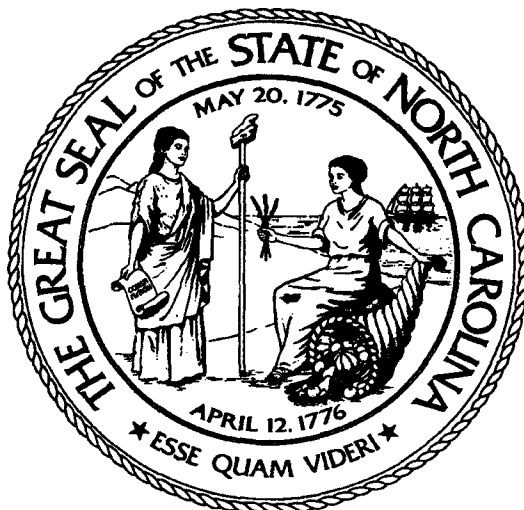


**JOINT LEGISLATIVE
TRANSPORTATION OVERSIGHT
COMMITTEE**



**REPORT TO THE
1995 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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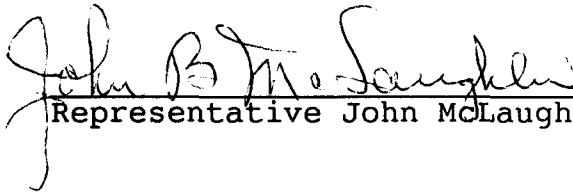
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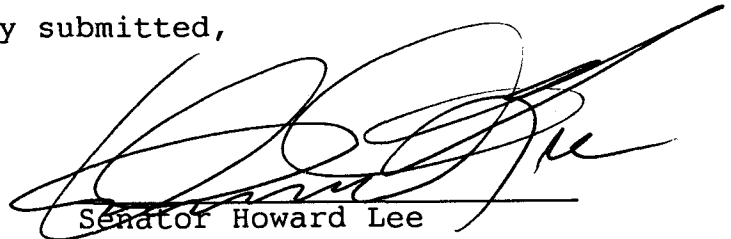
January 25, 1995

TO THE MEMBERS OF THE 1995 GENERAL ASSEMBLY

The Joint Legislative Transportation Oversight Committee submits its annual report to you for your consideration. The report was prepared by the Committee pursuant to G.S. 120-70.51(a).

Respectfully submitted,


Representative John McLaughlin


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Co-Chairmen
Transportation Oversight Committee



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PREFACE

The Joint Legislative Transportation Oversight Committee was established in 1989 by Article 12E of Chapter 120 of the General Statutes. The Committee was formed in conjunction with the creation of the Highway Trust Fund. The Committee consists of 8 members of the Senate appointed by the President Pro Tempore of the Senate and 8 members of the House of Representatives appointed by the Speaker of the House of Representatives. Members serve two-year terms.

The Committee's oversight powers are broad as quoted from G.S. 120-70.51(a) below.

- o Review reports prepared by the Department of Transportation or any other agency of State government related, in any manner, to transportation, when those reports are required by law.
- o Monitor the funds deposited in and expenditures from the North Carolina Highway Trust Fund, the Highway Fund, the General Fund, or any other fund when those expenditures are related, in any manner, to transportation.
- o Determine whether funds related, in any manner, to transportation are being spent in accordance with law.
- o Determine whether any revisions are needed in the funding for a program for which funds in the Trust Fund, the Highway Fund, the General Fund, or any other fund when those expenditures are related, in any manner, to transportation may be used, including revisions needed to meet any statutory timetable or program.
- o Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the funding or operation of programs related, in any manner, to transportation.

RESULTS OF
1994
LEGISLATIVE PROPOSALS

Report on Legislation
SUBMITTED BY THE COMMITTEE TO THE 1994 GENERAL ASSEMBLY

IN ITS REPORT DATED MAY 24, 1994, THE COMMITTEE RECOMMENDED THIRTEEN BILLS TO THE 1994 GENERAL ASSEMBLY. SEVEN OF THESE BILLS WERE ENACTED, AND THEY ARE SUMMARIZED BELOW.

EMISSIONS INSPECTIONS CHANGES (HB 1843; CHAPTER 754): HOUSE BILL 1843 BRINGS THE STATE VEHICLE EMISSIONS INSPECTION PROGRAM INTO COMPLIANCE WITH FEDERAL LAW AND MAKES ADMINISTRATIVE AND TECHNICAL CHANGES TO BOTH THE EMISSIONS INSPECTION PROGRAM AND THE SAFETY INSPECTION PROGRAM TO ENABLE THE DIVISION OF MOTOR VEHICLES (DMV) OF THE DEPARTMENT OF TRANSPORTATION TO ADMINISTER THE PROGRAMS MORE EFFICIENTLY. MOST OF THE CHANGES BECOME EFFECTIVE OCTOBER 1, 1994; HOWEVER, THE COMPUTER MATCHING COMPONENT OF THE MOTORIST COMPLIANCE PROVISIONS BECAME EFFECTIVE UPON RATIFICATION AND THE REGISTRATION DENIAL COMPONENT OF THESE PROVISIONS BECOMES EFFECTIVE OCTOBER 1, 1996.

BEFORE THE ENACTMENT OF THIS BILL, NORTH CAROLINA WAS NOT IN COMPLIANCE WITH 40 C.F.R. PART 51, THE REGULATIONS ADOPTED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA) TO IMPLEMENT THE 1990 AMENDMENTS TO THE FEDERAL CLEAN AIR ACT, AND HAD NOT BEEN IN COMPLIANCE SINCE JANUARY 1, 1994. IF THE STATE HAD NOT CHANGED ITS LAW TO COMPLY WITH THESE REGULATIONS AND SUBMITTED TO EPA A STATE IMPLEMENTATION PLAN CONCERNING THE EMISSIONS PROGRAM, THE STATE COULD HAVE BEEN SANCTIONED FOR ITS FAILURE TO COMPLY.

THERE ARE TWO SANCTIONS FOR FAILURE TO COMPLY WITH 40 C.F.R. PART 51. THEY ARE THE WITHHOLDING OF FEDERAL HIGHWAY FUNDS, EXCEPT SAFETY FUNDS, IN THE EMISSION COUNTIES AND THE IMPOSITION OF A 2:1 OFFSET REQUIREMENT AS A CONDITION OF THE ISSUANCE OF A NEW AIR DISCHARGE PERMIT IN THE EMISSION COUNTIES. THE SANCTION CONCERNING FEDERAL HIGHWAY FUNDS CAN BE IMPOSED BY EPA ONLY IF THE UNITED STATES DEPARTMENT OF TRANSPORTATION CONCURS. THE OFFSET SANCTION CAN BE IMPOSED BY EPA WITHOUT THE CONCURRENCE OF ANY OTHER AGENCY. THE EMISSION COUNTIES ARE WAKE, DURHAM, ORANGE, GUILFORD, FORSYTH, MECKLENBURG, GASTON, CABARRUS, AND UNION.

THE CHANGES IN THE LAW ARE OUTLINED BELOW ACCORDING TO THE TYPE OF CHANGE.

Changes Needed To Comply With Federal Law

- (1) Establishment of a dedicated, nonreverting fund to provide revenue for the emissions inspection program: The bill amends G.S. 20-183.7 to create the Emissions Program Account and to shift from the Highway Fund to this Account the portion of the emissions inspection sticker fee that currently goes to the Highway Fund. The portion is \$1.80 of the \$2.40 fee. For fiscal year 1993-94, the \$1.80 is expected to generate \$2.8 million.
- (2) Establishment of a mechanism to deny or revoke the registration of a vehicle that fails to comply with the emissions inspection requirements: Section 9 of the bill establishes a temporary computer matching system to be in effect until October 1, 1996. Section 8 establishes an automatic registration denial system effective October 1, 1996. The two systems are included because automatic vehicle registration denial is the best method but it cannot be implemented until DMV's vehicle registration computer system is overhauled, which will not occur until October 1, 1996. Consequently, until then, a different system must be used.
- (3) Monetary penalties against vehicle owners who do not comply with the emissions inspection requirements: Federal law requires mandatory monetary penalties that constitute a meaningful deterrent. G.S. 20-183.8A, in Section 1 of the bill, imposes a civil penalty against vehicle owners in three circumstances -- failure to have a vehicle inspected within 4 months after its sticker expired, tampering with the emission control devices of a vehicle, or falsely registering a vehicle to avoid the emissions inspection requirements. The penalty is \$100 if the vehicle is a pre-1981 vehicle and is \$220 if the vehicle is a 1981 or newer model.
- (4) Monetary penalties against emissions license holders and suspension or revocation of an emissions license: Federal law requires a penalty schedule that imposes "swift, sure, effective, and consistent penalties" for violations of the emissions inspection procedures. The schedule must categorize and list

the penalties for first, secondary and subsequent violations, impose mandatory minimum \$100 penalties against an emissions mechanic for serious violations, and suspend the station's license and the mechanic's license for serious violations. G.S. 20-183.8B and 20-183.8C, in Section 1, establish the penalty schedule and list violations. The schedule categorizes violations into three types -- serious, minor, and technical -- and establishes penalties for first, second, third, and subsequent violations of each type of violation. The penalty for a first or second serious violation by a mechanic is \$100 and revocation of the license for 6 months. The penalty for a third or subsequent serious violation by a mechanic is \$250 and revocation of the license for 2 years. The penalties for a station are higher -- \$250 and \$1000 -- but the revocation period is the same. The penalties for minor and technical violations are scaled down accordingly.

- (5) Increased Licensing Requirements for Mechanics. -- Federal law requires inspector mechanics to be licensed, to pass an 8-hour emissions course to be licensed, to renew the license every 2 years, and to pass a 4-hour refresher course in order to renew. G.S. 20-183.4A and 20-183.4B, in Section 1, codify the current emissions licensing requirements that have been implemented through administrative practice and revise these requirements to meet the requirements of federal law.
- (6) Sticker Expiration Dates. -- Federal law requires a sticker issued for a vehicle whose inspection is overdue to become effective the day it would have become effective if the vehicle had been inspected in a timely way. G.S. 20-183.4D(d) makes this change.

Changes to Improve The Inspection Programs

- (1) Establishing a uniform time period for reinspection of a vehicle without payment of an inspection fee: G.S. 20-183.7, as amended by Section 1 of the bill, sets a 45-day period for both safety and emissions reinspections without charge. Prior law allowed 90 days for a reinspection without charge when a vehicle failed a safety inspection and 30 days when it failed

an emissions inspection. The bill changes both to 45 days to make the same time limit apply to both. Emissions repairs are no less complicated and time consuming than safety repairs, and the difference in these time periods added unnecessary complication to the program.

- (2) Elimination of one-way permits in favor of defenses to violations: Prior law authorized the Division to issue a one-way permit to drive a vehicle with an expired inspection sticker to a place to be inspected. These permits will typically issued for vehicles whose stickers had expired while the vehicles were in a state of disrepair and could not be driven. The bill eliminated the need for permits in these circumstances by making it a defense to a citation to drive a vehicle in these circumstances to be repaired. This eliminates the administrative time needed to issue the permit and the time spent by the motorist in trying to obtain a permit.
- (3) Administrative Hearing Time Limits: Prior law required administrative hearings on inspection violations to be held by the Commissioner within 10 days. This time limit was not met; persons requesting a hearing were asked to agree to waive the right to a hearing within the 10-day limit. The bill, in G.S. 20-183.8E of Section 1, eliminates the 10-day limit, establishes a 14-day limit for hearings on revocations or suspensions of an emissions license, and establishes a 90-day limit for all other inspection hearings. The 14-day limit is required by federal law.
- (4) Including Leased Federal Installations Within the Emissions Program: Federal law requires vehicles operated on federal installations that are within an emissions county and are owned by the federal government to be subject to an emissions inspection. The bill defines a federal installation to include property leased by the federal government as well as owned. This simplifies the program for federal installations and establishes a policy that does not vary depending on how the federal government chooses to provide property for its agencies. The method of providing property is unrelated to the emissions produced by vehicles and cannot be determined without investigation. The EPA complex in the Research Triangle, for example, is leased rather than owned.

