transport safety and may investigate the
17 causes of any accident on a ~~railroad or~~ highway involving a
18 ~~public utility, or any accident in connection with any other~~
19 public utility. Any information obtained upon such investigation
20 shall be reduced to writing and a report thereof filed in the
21 office of the Commission, which shall be subject to public
22 inspection but such report shall not be admissible in evidence
23 in any civil or criminal proceeding arising from such accident.
24 The Commission may adopt reasonable rules and regulations for the

1 safety of the public as affected by public utilities and the
2 safety of public utility employees. The Commission shall
3 cooperate with and coordinate its activities for public utilities
4 with similar programs of the Division of Motor Vehicles, the
5 Insurance Department, the Industrial Commission and other
6 organizations engaged in the promotion of highway safety and
7 employee safety."

8 Sec. 3. G.S. 62-235 is repealed.

9 Sec. 4. G.S. 136-18 is amended by adding two new
10 subdivisions to read:

11 "(30) The Department of Transportation is empowered
12 and directed, from time to time, to carefully
13 examine into and inspect the condition of each
14 railroad, its equipment and facilities, in
15 regard to the safety and convenience of the
16 public and the railroad employees. If the
17 Department finds any equipment or facilities
18 to be unsafe, it shall at once notify the
19 railroad company and require the company to
20 repair the equipment or facilities.

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

31 Sec. 5. G.S. 62-236 is recodified as G.S. 136-20.1 and
32 reads as rewritten:

33 "~~§62-236~~ §136-20.1. To require installation and maintenance of
34 block system and safety devices; automatic signals at railroad
35 intersections.

36 (a) ~~The Commission is empowered and directed to~~ Department of
37 Transportation may require any railroad company to install and
38 put in operation and maintain upon the whole or any part of its
39 road an appropriate system of railroad signals and controls, a
40 block signal system ~~system of telegraphy~~ or any other reasonable
41 safety device, but no railroad company shall be required to
42 install a block system upon any part of its road unless at least
43 eight trains each way per day are operated on that part.

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

11 Sec. 6. The Department of Transportation shall
12 implement the provisions of this act within funds available.

13 Sec. 7. This act becomes effective July 1, 1993.

EXPLANATION OF A BILL TO BE ENTITLED AN ACT TO TRANSFER THE RAIL
SAFETY SECTION FROM THE UTILITIES COMMISSION TO THE DEPARTMENT
OF TRANSPORTATION

This bill transfers the Rail Safety Section from the Utilities Commission to the Department of Transportation, along with the necessary authority to inspect railroads and conduct rail safety programs. The other railroad regulatory functions, such as team track and station closings, would remain with the Utilities Commission.

Section 1 of the bill transfers the Rail Safety Section to the Department of Transportation. Section 2 revokes the Utilities Commission's authority to conduct an accident prevention program and investigate accidents on railroads, and Section 3 repeals G.S. 62-235, which empowers the Utilities Commission to inspect the condition of railroads and require the repair of unsafe equipment or facilities. Section 4 places that authority within the Department of Transportation, authorizes the Department to investigate the cause of any railroad accident, and requires any railroad involved in an accident that must be reported to the Federal Railroad Administration to notify the Department of the occurrence of the accident.

Section 5 transfers the authority to require traffic signal and control systems along a railroad and at grade crossings and bridges from the Utilities Commission to the Department of Transportation. Section 5 also modernizes that authority to reflect new signal technology.

Section 6 provides that the Department of Transportation shall implement the provisions of the act within funds available.

Section 7 makes the act effective July 1, 1993.

APPENDIX E

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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D

93-LL-005

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Repeal RTA Tax Restriction.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL THE TWO PERCENT RESTRICTION ON THE USE OF
3 PROCEEDS OF THE REGIONAL TRANSPORTATION AUTHORITY REGISTRATION
4 TAX FOR ADMINISTRATIVE PURPOSES.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 160A-623(i1) is repealed.
7 Sec. 2. This act is effective upon ratification.

EXPLANATION OF A BILL TO BE ENTITLED AN ACT TO REPEAL
THE TWO PERCENT RESTRICTION ON THE USE OF PROCEEDS OF THE
REGIONAL TRANSPORTATION AUTHORITY REGISTRATION TAX
FOR ADMINISTRATIVE PURPOSES.

G.S. 160A-623 authorizes regional transportation authorities to levy an annual license tax not to exceed \$5.00 upon any motor vehicle within its jurisdiction in order to raise revenue for capital and operating expenses for the provision of a public transportation system.

Subsection (i1) provides that no more than two percent (2%) of the proceeds of the tax may be used on administrative expenses. This bill repeals that limitation.