- (5) Assessing emissions license holders a penalty of \$25 for each sticker that is missing: Prior law imposed no monetary penalties for missing stickers or any other inspection violations. This penalty is imposed to address the problem created by stickers that are "lost" by stations. DMV reported that it is not uncommon for an officer at DMV to find that a station has over 100 stickers missing and no plausible explanation of what happened to them.

Technical Changes

The bill makes numerous technical and clarifying changes. Most importantly, it clarifies which vehicles are subject to inspection, what the inspection entails, and who can perform the inspection. In making the clarifying changes, it codifies the current administrative practice concerning safety and emissions inspections and, except for the changes required by federal law, the requirements for various licenses.

The emissions program is a one-paragraph afterthought in the current law. This bill integrates the emissions requirements into the statutes and distinguishes between safety inspections and emissions inspections.

The bill also makes conforming changes and moves various provisions from one place to another. Section 2 renames the Article that contains the inspection programs from the "Motor Vehicle Law of 1947" to "Safety and Emissions Inspection Program" because there is nothing substantive left in the Article that was enacted in 1947. Section 3 repeals the remaining vestige of the 1947 act because the purposes stated in the repealed Part are no longer accompanied by statutes that implement the stated purposes.

Section 4 repeals G.S. 20-127(e) because it is incorporated in G.S. 20-183.3(a)(5) as amended in Section 1. Section 5 repeals G.S. 20-128.2(b) because it is incorporated in G.S. 20-183.3(b) as amended in Section 1. Section 6 moves from G.S. 20-183.2(a) and 20-183.8(c) to G.S. 20-384 the requirement that a motor carrier comply with the federal Motor Carrier Safety Regulations and the infraction for failure to do so.

DMV and DOT Technical Changes (SB 1579; Chapter 761): Senate Bill 1579 makes numerous technical, conforming, and administrative changes to the statutes concerning the Division of Motor Vehicles (DMV) and the Department of Transportation. The technical and conforming changes fix errors made in the 1993 Session, conform various criminal violations with structured sentencing, delete obsolete or redundant provisions, or move certain provisions out of the Motor Vehicle Chapter, Chapter 20, into more appropriate Chapters. The administrative changes give DMV discretion to stagger any type of vehicle registration, allow staggering to be done on a quarterly as well as monthly basis, eliminate the grace period for expired, staggered International Registration Plan registrations, and require DMV to put at least 50 copies of the driver license handbook in the clerk of court's office in each county.

Changes made by each section of the bill are summarized below. Significant substantive changes are explained in detail:

Section 1:

Chapter 285 of the 1993 Session Laws changed the alcohol concentration level required for a conviction of driving while impaired from 0.10 to 0.08. That Chapter failed to make a conforming change to G.S. 20-17, which lists the circumstances under which a driver's license is revoked for regular driving while impaired or commercial driving while impaired. This section makes the needed conforming change.

Section 1.1:

Ensures that free copies of the driver license handbook are available throughout the State.

Sections 2 and 3:

These two sections merge driving while license revoked, other than permanently, and driving while license permanently revoked because they are both Class 1 misdemeanors under the structured sentencing scheme enacted by Chapter 539 of the 1993 Session Laws. The punishment for a person who drives while a license is permanently revoked will be stiffer than for a person who drives with a license that is revoked for a period other than permanently because, to get to the point of having a permanently revoked license, a person must have at least two prior convictions of driving with a revoked license. These prior convictions will move the person into a higher prior conviction level.

Section 4:

Chapter 539 of the 1993 Session Laws classified misdemeanor offenses as Class 1, Class 2, or Class 3 misdemeanors so they would fit into the structured sentencing scheme enacted by Chapter 538 of the 1993 Session Laws. Section 324 of that act changed the "default" punishment for violations of Article 2, the drivers license article, of Chapter 20 of the General Statutes from a 6-month, \$500 misdemeanor to a Class 2 misdemeanor. The "default" punishment is the punishment that applies when the law does not specify any other punishment.

The changes left inaccurate provisions in subsection (a) of this section as well as an incomplete sentence in subsection (b) that, if corrected, would do nothing more than repeat subsection (a). This section corrects these problems by rewriting subsection (a) so that it applies to all offenses in Article 2 and deletes subsection (b). Current subsection (a) is inaccurate because it implies that Article 2 contains only felonies and Class 2 misdemeanors. The Article includes other classes of misdemeanors in addition to Class 2.

Section 5:

This section makes three administrative changes and two technical changes in staggered vehicle registrations. The administrative changes allow the Division to stagger the registration of any type of vehicle, allow staggered registrations to expire at the end of any periodic basis composed of one or more months, and eliminate the 15-day grace period for expired International Registration Plan (IRP) staggered registrations.

The technical changes eliminate subsections (d) and (e); subsection (d) is inaccurate and is replaced by the new language in (g), and Section 8 of this bill incorporates subsection (e) in amended G.S. 20-95. Registration plates, as opposed to renewal stickers, are all calendar-year plates and are not staggered.

Current law restricts staggered registration to the following vehicles: motorcycles, private passenger vehicles, U-drive-it passenger vehicles, property-hauling vehicles licensed for 4,000 pounds gross weight, vehicles registered under the International Registration Plan (IRP), and trailers. The Division currently renews the registration of all of these types of vehicles by sticker except those registered under the IRP and is planning to implement staggered IRP registration in 1995.

The Division's plan for staggered IRP registration contemplates staggering the registrations on a quarterly as opposed to a monthly basis because this schedule best accommodates the IRP vehicle owners. Current law, however, requires all staggered renewals to be done on a monthly basis so that an approximately equal number of vehicle registrations expire at the end of each month. This section removes the monthly limitation and allows the Division to stagger registrations for IRP vehicles and any other vehicles on a periodic basis. The Division is best able to determine the period that will spread the work out evenly.

The section also eliminates the 15-day grace period for expired, staggered IRP registrations. Under current law, it is lawful to drive a vehicle registered under the staggered system for 15 days after the registration renewal sticker expires. This change is made at the request of DMV.

Sections 6-34:

Make technical, clarifying and conforming changes to various sections of Chapter 20, the motor vehicles statutes.

Section 34.1:

This section makes a vehicle driven by a person who is convicted of habitual impaired driving subject to forfeiture in accordance with the procedure that applies to forfeiture of a vehicle driven by a person who is convicted of driving without a license and driving while impaired.

Section 35:

This section provides the effective dates for each section of the bill. Sections 1-4, 17, 20, 23, 26, and 34.1 become effective October 1, 1994; Sections 29-31 become effective February 1, 1995; the remaining sections became effective July 16, 1994.

Liability Insurance Proof Change (HB 1551; Chapter 595): House Bill 1551 eliminates the current requirement of North Carolina law that persons who are renewing their drivers license and must take the written test (due to conviction for a traffic violation within the proceeding four year period) show proof of liability insurance. The form showing proof of insurance is commonly referred to as the "DL-123." House Bill 1551 is expected to eliminate the need for 230,000 persons who are renewing their license each year, and must show proof of insurance due to a conviction for a traffic violation in the previous four years, to obtain and present the DL-123 form to

the Division of Motor Vehicles. The current requirements for proof of insurance upon initial issuance of a license, upon restoration of a license, or upon granting of a limited driving privilege are unaffected by this bill. House Bill 1551 becomes effective October 1, 1994.

Billboard Compensation Extended (SB 1425; Chapter 725): Senate Bill 1425 extends the requirement that just compensation be paid for removal by local authorities of billboards on Interstate and Federal-aid primary highways, as required by Federal law

In 1978, Congress amended the Federal Highway Beautification Act to require just compensation for removal by local governments of billboards lawfully erected under State law adjacent to an Interstate or Federal-aid primary highway (23 U.S.C. 131(g)).

To comply with this Federal directive, and avoid a potential loss of 10% of the State's Federal highway funds, in 1982 the General Assembly enacted G.S. 136-131.1. This section prohibits local governments from removing billboards lawfully erected under State law and adjacent to an Interstate and Federal-aid primary highway without the payment of just compensation.

G.S. 136-131.1 was originally given a sunset date of June 30, 1984, apparently in case the Federal law was subsequently repealed. The Federal law remained in effect, and G.S. 136-131.1 was, as a result, extended to June 30, 1988, and then to June 30, 1990, and finally to June 30, 1994.

Senate Bill 1425 extends the sunset date of G.S. 136-131.1 to June 30, 1998.

Uniform License & Registration Information (SB 1566; Chapter 750): Senate Bill 1566 makes several changes to the drivers license and special identification card laws. Most importantly, it enables the Division of Motor Vehicles (DMV) of the Department of Transportation to use the social security number of an individual as the identifying number for that individual in the drivers license records, the vehicle registration records, and the special identification card records of the Division. It does this by requiring an individual who applies for a drivers license, the registration of a vehicle, or a special identification card to include the

individual's social security number on the application. The bill authorizes but does not require DMV to use a social security number as the drivers license number that is printed on a drivers license.

The bill also allows race to be included on a drivers license, at the option of the licensee; makes anyone who is a resident of this State eligible for a special identification card, and delete the requirement that a test for an H (hazardous material) or X (tank) endorsement be written. Under current law, a person must be at least 11 years old and not have a drivers license in order to obtain a special identification card. The change concerning the test became effective July 15, 1994. The remaining changes become effective January 1, 1995.

DMV is in the process of establishing a new computer system for its drivers license, special ID, and vehicle registration records. Use of a unique social security number will enable DMV to cross-check information in these data bases. Currently, the drivers license and vehicle registration data bases do not use common identifiers and, consequently, cannot be used to cross-check information.

Under current law, an applicant for a regular drivers license, a special ID card, or a vehicle registration is not required to provide a social security number. An applicant for a commercial drivers license is required to provide a social security number. Approximately 33 states use social security numbers for identification in drivers license records.

The bill requires an application for a drivers license, a special ID card, or a vehicle registration to contain the disclosures concerning social security numbers that are required by federal law. Section 7 of the federal Privacy Act of 1974 (Pub. L. 93-579) requires a state that requests an individual to disclose his or her social security account number to inform the individual whether the disclosure is mandatory or voluntary, the statutory or other authority by which the number is requested, and the use that will be made of the number. That section also prohibits a state from denying a benefit to an individual based on the individual's failure to provide a social security number when requested to do so unless the request is required by "Federal statute" or is one of the pre-1975 grandfathered disclosures. The federal statutes, at 42 U.S.C. 405(c)(2)(C)(i), declare that it is the policy of the

United States to allow a state to use social security numbers in the administration of any "tax, general public assistance, driver's license, or motor vehicle registration law ... for the purpose of establishing the identification of individuals affected by such law."

Thus, federal law authorizes a state to deny a drivers license or vehicle registration to an individual based on the individual's failure to provide a social security number. An application for a license or vehicle registration, however, must contain a statement that the disclosure is mandatory, cite the appropriate statute, and state that the number will be used as the identifying number of the individual for drivers license or vehicle registration purposes, as appropriate. The federal law does not specifically refer to special identification cards. North Carolina considers these cards as part of its drivers license records, however, because a special ID card is an alternate to a drivers license as a form of official identification. Thus, the same exceptions that apply to drivers licenses also apply to special ID cards.

In adding the requirement of providing a social security number when applying for a drivers license, a special ID card, or a vehicle registration, the bill makes numerous technical changes. These changes are the reason why the bill is lengthy. The changes consolidate the application requirements for a license into one place in G.S. 20-7, delete duplicative application requirements from the special ID statute and the commercial drivers license statute, and consolidate the requirements for the kinds of information a drivers license must contain. The requirement that a person carry his or her drivers license when operating a vehicle is moved from G.S. 20-7(n) to G.S. 20-7(a). The requirement that an endorsement or restriction be noted on the face of a drivers license is moved from G.S. 20-7(c) and (e), respectively, to G.S. 20-7(n). The bill makes no changes in the information required to obtain a drivers license, a special ID card, or a vehicle registration other than the requirement of providing a social security number.

Single State Insurance Registration (HB 1619; Chapter 621): House Bill 1619 conforms the State law concerning the registration of certain interstate for-hire motor carriers to the requirements of federal law, clarifies the registration requirements that apply to intrastate for-hire motor carriers, and makes technical changes to the motor carrier registration laws. The changes became effective upon ratification, July 1, 1994.

The Intermodal Surface Transportation Act of 1991 amended 49 U.S.C. § 11506 by directing the federal Interstate Commerce Commission (ICC) to adopt regulations requiring states to implement a single-state registration system for interstate for-hire motor carriers that are regulated by the ICC. The ICC accordingly revised 49 C.F.R. Part 1023 to make the mandated changes. As revised, 49 C.F.R. Part 1023 required states to eliminate the bingo stamp method of registering ICC-regulated for-hire interstate motor carriers by December 31, 1993, and replace it with a single-state registration system that is similar to other multi-state registration systems such as the International Registration Plan and the International Fuel Tax Agreement.

The Division of Motor Vehicles of the Department of Transportation complied with the new federal law and, effective with the 1994 calendar year, switched to the single-state registration system. The North Carolina statutes, however, have not been changed and therefore conflict with both federal law and administrative practice. Sections 1 and 4 of this bill rewrite the appropriate statutes to resolve these conflicts.

Section 1 establishes the single-state registration method for for-hire motor carriers that are regulated by the ICC and retains the bingo stamp method for interstate motor carriers that are not regulated by the ICC. The difference in these two methods is described below.

Section 4 revises the fee schedule for registration of interstate for-hire motor carriers to eliminate fees the State is prohibited by federal law from collecting. Federal law prohibits a state from collecting a fee from an ICC-regulated interstate for-hire motor carrier for filing with the state a copy of the carrier's ICC certificate of authority or an amendment to that certificate. Accordingly, Section 4 eliminates the current \$25 fee on these carriers for filing a copy of their ICC certificate of authority and the \$5 fee for filing an amendment to the certificate.

Federal law also requires the State to waive collection of the \$1 vehicle registration fee if it had a reciprocal agreement with another state on November 15, 1991, that required it to do so. Accordingly, Section 4 lists the states with which North Carolina had reciprocal agreements as of that date.

Both the bingo stamp method and the single-state method of registering interstate motor carriers are means to ensure that for-hire motor vehicles operated in interstate commerce in North Carolina are insured. Under the bingo stamp method, the motor carrier applies to each state in which a vehicle will be driven for an identification stamp that is specific to the vehicle. To obtain the stamp, the carrier must prove that the carrier has insurance on the vehicle and that the insurance meets the state's requirements for insurance coverage. The carrier places each stamp on a card that resembles a bingo card. The card has a blank for a stamp from each state. The carrier then puts the card with the stamps in the motor vehicle for which the stamps were issued. The driver of the motor vehicle must display the card to a law enforcement officer when requested to do so.

Under the single-state method, the states choose whether or not to be a participating state and each motor carrier selects one of the participating states as its registration state. The state selected must be the carrier's principal place of business or the state in which it will operate the largest number of vehicles. North Carolina has chosen to be a participating state. Therefore, each motor carrier whose principal place of business is in North Carolina and each motor carrier whose principal place of business is in a non-participating state and whose operations are largely in North Carolina must choose North Carolina as its single registration state. North Carolina's role as the single registration state for a motor carrier is to register the vehicles the carrier will operate in any state during a calendar year, collect the fees that apply to each state in which a vehicle will be operated, and issue a receipt to the carrier showing the total number of vehicles the carrier has registered for each state.

To obtain a receipt, a carrier must prove that it has a certificate of authority issued by the ICC. The certificate of authority is proof that the carrier has adequate insurance; a state may not demand more coverage than is required to obtain an ICC certificate of authority. The carrier must put a copy of the receipt in each of the carrier's vehicles. Like its bingo stamp predecessor, the receipt must be shown to a law enforcement officer upon request. Unlike its bingo stamp predecessor, the receipt is not specific to a vehicle, thereby enabling a carrier to replace vehicles or swap them without applying for a new receipt.

The switch to a single-state method for ICC-regulated interstate for-hire motor carriers completely changes the registration system for these vehicles. The Division of Motor Vehicles will register vehicles to be operated in any jurisdiction for motor carriers who select North Carolina as their registration state and will not register any vehicles to be operated in the State by motor carriers whose registration state is a state other than North Carolina. In addition, as required by federal law, the application period for registration and the period in which a registration is valid differs from the bingo stamp method. The application period for the single-state system is August 1 to November 30, and the application period for the bingo stamp method is October 1 through January 31. A registration issued under the single-state system expires on December 31, and a registration issued under the bingo stamp method expires February 1.

In addition to rewriting the statutes to incorporate the single-state method, the bill clarifies the registration requirements of intrastate motor carriers, makes the current penalty for violations by interstate motor carriers applicable to intrastate motor carriers as well, and makes technical changes. The State statutes do not address the registration of intrastate motor carriers even though the Division of Motor Vehicles currently requires the carriers to both register their operations with the State and verify that their vehicles are insured. Section 2 of the bill codifies the current administrative practice on this subject.

Section 3 moves the penalty provisions in G.S. 20-382(d) that apply to interstate motor carriers to a new statute and includes intrastate motor carriers within its scope. The existing penalty was subject to legal challenge on the basis of both equal protection and the federal commerce clause.

The bill makes numerous technical changes to make the wording of the statutes consistent, to eliminate confusion, and to eliminate unnecessary provisions. Section 5 of the bill is part of the technical changes. It deletes definitions in G.S. 20-386 that either duplicate the definitions in G.S. 20-4.01 or are not used in the Article. The definitions in G.S. 20-386(6), (11), (17), and (20) are also in G.S. 20-4.01, which applies to every statute in Chapter 20. The definitions in G.S. 20-386(3), (10), (12), (18), and (22) are not used in the Article and are therefore unnecessary.

TRAC Lease Clarified (SB 1628; Chapter 756): Senate Bill 1628 amends the Uniform Commercial Code to clarify that a motor vehicle operating lease that contains a terminal rental adjustment clause is legally considered to be a lease and not a sale nor a security interest. A terminal rental adjustment clause permits an adjustment of rent either upwards or downwards at the end of the lease based on the difference at the end of the lease between the expected value of the vehicle and its actual value. The bill amends the definition of a lease under G.S. 25-2A-103(1)(j) by including in the definition a motor vehicle operation agreement that is considered a lease under Section 7701(h) of the Internal Revenue Code. Senate Bill 1628 became effective upon ratification, July 15, 1994.

Remove DOT Appraisal Sunset (HB 1552; Chapter 691): Section 1 of Chapter 519 of the 1993 Session Laws exempts, until July 1, 1994, the Department of Transportation from the requirement that real property acquired by the Department be appraised by a licensed or certified appraiser, if the estimated value of the real estate is less than ten thousand dollars. House Bill 1552 extends the expiration date of this exemption from July 1, 1994 to July 1, 1995. House Bill 1552 became effective upon ratification, July 6, 1994.

**COMMITTEE
PROCEEDINGS**

COMMITTEE PROCEEDINGS

Following the 1994 Regular Session, the Joint Legislative Transportation Oversight Committee met four times from October 1994 to January 1995. The Committee examined a variety of topics, which are briefly summarized below.

October 5, 1994

The first meeting of the Committee following the 1994 Regular Session was held on October 5, 1994 in Raleigh. This meeting was primarily dedicated to an examination of the impact of highways on wetlands, and the federal and state law and rules that govern that impact.

The topic of wetlands and highways came to the Committee's attention following a disagreement between the N.C. Department of Transportation (NCDOT) and the N.C. Department of Environment, Health and Natural Resources (DEHNR) over proposed state wetlands rules. The proposed rules were scheduled to be reviewed in a series of public hearings in September, 1994. The hearings were cancelled, and the rule-making put on hold after NCDOT objected to the estimated fiscal impact of the rule on NCDOT construction and maintenance projects.

In order to understand the issues affecting the NCDOT-DEHNR disagreement, the Committee scheduled a comprehensive examination of the issue at its October meeting.

The Committee first heard a description of wetlands and a summary of federal wetlands regulation from Wayne Wright, Chief of the Regulatory Branch, U.S. Army Corps of Engineers, Wilmington District. He explained that §404 of the Federal Clean Water Act gives the Corps responsibility for issuing permits for activities that involve the discharge of dredge and fill materials in the waters of the U.S., which include adjacent wetlands. When NCDOT proposes to construct a highway project that will affect such a wetland, they must receive a federal §404 permit.

The Committee next heard from Ron Ferrell of the Division of Emergency Management (DEM), DEHNR. He explained that the State is involved in wetlands regulation under §401 of the Clean Water Act, which requires that activities that involve dredge and fill not cause a violation of State water quality standards. To fulfill the requirements of §401, DEM issues §401 certification on highway projects requiring a §404 permit.

Next, the Committee heard from Dan Bessie of the Environment Management Commission, who explained the rule proposed by the Commission which was the source of the disagreement between DEM and NCDOT. The proposed rule would change the State \$401 certification process by establishing classification of State wetlands, and by more clearly defining the State's \$401 water quality certification process.

Following Mr. Bessie, State Highway Administrator Larry Goode explained that, in NCDOT's view, the proposed rule was unnecessary and would increase costs and delay in highway construction and maintenance projects. Mr. Goode also briefly reviewed NCDOT's efforts to mitigate the effects of its projects on wetlands.

At the end of the wetlands discussion, Cochairman McLaughlin suggested the Governor might want to help the Departments resolve their dispute over the proposed rule and its fiscal impact. Soon after the meeting, each Department agreed to a new estimate on the fiscal impact of the proposed rule, and the normal rulemaking procedure continued.

Following the wetlands presentation, the Committee heard a update on DMV's Exhaust Emissions Program from Major John Robinson of the Division.

November 2, 1994

The Committee's second fall meeting was held on November 2, 1994 in Raleigh. The Committee first heard a presentation on federal enhancement funding. Dale McKeel of Scenic N.C. made suggestions for changing how enhancement funds are allocated and managed, and Larry Goode, State Highway Administrator, answered additional questions about the use of these funds. Next, Wayne Stallings of NCDOT commented on NCDOT fund reserves. C.A. Gardner of NCDOT presented a report on plastic pipe and adjustable manhole covers. Following these reports, the Committee turned to the issue of fuel tax evasion, and heard reports from Fred Aikens of NCDOT and Jack Harper of the Department of Revenue. No action was taken on these reports. The Committee then discussed the work of its own fuel tax evasion subcommittee, and the report of the subcommittee was adopted. (see more detailed discussion on page *). Next, Curtis Yates of NCDOT gave a report on the NCDOT Bicycle program. He was followed by Richard Bostic, who presented

funding options for the bicycle and pedestrian program. Following this report, Representative Hunter gave an update on the inmate labor subcommittee, and Duane Smith of DMV presented an update on DMV's computer system. Larry Goode, State Highway Administrator, then gave an update on the resolution of the NCDOT/DEM wetlands fiscal note dispute, and on the congestion avoidance and reduction (CARAT) project. The final report of the meeting was an update on the NCDOT minority business enterprise program, given by C.A. Gardner of NCDOT.

December 7, 1994

The third fall meeting of the Committee was held on December 7, 1994 in Raleigh. The Committee first heard a report on a draft bill being considered by the Revenue Laws Study Committee to move the point of taxation on motor fuels to the rack. Next, Fred Aikens of NCDOT reported on alternatives for collection of fuel tax on diesel, and gave an update on the fuel tax evasion program, with additional comments by Jack Harper of the Dept. of Revenue. The Committee next considered three DMV legislative proposals: (1) civil penalty in lieu of registration plate revocation; (2) authorization of DMV to issue temporary plates for up to 60 days; and (3) a change to the minimum property damage required for reporting a collision. The Committee asked for draft legislation on these topics to be prepared for the January meeting. Following this discussion, the Committee heard a report from DMV on revenues associated with the minimum use tax.

January 11, 1995

At its final meeting before the convening of the 1995 General Assembly, the Committee discussed and approved the proposed legislation included later in this report. The Committee declined to take any action on a proposed bill to transfer the State Ports Authority to DOT. Following discussion of proposed legislation, the Committee heard a report from the Inmate Labor Subcommittee, discussed digitized drivers license photographs, and received and discussed reports on: DOT mowing contracts, the Adopt-a-Highway program, and DMV's emission inspection program.

The Committee also reviewed a draft of this Committee report, and voted to approve its transmittal to the members of the 1995 General Assembly.

RECOMMENDATIONS

&

LEGISLATIVE PROPOSALS



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 1 (95-LJZ-12(1.2))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Overdue Truck Penalties & Taxes. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT CONCERNING THE COLLECTION OF OVERDUE TRUCK PENALTIES AND
3 ASSESSED TAXES AND THE CONSOLIDATION OF THE VARIOUS PROVISIONS
4 CONCERNING OVERWEIGHT VEHICLES.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 20-88 is amended by adding a new
7 subsection to read:
8 "(k) A person may not drive a vehicle on a highway if the
9 vehicle's gross weight exceeds its declared gross weight. A
10 vehicle driven in violation of this subsection is subject to the
11 axle-group weight penalties set in G.S. 20-118(e). The penalties
12 apply to the amount by which the vehicle's gross weight exceeds
13 its declared weight."
14 Sec. 2. G.S. 20-96 reads as rewritten:
15 "§ 20-96. Overloading. Collection of overdue penalties and
16 taxes.
17 ~~It is the intent of this section that every owner of a motor~~
18 ~~vehicle shall procure license in advance to cover the empty~~
19 ~~weight and maximum load which may be carried. Any owner failing~~
20 ~~to do so, and whose vehicle shall be found in operation on the~~
21 ~~highway over the weight for which such vehicle is licensed, shall~~
22 ~~pay the penalties prescribed in G.S. 20-118(e)(3). Nonresidents~~
23 ~~operating under the provisions of G.S. 20-83 shall be subject to~~
24 ~~the additional tax provided in this section when their vehicles~~

~~1 are operated in excess of the licensed weight or, regardless of
2 the licensed weight, in excess of the maximum weight provided for
3 in G.S. 20-118. Any resident or nonresident owner of a vehicle
4 that is found in operation on a highway designated by the Board
5 of Transportation as a light traffic highway, and along which
6 signs are posted showing the maximum legal weight on said highway
7 with a load in excess of the weight posted for said highway,
8 shall be subject to the penalties provided in G.S. 20-118(e)(1).
9 Any person who shall willfully violate the provisions of this
10 section shall be guilty of a Class 2 misdemeanor in addition to
11 being liable for the additional tax herein prescribed.~~

~~12 Any peace A law enforcement officer who discovers that a
13 property-hauling vehicle used for the transportation of property
14 is being operated on the highways with an overload as described
15 in this section or which is equipped with improper registration
16 plates, or the owner of which is liable for any overload
17 penalties or assessments applicable to the vehicle and due and
18 unpaid for more than 30 days, is hereby authorized to seize said
19 property-hauling vehicle and hold the same until the overload has
20 been removed or proper registration plates therefor have been
21 secured and attached thereto and the penalties owed under this
22 section and G.S. 20-118.3 have been paid. Any peace officer
23 seizing a property-hauling vehicle under this provision, may,
24 when necessary, store said vehicle and the owner thereof shall be
25 responsible for all reasonable storage charges thereon. When any
26 property-hauling vehicle is seized, held, unloaded or partially
27 unloaded under this provision, the load or any part thereof shall
28 be cared for by the owner or operator of the vehicle without any
29 liability on the part of the officer or of the State or any
30 municipality because of damage to or loss of such load or any
31 part thereof, and that the owner of the vehicle is more than 30
32 days delinquent in paying any of the following may detain the
33 vehicle:~~

- ~~34 (1) A penalty previously assessed under this Chapter
35 against the owner for a violation attributable to
36 the failure of a vehicle to comply with this
37 Chapter.~~
- ~~38 (2) A tax or penalty previously assessed against the
39 owner under Article 36B of Chapter 105 of the
40 General Statutes.~~

~~41 The officer may detain the vehicle until the delinquent
42 penalties and taxes are paid. When necessary, an officer that
43 detains a vehicle under this section may have the vehicle stored.
44 The owner of a vehicle that is detained or stored under this~~

1 section is responsible for the care of any property being hauled
2 by the vehicle and for any storage charges. The State is not
3 liable for damage to or loss of the property being hauled."

4 Sec. 3. G.S. 20-118(e)(3) reads as rewritten:

5 "(3) Except as provided in subdivision (4) of this
6 subsection, for a violation of an axle-group weight
7 limit set in subdivision (b)(3) or (b)(4) of this
8 section, the Department of Transportation shall
9 assess a civil penalty against the owner or
10 registrant of the motor vehicle in accordance with
11 the following schedule: for the first 2,000 pounds
12 or any part thereof, two cents (2¢) per pound; for
13 the next 3,000 pounds or any part thereof, four
14 cents (4¢) per pound; for each pound in excess of
15 5,000 pounds, ten cents (10¢) per pound. These
16 penalties apply separately to each axle-group
17 weight limit violated. The penalty shall be
18 assessed on each pound of weight in excess of the
19 maximum permitted."

20 Sec. 4. G.S. 20-118.1 reads as rewritten:

21 "§ 20-118.1. ~~Peace officer may weigh vehicle and require removal~~
22 ~~of excess load; refusal to permit weighing. Officers may weigh~~
23 ~~vehicles and require overloads to be removed.~~

24 ~~Any peace officer having reason to believe that the weight of a~~
25 ~~vehicle and load is unlawful is authorized to weigh the same~~
26 ~~either by means of North Carolina Department of Transportation~~
27 ~~portable or stationary scales, and may require that such vehicle~~
28 ~~be driven to the nearest North Carolina Department of~~
29 ~~Transportation stationary scales or stationary scales approved by~~
30 ~~the North Carolina Department of Agriculture in the event such~~
31 ~~scales are within five miles. The officer may then require the~~
32 ~~driver to unload immediately such portion of the load as may be~~
33 ~~necessary to decrease the gross weight of such vehicle to the~~
34 ~~maximum therefor specified in this Article. All material so~~
35 ~~unloaded shall be cared for by the owner or operator of such~~
36 ~~vehicle at the risk of such owner or operator. Any person who~~
37 ~~refuses to permit a vehicle being operated by him to be weighed~~
38 ~~as in this section provided or who refuses to drive said vehicle~~
39 ~~upon the scales provided for weighing for the purpose of being~~
40 ~~weighed, shall be guilty of a Class 2 misdemeanor. No vehicle~~
41 ~~more than two miles from a North Carolina Department of~~
42 ~~Transportation stationary scales may be required to be driven to~~
43 ~~such scales unless the peace officer knows or reasonably suspects~~

1 ~~the vehicle has driven so as to avoid being weighed at the~~
2 ~~scales.~~

3 A law enforcement officer may stop and weigh a vehicle to
4 determine if the vehicle's weight is in compliance with the
5 vehicle's declared gross weight and the weight limits set in this
6 Part. The officer may require the driver of the vehicle to drive
7 to a scale located within five miles of where the officer stopped
8 the vehicle.

9 If the vehicle's weight exceeds the amount allowable, the
10 officer may detain the vehicle until the overload has been
11 removed. Any property removed from a vehicle because the vehicle
12 was overloaded is the responsibility of the owner or operator of
13 the vehicle. The State is not liable for damage to or loss of
14 the removed property.

15 Failure to permit a vehicle to be weighed or to remove an
16 overload is a misdemeanor of the Class set in G.S. 20-176. An
17 officer must weigh a vehicle with a scale that has been approved
18 by the Department of Agriculture."

19 Sec. 5. G.S. 20-183.11 is repealed.

20 Sec. 6. This act is effective upon ratification.

Explanation of Proposal 1
Overdue Truck Penalties & Taxes

This proposal clarifies the current law concerning the authority of law enforcement officers to detain a truck until any delinquent penalties or taxes previously assessed against the truck's owner for motor carrier vehicle violations or motor carrier taxes have been paid. It also consolidates the various provisions concerning the weighing of trucks and eliminates inconsistencies in these provisions. The proposal is effective upon ratification.

Law enforcement officers of the Division of Motor Vehicles (DMV) currently detain a truck when they find that the owner of the truck has previously been assessed a penalty for a motor carrier vehicle violation and payment of the penalty is overdue. Penalties are due upon assessment and become delinquent 30 days after the date of assessment. Motor carrier vehicle violations include registration, equipment, and overweight violations.

Similarly, the officers detain a truck when they find that the owner of the truck is delinquent in paying motor carrier road taxes due under Article 36B of Chapter 105 of the General Statutes. When the fuel tax evasion plan of the Department of Transportation is implemented, the officers will have better information on delinquent taxpayers and will be able to use this authority to collect the delinquent taxes.

The statutes that give DMV law enforcement officers the authority to detain trucks is arguably not as broad as the current practice. G.S. 20-96 authorizes the detention of a truck when the owner "is liable for any overload penalties or assessments applicable to the vehicle and due and unpaid for more than 30 days." This language can be construed to mean that overdue overweight penalties are the only penalties or assessments for which a vehicle can be detained and then only if the overdue overweight penalty was previously assessed against the same truck rather than any truck of the owner. This proposal rewrites this language to make it clear that the authority applies to all truck violations and to motor carrier taxes. The fuel tax evasion plan of the Department of Transportation will not be effective if DMV's authority to detain trucks does not include the authority to detain for delinquent motor carrier taxes.

Section 1 adds to G.S. 20-88 a provision that is currently in G.S. 20-96 and is deleted from that statute as it is rewritten by Section 2 of the proposal. The provision transferred from G.S. 20-96 to 20-88 is the prohibition on driving in excess of declared weight.

Section 2 rewrites G.S. 20-96 to make the clarifications described above. In doing so, it removes parts of that statute that are more appropriately placed in other statutes and resolves inconsistencies in the statute. It removes the prohibition on driving in excess of declared weight, which is incorporated in G.S. 20-88. It also removes the statement of the penalties that apply to overweights on light-traffic roads, which is incorporated in G.S. 20-118(e)(3), as rewritten by Section 3 of this proposal. Finally, it removes provisions on weighing trucks because these provisions are incorporated in G.S. 20-118.1, as rewritten by Section 4 of the proposal.

Current G.S. 20-96 has several inconsistencies. First, it states that overweights are subject only to axle-group penalties, and not single-axle or tandem-axle. This conflicts with G.S. 20-118. Second, it states that overweights on light-traffic roads are subject only to single-axle or tandem-axle penalties, and not axle-group. This also conflicts with G.S. 20-118. Third, it refers to a tax imposed by the section, but that section does not impose a tax. The "tax" reference is to a tax that was repealed many years ago.

Section 3 incorporates the penalty amounts for overweight violations on light-traffic roads into G.S. 20-118, the statute that deals with overweights.

Section 4 rewrites 20-118.1 to consolidate in that statute the various provisions on weighing trucks that are now found in that statute and in G.S. 20-96 and G.S. 20-183.11.

Section 5 repeals G.S. 20-183.11 because its provisions have been incorporated into G.S. 20-118.1, as rewritten by Section 4 of the bill.

Section 6 makes the proposal effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 2 (95-LJZ-11(1.3))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: DMV/DOT Technical Changes. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CHANGES TO THE MOTOR VEHICLE LAWS AND
3 OTHER LAWS CONCERNING THE DEPARTMENT OF TRANSPORTATION.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 20-16.2(a) reads as rewritten:
6 "(a) Basis for Charging Officer to Require Chemical Analysis;
7 Notification of Rights. -- Any person who drives a vehicle on a
8 highway or public vehicular area thereby gives consent to a
9 chemical analysis if charged with an implied-consent offense.
10 The charging officer must designate the type of chemical analysis
11 to be administered, and it may be administered when the officer
12 has reasonable grounds to believe that the person charged has
13 committed the implied-consent offense.
14 Except as provided in this subsection or subsection (b), before
15 any type of chemical analysis is administered the person charged
16 must be taken before a chemical analyst authorized to administer
17 a test of a person's breath, who must inform the person orally
18 and also give the person a notice in writing that:
19 (1) He has a right to refuse to be tested.
20 (2) Refusal to take any required test or tests will
21 result in an immediate revocation of his driving
22 privilege for at least 10 days and an additional
23 12-month revocation by the Division of Motor
24 Vehicles.

- 1 (3) The test results, or the fact of his refusal, will
2 be admissible in evidence at trial on the offense
3 charged.
4 (4) His driving privilege will be revoked immediately
5 for at least 10 days if:
6 a. The test reveals an alcohol concentration of
7 0.08 or more; or
8 b. He was driving a commercial motor vehicle and
9 the test reveals an alcohol concentration of
10 0.04 or more.
11 (5) He may have a qualified person of his own choosing
12 administer a chemical test or tests in addition to
13 any test administered at the direction of the
14 charging officer.
15 (6) He has the right to call an attorney and select a
16 witness to view for him the testing procedures, but
17 the testing may not be delayed for these purposes
18 longer than 30 minutes from the time he is notified
19 of his rights.

20 If the charging officer or an arresting officer is authorized to
21 administer a chemical analysis of a person's ~~breath and the~~
22 ~~charging officer designates a chemical analysis of the blood of~~
23 ~~the person charged,~~ breath, the charging officer or the arresting
24 officer may give the person charged the oral and written notice
25 of rights required by this subsection. This authority applies
26 regardless of the type of chemical analysis designated."

27 Sec. 2. G.S. 20-79.7(b) reads as rewritten:

28 "(b) Distribution of Fees. -- The Special Registration Plate
29 Account and the Collegiate and Cultural Attraction Plate Account
30 are established within the Highway Fund. The Division must
31 credit the additional fee imposed for the special registration
32 plates listed in subsection (a) among the Special Registration
33 Plate Account (SRPA), the Collegiate and Cultural Attraction
34 Plate Account (CCAPA), and the ~~Recreation and~~ Natural Heritage
35 Trust Fund ~~(RNHTF)~~, (NHTF), which is established under G.S. 113-
36 77.7, as follows:

37 <u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>RNHTF</u> <u>NHTF</u>
38 Historical Attraction	\$10	\$20	0
39 In-State Collegiate Insignia	\$10	\$15	0
40 Out-of-state Collegiate Insignia	\$10	0	\$15
41 Personalized	\$10	0	\$10
42 Special Olympics	\$10	\$15	0
43 State Attraction	\$10	\$20	0
44 Wildlife Resources	\$10	\$10	0

- 1 All other Special Plates \$10 0 0."
- 2 Sec. 3. G.S. 20-82 is repealed.
- 3 Sec. 4. G.S. 20-297 reads as rewritten:
- 4 "§ 20-297. Inspection of records, etc. Retention and inspection
- 5 of certain records.
- 6 (a) Vehicles. -- A dealer must keep a record of all vehicles
- 7 received by the dealer and all vehicles sold by the dealer. The
- 8 records must contain the information the Division requires.
- 9 (b) Inspection. -- The Division may inspect the pertinent
- 10 books, records, ~~letters~~ letters, and contracts of a licensee
- 11 relating to any written complaint made to ~~him against such the~~ the
- 12 Division against the licensee."
- 13 Sec. 5. G.S. 20-88(f) is repealed.
- 14 Sec. 6. G.S. 20-135.2B(b) reads as rewritten:
- 15 "(b) Subsection (a) of this section ~~shall not apply when:~~ does
- 16 not apply in any of the following circumstances:
- 17 (1) An adult is present in the bed or cargo area of the
- 18 vehicle and is supervising the ~~child;~~ child.
- 19 (2) The child is secured or restrained by a seat belt
- 20 manufactured in compliance with Federal Motor
- 21 Vehicle Safety Standard No. 208, installed to
- 22 support a load strength of not less than 5,000
- 23 pounds for each belt, and of a type approved by the
- 24 ~~Commissioner;~~ Commissioner.
- 25 (3) An emergency situation ~~exists;~~ exists.
- 26 (4) The vehicle is being operated in a parade pursuant
- 27 to a valid permit.
- 28 (5) The vehicle is being operated in an agricultural
- 29 ~~enterprise;~~ or enterprise.
- 30 (6) ~~the~~ The vehicle is being operated in a county ~~which~~
- 31 that has no incorporated area with a population in
- 32 excess of 3,500."
- 33 Sec. 7. G.S. 20-141.3(a) reads as rewritten:
- 34 "(a) It shall be unlawful for any person to operate a motor
- 35 vehicle on a street or highway willfully in prearranged speed
- 36 competition with another motor vehicle. Any person violating the
- 37 provisions of this subsection shall be guilty of a Class 2 1
- 38 misdemeanor."
- 39 Sec. 8. G.S. 20-141.3(b) reads as rewritten:
- 40 "(b) It shall be unlawful for any person to operate a motor
- 41 vehicle on a street or highway willfully in speed competition
- 42 with another motor vehicle. Any person willfully violating the
- 43 provisions of this subsection shall be guilty of a Class 1 2
- 44 misdemeanor."

1 Sec. 9. G.S. 20-183.2(b)(5) reads as rewritten:

2 "(b) Emissions. -- A motor vehicle is subject to an emissions
3 inspection in accordance with this Part if it meets all of the
4 following requirements:

- 5 (1) It is subject to registration with the Division
6 under Article 3 of this Chapter.
7 (2) It is not a trailer whose gross weight is less than
8 4,000 pounds, a house trailer, or a motorcycle.
9 (3) It is a 1975 or later model.
10 (4) It is powered or designed so that it could be
11 powered by gasoline.
12 (5) It meets any of the following descriptions:
13 a. It is required to be registered in an
14 emissions county.
15 b. It is part of a fleet that is operated
16 primarily in an emissions county.
17 c. It is offered for rent in an emissions county.
18 d. It is offered for sale by a dealer in an
19 emissions ~~county~~ county and is not a new
20 vehicle that has not been titled.
21 e. It is operated on a federal installation
22 located in an emissions county and it is not a
23 tactical military vehicle. Vehicles operated
24 on a federal installation include those that
25 are owned or leased by employees of the
26 installation and are used to commute to the
27 installation and those owned or operated by
28 the federal agency that conducts business at
29 the installation.
30 f. It is otherwise required by 40 C.F.R. Part 51
31 to be subject to an emissions inspection."

32 Sec. 10. G.S. 20-183.8C(c) reads as rewritten:

33 "(c) Type III. -- It is a Type III violation for an emissions
34 self-inspector, an emissions inspection station, or an emissions
35 inspection mechanic to do any of the following:

- 36 (1) Fail to post an emissions license issued by the
37 Division.
38 (2) Fail to send information on emissions inspections
39 to the Division at the time or in the form required
40 by the Division."

41 Sec. 11. G.S. 20-183.11 is repealed.

42 Sec. 12. G.S. 20-183.12 is repealed.

43 Sec. 13. G.S. 20-305(5)b.6. reads as rewritten:

1 "6. Whether the establishment of an
2 additional new motor vehicle dealer or
3 relocation of an existing new motor
4 vehicle dealer in the relevant market
5 area would increase competition in a
6 manner such as to be in the long-term
7 public interest; and".

8 Sec. 14. G.S 136-66.1(4) reads as rewritten:

9 "(4) If the governing body of any municipality ~~shall~~
10 ~~determine~~ determines that it is in the best
11 interest of its citizens to do so, it may expend
12 its funds for the purpose of making any of the
13 following improvements on streets that are within
14 its corporate limits ~~which~~ and form a part of the
15 State highway system:

- 16 a. Construction of curbing and ~~guttering;~~
17 guttering.
18 b. Adding of lanes for automobile ~~parking;~~
19 parking.
20 c. Constructing street drainage facilities which
21 may by reasonable engineering estimates be
22 attributable to that amount of surface water
23 collected upon and flowing from municipal
24 streets which do not form a part of the State
25 highway ~~system;~~ system.
26 d. Constructing sidewalks.
27 e. Intersection improvements, if the governing
28 body determines that such improvements will
29 decrease traffic congestion, improve safety
30 conditions, and improve air quality.

31 In exercising the authority granted herein,
32 the municipality may, with the consent of the
33 Department of Transportation, perform the work
34 itself, or it may enter into a contract with the
35 Department of Transportation to perform such work.
36 Any work authorized by this subdivision shall be
37 financed entirely by the municipality and be
38 approved by the Department of Transportation.

39 The cost of any work financed by a
40 municipality pursuant to this subdivision may be
41 assessed against the properties abutting the street
42 or highway upon which such work was performed in
43 accordance with the procedures of either Article 10
44 of Chapter 160A of the General Statutes or any

1 charter provisions or local acts applicable to the
2 particular municipality."

3 Sec. 15. G.S. 136-92 reads as rewritten:

4 "§ 136-92. Obstructing highway drains ~~misdemeanor~~, prohibited.

5 ~~Any person who shall obstruct any drains~~ It is unlawful to
6 obstruct a drain along or leading from any public road in the
7 State shall be guilty of a Class 3 misdemeanor, and punished only
8 by a fine of not less than ten (\$10.00) nor more than one hundred
9 dollars (\$100.00). State. A person who violates this section is
10 responsible for an infraction."

11 Sec. 16. Sections 7, 8, and 15 of this act become
12 effective July 1, 1995, and apply to offenses occurring on or
13 after that date. The remainder of this act is effective upon
14 ratification.

Explanation of Proposal 2
DMV/DOT Technical Changes

This proposal makes a number of unrelated technical changes to Chapters 20 and 136 of the General Statutes. Each technical change is described below by section:

<u>Section</u>	<u>Explanation</u>
1	Clarifies that the officer who gives a breathalyzer test to a person can read the person his or her rights. Section 233.1 of Chapter 689 of the 1991 Session Laws amended G.S. 20-139.1(b1) to allow the arresting or charging officer to give a breathalyzer. This section makes a conforming change to a related statute.
2	Corrects a cross-reference to the Natural Heritage Trust Fund. Chapter 772 of the 1993 Session Laws (1994 Reg. Sess.) changed the name of the Recreation and Natural Heritage Trust Fund to the Natural Heritage Trust Fund.
3, 4	Move the requirement that vehicle dealers keep certain records from the Article on special registration plates to the Article on vehicle dealers. Currently, the provision is in the wrong place. Before the vehicle dealer Article was enacted, the provisions on dealers were in Article 3 of Chapter 20. Since the enactment in 1955 of Article 12 of Chapter 20, the dealer provisions have slowly been moved to Article 12. The provision on dealer records is the last vestige in Part 5 of Article 3 of the former arrangement of the dealer laws.
5	Repeals a subsection that describes the application of a tax that has been repealed. The section is therefore obsolete. The registration of nonresident property-hauling vehicles is governed by the International Registration Plan.
6	Corrects punctuation.
7, 8	Correct an error made in the structured sentencing legislation (Sections 366 and 367 of Chapter 539 of the 1993 Session Laws). That legislation inadvertently reversed the punishments for prearranged racing and non-prearranged racing. As reversed, the punishment for prearranged racing is less than the punishment for non-prearranged racing.

- 9 Clarifies that new vehicles that have never been titled are not subject to the emissions inspection requirement. This change reflects the current practice, which is to subject these vehicles to a safety but not an emissions inspection. An opinion by the Attorney General's office supports this practice.
- 10 Inserts the missing word "do" in an emissions penalty statute.
- 11, 12 These sections repeal two statutes that are unnecessary. G.S. 20-118.11 duplicates both G.S. 20-96 and 20-118.1. G.S. 20-183.12 applied only to 1953 appropriation and is therefore obsolete.
- 13 Inserts the missing word "vehicle."
- 14 Corrects punctuation.
- 15 Conforms punishment to structured sentencing. Under G.S. 14-3.1, if a violation is punishable only by a penalty not to exceed \$100, the violation is an infraction rather than a misdemeanor.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 3 (95-RWZ-001)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Dot Appraisal License.

(Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE PERMANENT THE EXEMPTION FOR REAL ESTATE ACQUIRED
3 BY THE DEPARTMENT OF TRANSPORTATION FROM THE REQUIREMENT THAT
4 IT BE APPRAISED BY A LICENSED OR CERTIFIED APPRAISER WHEN THE
5 ESTIMATED VALUE OF THE REAL ESTATE IS LESS THAN TEN THOUSAND
6 DOLLARS.
7 The General Assembly of North Carolina enacts:
8 Section 1. Section 2 of Chapter 94 of the 1991 Session
9 Laws, as amended by Section 1 of Chapter 519 of the 1995 Session
10 Laws and by Section 1 of Chapter 691 of the 1995 Session Laws,
11 reads as rewritten:
12 "Sec. 2. This act is effective upon ~~ratification and expires~~
13 ~~July 1, 1995.~~ ratification."
14 Sec. 2. This act is effective upon ratification.
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17

**** Explanation ****

This proposal amends Section 2 of Chapter 94 of the 1991 Session Laws to remove the July 1, 1995 sunset from that section. The section currently exempts the Department of Transportation from the requirement that real estate be appraised by a licensed or certified appraiser when the estimated value of the real estate is less than \$10,000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 4 (95-LJZ-10(1.2))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: DOT Assigned Vehicle Changes. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT THE DEPARTMENT OF TRANSPORTATION FROM THE
3 REQUIREMENT OF MAKING QUARTERLY REPORTS OF MILEAGE OF STATE
4 VEHICLES ASSIGNED TO THE DEPARTMENT AND TO ALLOW ASSIGNMENTS OF
5 VEHICLES TO THE DEPARTMENT TO BE REVOKED ONLY WHEN THE
6 DEPARTMENT CONSENTS.
7 The General Assembly of North Carolina enacts:
8 Section 1. G.S. 143-341(8)i.7a. reads as rewritten:
9 "7a. To adopt with the approval of the Governor and to
10 enforce rules and to coordinate State policy
11 regarding (i) the permanent assignment of
12 state-owned passenger motor vehicles and (ii) the
13 use of and reimbursement for those vehicles for the
14 limited commuting permitted by this subdivision.
15 For the purpose of this subdivision 7a,
16 "state-owned passenger motor vehicle" includes any
17 state-owned passenger motor vehicle, whether or not
18 owned, maintained or controlled by the Department
19 of Administration, and regardless of the source of
20 the funds used to purchase it. Notwithstanding the
21 provisions of G.S. 20-190 or any other provisions
22 of law, all state-owned passenger motor vehicles
23 are subject to the provisions of this subdivision
24 7a; no permanent assignment shall be made and no

1 one shall be exempt from payment of reimbursement
2 for commuting or from the other provisions of this
3 subdivision 7a except as provided by this
4 subdivision 7a. Commuting, as defined and
5 regulated by this subdivision, is limited to those
6 specific cases in which the Secretary has received
7 and accepted written justification, verified by
8 historical data. The Department shall not assign
9 any state-owned motor vehicle that may be used for
10 commuting other than those authorized by the
11 procedure prescribed in this subdivision.

12 A State-owned passenger motor vehicle shall not be
13 permanently assigned to an individual who is likely
14 to drive it on official business at a rate of less
15 than 3,150 miles per quarter unless (i) the
16 individual's duties are routinely related to public
17 safety or (ii) the individual's duties are likely
18 to expose him routinely to life-threatening
19 situations. A State-owned passenger motor vehicle
20 shall also not be permanently assigned to an agency
21 that is likely to drive it on official business at
22 a rate of less than 3,150 miles per quarter unless
23 the agency can justify to the Division of Motor
24 Fleet Management the need for permanent assignment
25 because of the unique use of the vehicle. Each
26 agency, other than the Department of
27 Transportation, that has a vehicle assigned to it
28 or has an employee to whom a vehicle is assigned
29 shall submit a quarterly report to the Division of
30 Motor Fleet Management on the miles driven during
31 the quarter by the assigned vehicle. The
32 Department of Administration Division of Motor
33 Fleet Management shall verify, on a quarterly
34 basis, review the report to verify that each motor
35 vehicle has been driven at the minimum allowable
36 rate. If it has not and if the department by whom
37 the individual to which the car is assigned is
38 employed or the agency to which the car is assigned
39 cannot justify the lower mileage for the quarter in
40 view of the minimum annual rate, quarter, the
41 permanent assignment shall be revoked immediately.
42 The Department of Transportation shall submit an
43 annual report to the Division of Motor Fleet
44 Management on the miles driven during the year by

1 vehicles assigned to the Department or to employees
2 of the Department. If a vehicle included in this
3 report has not been driven at least 12,600 miles
4 during the year, the Department of Transportation
5 shall review the reasons for the lower mileage and
6 decide whether to terminate the assignment. The
7 Division of Motor Fleet Management may not revoke
8 the assignment of a vehicle to the Department of
9 Transportation or an employee of that Department
10 for failure to meet the minimum mileage requirement
11 unless the Department of Transportation consents to
12 the revocation.

13 Every individual who uses a State-owned passenger
14 motor vehicle, pickup truck, or van to drive
15 between his official work station and his home,
16 shall reimburse the State for these trips at a rate
17 computed by the Department. This rate shall
18 approximate the benefit derived from the use of the
19 vehicle as prescribed by federal law. Reimbursement
20 shall be for 20 days per month regardless of how
21 many days the individual uses the vehicle to
22 commute during the month. Reimbursement shall be
23 made by payroll deduction. Funds derived from
24 reimbursement on vehicles owned by the Motor Fleet
25 Management Division shall be deposited to the
26 credit of the Division; funds derived from
27 reimbursements on vehicles initially purchased with
28 appropriations from the Highway Fund and not owned
29 by the Division shall be deposited in a Special
30 Depository Account in the Department of
31 Transportation, which shall revert to the Highway
32 Fund; funds derived from reimbursement on all other
33 vehicles shall be deposited in a Special Depository
34 Account in the Department of Administration which
35 shall revert to the General Fund. Commuting, for
36 purposes of this paragraph, does not include those
37 individuals whose office is in their home, as
38 determined by the Department of Administration,
39 Division of Motor Fleet Management. Also, this
40 paragraph does not apply to the following vehicles:
41 (i) clearly marked police and fire vehicles, (ii)
42 delivery trucks with seating only for the driver,
43 (iii) flatbed trucks, (iv) cargo carriers with over
44 a 14,000 pound capacity, (v) school and passenger

1 buses with over 20 person capacities, (vi)
2 ambulances, (vii) hearses, (viii) bucket trucks,
3 (ix) cranes and derricks, (x) forklifts, (xi)
4 cement mixers, (xii) dump trucks, (xiii) garbage
5 trucks, (xiv) specialized utility repair trucks
6 (except vans and pickup trucks), (xv) tractors,
7 (xvi) unmarked law-enforcement vehicles that are
8 used in undercover work and are operated by
9 full-time, fully sworn law-enforcement officers
10 whose primary duties include carrying a firearm,
11 executing search warrants, and making arrests, and
12 (xvii) any other vehicle exempted under Section
13 274(d) of the Internal Revenue Code of 1954, and
14 Federal Internal Revenue Services regulations based
15 thereon. The Department of Administration, Division
16 of Motor Fleet Management, shall report quarterly
17 to the Joint Legislative Commission on Governmental
18 Operations and to the Fiscal Research Division of
19 the Legislative Services Office on individuals who
20 use State-owned passenger motor vehicles, pickup
21 trucks, or vans between their official work
22 stations and their homes, who are not required to
23 reimburse the State for these trips.

24 The Department of Administration shall revoke the
25 assignment or require the Department owning the
26 vehicle to revoke the assignment of a State-owned
27 passenger motor vehicle, pickup truck or van to any
28 individual who:

- 29 I. Uses the vehicle for other than official
30 business except in accordance with the
31 commuting rules;
- 32 II. Fails to supply required reports to the
33 Department of Administration, or supplies
34 incomplete reports, or supplies reports
35 in a form unacceptable to the Department
36 of Administration and does not cure the
37 deficiency within 30 days of receiving a
38 request to do so;
- 39 III. Knowingly and willfully supplies false
40 information to the Department of
41 Administration on applications for
42 permanent assignments, commuting
43 reimbursement forms, or other required
44 reports or forms;

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IV. Does not personally sign all reports on forms submitted for vehicles permanently assigned to him and does not cure the deficiency within 30 days of receiving a request to do so;

V. Abuses the vehicle; or

VI. Violates other rules or policy promulgated by the Department of Administration not in conflict with this act.

A new requisition shall not be honored until the Secretary of the Department of Administration is assured that the violation for which a vehicle was previously revoked will not recur.

The Department of Administration, with the approval of the Governor, may delegate, or conditionally delegate, to the respective heads of agencies which own passenger motor vehicles or to which passenger motor vehicles are permanently assigned by the Department, the duty of enforcing all or part of the rules adopted by the Department of Administration pursuant to this subdivision 7a. The Department of Administration, with the approval of the Governor, may revoke this delegation of authority.

Prior to adopting rules under this paragraph, the Secretary of Administration may consult with the Advisory Budget Commission."

Sec. 2. This act is effective upon ratification.

Explanation of Proposal 4
DOT Assigned Vehicle Changes

This proposal makes two changes concerning State-owned passenger vehicles assigned to the Department of Transportation (DOT) by the Division of Motor Fleet Management of the Department of Administration. First, it directs DOT to make annual rather than quarterly reports to the Division of Motor Fleet Management on the number of miles driven by vehicles assigned either to DOT or an employee of DOT. Second, it prohibits the Division of Motor Fleet Management from terminating the assignment of a vehicle to DOT or an employee of DOT for failure of the vehicle to meet the minimum mileage requirements unless DOT agrees to the termination. The changes are effective upon ratification.

The effect of the proposal is to make permanent the temporary exemption from the assigned vehicle mileage requirements that has been granted to DOT by the appropriations acts since 1992. Section 38 of Chapter 1044 of the 1991 Session Laws (1992 Reg. Sess.) exempted State-owned passenger vehicles that were assigned to field personnel of DOT's Division of Highways from the minimum mileage requirements. This exemption expired July 1, 1993. Section 70 of Chapter 561 of the 1993 Session Laws expanded this exemption from the minimum mileage requirements to include all State-owned passenger vehicles assigned to DOT or an employee of DOT and made the exemption effective until July 1, 1994. Section 13 of Chapter 591 of the 1993 Session Laws (1994 Reg. Sess.) extended the expiration of the 1993 exemption to July 1, 1995.

Under the proposal, the Division of Motor Fleet Management could not assign a vehicle to DOT or an employee of DOT unless it was likely that the vehicle would be driven at least 3,150 miles a quarter. Once the assignment was made, DOT would not have to make quarterly reports of mileage and the Division of Motor Fleet Management could not revoke the assignment of a vehicle to DOT or an employee of DOT for failure to meet the minimum mileage requirements unless DOT agreed to the revocation.

Under G.S. 143-341(8)i., the Division of Motor Fleet Management of the Department of Administration has the responsibility of assigning State-owned vehicles to Departments and employees of those departments. That statute provides that a vehicle cannot be assigned unless it is likely that it will be driven at least 3,150 miles each quarter. Quarterly vehicle mileage reports are required to determine if the assigned vehicles have met the minimum requirements. If a vehicle has not met the

minimum mileage requirements and the Division finds that the failure is not justified, the Division must revoke the assignment. The reporting requirement and the revocation requirement do not currently apply to DOT, however, because of the special provisions described above.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 5 (95-LJXZ-8)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Allow Temporary Plate For 60 Days. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A
3 TEMPORARY LICENSE PLATE THAT IS VALID FOR UP TO 60 DAYS.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 20-50(b) reads as rewritten:
6 "(b) The Division may ~~upon receipt of proper application upon a~~
7 ~~form supplied by the Division and an accompanying fee of three~~
8 ~~dollars (\$3.00) grant a 10-day issue a temporary registration~~
9 ~~marker license plate for a vehicle. A temporary license plate is~~
10 valid for the period set by the Division. The period may not be
11 less than 10 days nor more than 60 days.
12 A person may obtain a temporary license plate for a vehicle by
13 filing an application with the Division and paying the required
14 fee. An application must be filed on a form provided by the
15 Division.
16 The fee for a temporary license plate that is valid for 10 days
17 is three dollars (\$3.00). The fee for a temporary license plate
18 that is valid for more than 10 days is the amount that would be
19 required with an application for a license plate for the vehicle.
20 If a person obtains for a vehicle a temporary license plate that
21 is valid for more than 10 days and files an application for a
22 license plate for that vehicle before the temporary license plate
23 expires, the person is not required to pay the fee that would
24 otherwise be required for the license plate.

1 A temporary license plate is subject to the following
2 limitations and conditions:

- 3 (1) ~~Temporary 10-day registration markers shall~~ It may
4 be issued only upon proper proof that the applicant
5 has met the applicable financial responsibility
6 requirements.
- 7 (2) ~~Temporary 10-day registration markers shall expire~~
8 ~~10 days from the date of issuance.~~ It expires on
9 midnight of the day set for expiration.
- 10 (3) ~~Temporary 10-day registration markers~~ It may be
11 used only on the vehicle for which issued and may
12 not be transferred, ~~loaned~~ loaned, or assigned to
13 another.
- 14 (4) ~~In the event a temporary 10-day registration marker~~
15 ~~if it is lost or stolen, notice shall be furnished~~
16 ~~to the person who applied for it must notify the~~
17 Division.
- 18 (5) ~~The Commissioner shall have the power to make such~~
19 ~~rules and regulations not inconsistent herewith as~~
20 ~~he shall deem necessary for the purpose of carrying~~
21 ~~out the provisions of this section.~~ It may not be
22 issued by a dealer.
- 23 (6) The provisions of G.S. 20-63, 20-71, 20-110 and
24 20-111 ~~shall that apply in like manner to license~~
25 plates apply to temporary 10-day registration
26 ~~markers as is applicable to nontemporary plates not~~
27 ~~by their nature rendered inapplicable.~~ license
28 plates insofar as possible."

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

Explanation of Proposal 5
Allow Temporary Plate For 60 Days

This proposal gives the Division of Motor Vehicles of the Department of Transportation the authority to issue temporary cardboard license plates for vehicles that are valid for up to 60 days. In doing so, it conforms the statute to the current practices at the Division. The proposal is effective upon ratification.

Current law, in G.S. 20-50, states that a temporary plate is valid for 10 days. The Division, however, issues three types of temporary cardboard plates: (i) a 10-day in-transit plate; (ii) a 30-day temporary plate; and (iii) a 60-day apportioned plate. All three types are included in the proposal.

A 10-day plate is typically used to get a vehicle purchased in this State to another state where it will be registered. A 30-day plate is typically issued by an enforcement officer of the Division for a for-hire commercial vehicle that has been stopped at a weigh station or for another reason, does not have a proper license plate, and does not operate in other states. The 60-day plate is similar to the 30-day plate. It is typically issued by an enforcement officer of the Division for a for-hire commercial vehicle that has been stopped at a weigh station or for another reason, is not registered in this state, and operates in several states. A fee of \$3 is charged for the 10-day plate and the regular registration fees are charged for the 30-day and 60-day plates.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 6 (95-LJZ-9(1.4))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Raise Reportable Accident Amount. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE MINIMUM PROPERTY DAMAGE AMOUNT FOR A
3 REPORTABLE MOTOR VEHICLE ACCIDENT AND TO RESOLVE
4 INCONSISTENCIES IN THE LAW CONCERNING ACCIDENT REPORTS.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 20-4.01 is amended by adding a new
7 subdivision to read:
8 "(33b) Reportable accident. -- An accident involving a
9 motor vehicle that results in either of the
10 following:
11 a. Death or injury of a human being.
12 b. Total property damage of one thousand dollars
13 (\$1,000) or more."
14 Sec. 2. G.S. 20-166.1 reads as rewritten:
15 "§ 20-166.1. Reports and investigations required in event of
16 collision accident.
17 (a) Notice of Accident. -- The driver of a vehicle involved in
18 a collision resulting in injury to or death of any person or
19 total property damage to an apparent extent of five hundred
20 dollars (\$500.00) or more shall reportable accident must
21 immediately, by the quickest means of communication, give notice
22 of notify the collision to the local police department if the
23 collision occurs within a municipality, or to the office of the
24 sheriff or other qualified rural police of the county wherein the

1 ~~collision occurred.~~ appropriate law enforcement agency of the
2 accident. If the accident occurred in a city or town, the
3 appropriate agency is the police department of the city or town.
4 If the accident occurred outside a city or town, the appropriate
5 agency is the State Highway Patrol or the sheriff's office or
6 other qualified rural police of the county where the accident
7 occurred.

8 (b) Insurance Verification. -- ~~The~~ When requested to do so by
9 the Division, the driver of any a vehicle involved in a collision
10 resulting in injury to or death of any person or total property
11 damage to an apparent extent of five hundred dollars (\$500.00) or
12 more shall reportable accident must furnish proof of financial
13 responsibility on forms prescribed by the Division.
14 responsibility.

15 (c) Parked Vehicle. -- ~~Notwithstanding any other provisions of~~
16 ~~this section, the~~ The driver of any a motor vehicle which that
17 collides with another motor vehicle left parked or unattended on
18 any street or a highway of this State shall within 48 hours must
19 report the collision to the owner of such the parked or
20 unattended motor vehicle. Such report shall This requirement
21 applies to an accident that is not a reportable accident as well
22 as to one that is a reportable accident. The report may be made
23 orally or in writing, must be made within 48 hours of the
24 accident, and must include the time, date and place of the
25 collision, the driver's name, address, driver's license number
26 and the following:

- 27 (1) The time, date, and place of the accident.
28 (2) The driver's name, address, and license number.
29 (3) The registration number of the vehicle being
30 operated by the driver at the time of the
31 collision, and such report may be oral or in
32 writing. Such written report must be transmitted
33 to the current address of the owner of the parked
34 or unattended vehicle by United States accident.

35 If the driver makes a written report to the owner of the parked
36 or unattended vehicle and the report is not given to the owner at
37 the scene of the accident, the report must be sent to the owner
38 by certified mail, return receipt requested, and a copy of such
39 report shall be transmitted to the North Carolina Division of
40 Motor Vehicles. the report must be sent to the Division.

41 ~~No report, oral or written, made pursuant to this Article shall~~
42 ~~be competent in any civil action except to establish identity of~~
43 ~~the person operating the moving vehicle at the time of the~~
44 ~~collision referred to therein.~~

1 ~~Any person who violates this subsection is guilty of a Class 1~~
2 ~~misdemeanor.~~

3 ~~(d) The Division may require the driver of a vehicle involved~~
4 ~~in a collision which is required to be reported by this section~~
5 ~~to file a supplemental report when the original report is~~
6 ~~insufficient in the opinion of the Division.~~

7 ~~(e) Investigation By Officer. -- It shall be the duty of the~~
8 ~~State Highway Patrol or the sheriff's office or other qualified~~
9 ~~rural police to investigate all collisions required to be~~
10 ~~reported by this section when the collisions occur outside the~~
11 ~~corporate limits of a city or town; and it shall be the duty of~~
12 ~~the police department of each city or town to investigate all~~
13 ~~collisions required to be reported by this section when the~~
14 ~~collisions occur within the corporate limits of the city or town.~~
15 ~~Every The appropriate law enforcement agency must investigate a~~
16 ~~reportable accident. A law-enforcement officer who investigates~~
17 ~~a collision as required by this subsection, a reportable~~
18 ~~accident, whether the investigation is made at the scene of the~~
19 ~~collision accident or by subsequent investigations and~~
20 ~~interviews, shall, within 24 hours after completing the~~
21 ~~investigation, forward a written report of the collision to the~~
22 ~~Division if the collision occurred outside the corporate limits~~
23 ~~of a city or town, or to the police department of the city or~~
24 ~~town if the collision occurred within the corporate limits of~~
25 ~~such city or town. Police departments should forward such~~
26 ~~reports to the Division within 10 days of the date of the~~
27 ~~collision. Provided, when a collision occurring outside the~~
28 ~~corporate limits of a city or town is investigated by a duly~~
29 ~~qualified law-enforcement officer other than a member of the~~
30 ~~State Highway Patrol, as permitted by this section, such other~~
31 ~~officer shall forward a written report of the collision to the~~
32 ~~office of the sheriff or rural police of the county wherein the~~
33 ~~collision occurred and the office of the sheriff or rural police~~
34 ~~shall forward such reports to the Division within 10 days of the~~
35 ~~date of the collision. The reports by law-enforcement officers~~
36 ~~shall be in addition to, and not in place of, the reports~~
37 ~~required of drivers by this section. must make a written report~~
38 ~~of the accident within 24 hours of the accident and must forward~~
39 ~~it as required by this subsection. The report must contain~~
40 ~~information on financial responsibility for the vehicle driven by~~
41 ~~the person whom the officer identified as at fault for the~~
42 ~~accident.~~

43 ~~If the officer writing the report is a member of the State~~
44 ~~Highway Patrol, the officer must forward the report to the~~

1 Division. If the officer is not a member of the State Highway
2 Patrol, the officer must forward the report to the local law
3 enforcement agency for the area where the accident occurred. A
4 local law enforcement agency that receives an accident report
5 must forward it to the Division within 10 days after receiving
6 the report.

7 ~~When any a person involved injured in an automobile collision~~
8 ~~shall die a reportable accident dies as a result of said~~
9 ~~collision within a period of the accident within 12 months~~
10 ~~following said collision, and such after the accident and the~~
11 ~~death shall not have been was not reported in the original~~
12 ~~report, it shall be the duty of investigating enforcement~~
13 ~~officers to the law enforcement officer investigating the~~
14 ~~accident must file a supplemental report setting forth the death~~
15 ~~of such person that includes the death.~~

16 (f) ~~Medical Personnel. -- Every person holding the office of A~~
17 ~~county medical examiner in this State shall must report to the~~
18 ~~Division the death of any person as a result of a collision~~
19 ~~involving a motor vehicle in a reportable accident and the~~
20 ~~circumstances of the collision within five days following such~~
21 ~~death. Every accident. The medical examiner must file the~~
22 ~~report within five days after the death. A hospital shall must~~
23 ~~notify the medical examiner of the county in which the collision~~
24 ~~accident occurred of the death within the hospital of any person~~
25 ~~who dies as a result of injuries apparently sustained in a~~
26 ~~collision involving a motor vehicle. reportable accident.~~

27 (g) Repealed by Session Laws 1987, c. 49.

28 (h) ~~Forms. -- The Division shall prepare and shall upon~~
29 ~~request supply to police, [medical examiners], sheriffs, and~~
30 ~~other suitable agencies, or individuals, forms for collision~~
31 ~~reports calling for sufficiently detailed information to disclose~~
32 ~~with reference to a highway collision the cause, conditions then~~
33 ~~existing, and the persons and vehicles involved. All collision~~
34 ~~reports required by this section shall be made on forms supplied~~
35 ~~or approved by the Division. must provide forms to persons~~
36 ~~required to make reports under this section and the reports must~~
37 ~~be made on the forms provided. The forms must ask for the~~
38 ~~following information about a reportable accident:~~

39 (1) The cause of the accident.

40 (2) The conditions existing at the time of the
41 accident.

42 (3) The persons and vehicles involved.

43 (i) ~~Effect of Report. -- All collision reports, including~~
44 ~~supplemental reports, above mentioned, except those made by~~

~~1 State, city or county police, shall be~~ A report of an accident
~~2 made under this section by a person that is not a law enforcement~~
~~3 officer is without prejudice and shall be prejudice, is for the~~
4 use of the ~~Division~~ Division, and shall not be used in any manner
5 as evidence, or for any other purpose in any trial, civil or
6 criminal, arising out of ~~such collision except that the Division~~
~~7 shall furnish upon demand of any court the accident. At the~~
8 demand of a court, however, the Division must give the court a
9 properly executed certificate stating that a particular ~~collision~~
10 accident report has or has not been filed with the Division
11 solely to prove a compliance with this section.

12 The reports made by ~~State, city or county police and medical~~
13 ~~examiners, but no other reports required under this section,~~
14 ~~shall be subject to the persons who are not law enforcement~~
15 ~~officers or medical examiners are not public records. The~~
16 reports made by law enforcement officers and medical examiners
17 are public records and are open to inspection of members of by
18 the general public at all reasonable times, and the Division
19 ~~shall furnish a certified copy of any such report to any member~~
20 ~~of the general public who shall request the same, upon receipt of~~
21 ~~a fee of four dollars (\$4.00) certified copy, or the Division is~~
22 ~~authorized to furnish without charge to departments of the~~
23 ~~governments of the United States, states, counties, and cities~~
24 ~~certified copies of such collision reports for official use-~~
25 times. The Division must give a certified copy of one of these
26 reports to a member of the general public who requests a copy and
27 pays the fee set in G.S. 20-42.

28 ~~Nothing herein provided shall prohibit the Division from~~
29 ~~furnishing to interested parties only the name or names of~~
30 ~~insurers and insured and policy number shown upon any reports~~
31 ~~required under this section.~~

32 (j) Statistics. -- The Division shall ~~receive collision~~
33 ~~reports required to be made by this section, and may tabulate and~~
34 ~~analyze such reports and publish annually, or at more frequent~~
35 ~~intervals, may periodically publish statistical information on~~
36 motor vehicle accidents based thereon as to the number, cause and
37 location of highway collisions.

38 ~~Based upon its findings after analysis, the on information in~~
39 accident reports. The Division may conduct further necessary
40 detailed research to determine more fully the cause and control
41 of highway collisions. It accidents and may further conduct
42 experimental field tests within areas of the State from time to
43 time to prove the practicability of various ideas advanced in
44 traffic control and collision accident prevention.

1 (k) Punishment. -- A violation of any provision of this
2 section is a ~~Class 2 misdemeanor.~~ misdemeanor of the Class set in
3 G.S. 20-176."

4 Sec. 3. G.S. 20-179(d)(3) reads as rewritten:

5 "(3) Negligent driving that led to ~~an accident causing~~
6 ~~property damage in excess of five hundred dollars~~
7 ~~(\$500.00) or personal injury.~~ a reportable
8 accident."

9 Sec. 4. G.S. 20-279.4 is repealed.

10 Sec. 5. G.S. 20-279.5(a) reads as rewritten:

11 "~~(a) If at the expiration of 20 days after the receipt of a~~
12 ~~report of a motor vehicle accident within this State which has~~
13 ~~resulted in bodily injury or death or total property damage in~~
14 ~~excess of five hundred dollars (\$500.00), the Commissioner does~~
15 ~~not have on file evidence satisfactory to him that the person who~~
16 ~~would otherwise be required to file security under subsection (b)~~
17 ~~of this section has been released from liability, or has been~~
18 ~~finally adjudicated not to be liable or has executed a duly~~
19 ~~acknowledged written agreement providing for the payment of an~~
20 ~~agreed amount, in installments or otherwise, or is for any other~~
21 ~~reason not required to file security under this Article with~~
22 ~~respect to all claims for injuries or damages resulting from the~~
23 ~~accident, the Commissioner shall determine the amount of security~~
24 ~~which shall be sufficient in his judgment to satisfy any judgment~~
25 ~~or judgments for damages resulting from such accident as may be~~
26 ~~recovered against each operator or owner.~~ When the Division
27 receives a report of a reportable accident under G.S. 20-166.1,
28 the Commissioner must determine whether the owner or driver of a
29 vehicle involved in the accident must file security under this
30 Article and, if so, the amount of security the owner or driver
31 must file. The Commissioner must make this determination at the
32 end of 20 days after receiving the report."

33 Sec. 6. G.S. 20-279.11 reads as rewritten:

34 "§ 20-279.11. Matters not to be evidence in civil suits.

35 Neither the report required by G.S. 20-279.4, information on
36 financial responsibility contained in an accident report, the
37 action taken by the Commissioner pursuant to this Article, the
38 findings, if any, of the Commissioner upon which such the action
39 is based, or the security filed as provided in this Article shall
40 be referred to in any way, nor be any evidence of the negligence
41 or due care of either party, at the trial of any action at law to
42 recover damages."

43 Sec. 7. G.S. 20-279.31 reads as rewritten:

44 "§ 20-279.31. Other violations; penalties.

1 ~~(a) Failure to report an accident as required in G.S. 20-279.4~~
2 ~~is a Class 3 misdemeanor punishable only by a fine not in excess~~
3 ~~of twenty-five dollars (\$25.00) and in the event of injury or~~
4 ~~damage to the person or property of another in such accident, the~~
5 ~~The Commissioner shall suspend the license of the a person~~
6 ~~failing who fails to make such report, or the nonresident's~~
7 ~~operating privilege of such person, until such report has been~~
8 ~~filed and for such further report a reportable accident, as~~
9 ~~required by G.S. 20-166.1, until the Division receives a report~~
10 ~~and for an additional period not to set by the Commissioner. The~~
11 ~~additional period may not exceed 30 days as the Commissioner may~~
12 ~~fix, days.~~

13 (b) Any person who ~~gives~~ does any of the following commits a
14 Class 1 misdemeanor:

15 (1) Gives information required in a report ~~or~~
16 ~~otherwise as provided for in G.S. 20-279.4 of a~~
17 reportable accident, knowing or having reason to
18 ~~believe that such the~~ information is ~~false, or~~
19 ~~who shall forge or, without authority, sign~~
20 false.

21 (2) Forges or without authority signs any evidence of
22 ~~proof of financial responsibility, or who files~~
23 responsibility.

24 (3) Files or offers for filing any such evidence of
25 proof of financial responsibility, knowing or
26 ~~having reason to believe that it is forged or~~
27 ~~signed without authority, is guilty of a Class 1~~
28 ~~misdemeanor, authority.~~

29 (c) Any person willfully failing to return a license as
30 required in G.S. 20-279.30 is guilty of a Class 3 misdemeanor.

31 (c1) Any person who makes a false affidavit or knowingly
32 swears or affirms falsely to any matter under G.S. 20-279.5,
33 20-279.6, or 20-279.7 is guilty of a Class I felony.

34 (d) Any person who shall violate any provision of this Article
35 for which no penalty is otherwise provided is guilty of a Class 2
36 misdemeanor."

37 Sec. 8. G.S. 20-42(b) reads as rewritten:

38 "(b) The Commissioner and officers of the Division designated
39 by the Commissioner may prepare under the seal of the Division
40 and deliver upon request a certified copy of any document of the
41 Division, charging a fee of Division for a fee. The fee for a
42 document, other than an accident report under G.S. 20-166.1, is
43 five dollars (\$5.00) for each document certified. (\$5.00). The
44 fee for an accident report is four dollars (\$4.00). A certified

1 copy shall be admissible in any proceeding in any court in like
2 manner as the original thereof, without further certification.
3 The certification fee does not apply to a document furnished to
4 ~~State officials or to county, municipal, or court officials of~~
5 ~~this State~~ for official use. use to a judicial official or to an
6 official of the federal government, a state government, or a
7 local government."
8 Sec. 9. This act becomes effective November 1, 1995,
9 and applies to accidents and offenses occurring on or after that
10 date.

Explanation of Proposal 6
Raise Reportable Accident Amount

This proposal raises the reportable accident amount from \$500 to \$1,000, effective November 1, 1995, and makes clarifying changes to the affected statutes. The reportable accident amount was last raised on October 1, 1983, when it was raised from \$250 to \$500. The Division of Motor Vehicles of the Department of Transportation suggested that the committee recommend increasing the current \$500 threshold to \$750. The North Carolina Highway Patrol then asked the committee to consider recommending increasing the threshold further to \$1,000. The Committee adopted the recommendation of the Highway Patrol and incorporated this recommendation in this proposal.

The reportable accident amount is the amount of damage done in a collision that triggers the notice and reporting requirements. If an accident involves (i) death or injury to a person or (ii) property damage in an amount that exceeds the threshold (now \$500), the driver of a vehicle involved in the accident must report the accident to a law enforcement officer. The law enforcement officer must then make a report of the accident and send the report to the Division of Motor Vehicles.

Section 1 of the bill changes the reportable accident amount from \$500 to \$1,000. It does this by inserting a definition of reportable accident in the list of definitions that apply to the motor vehicle laws. Establishing a definition of reportable accident avoids needless repetition in various places in the statutes and ensures uniformity whenever a change is made in the threshold amount. The other sections of the bill make conforming changes to various statutes that apply to reportable accidents.

Section 2 amends G.S. 20-166.1, the statute that specifies when a person must report an accident, to replace references to the \$500 threshold with the term "reportable accident." It also makes clarifying changes to that statute. First, it deletes provisions in subsections (d) and (e) of the statute that refer to reports filed by drivers because law enforcement officers rather than the drivers are the ones that complete and file the reports. Many years ago, the drivers filed the reports but the law was changed to have law enforcement officers file the reports and the statute was not changed accordingly.

Second, section 2 incorporates the requirement that is now in G.S. 20-279.4 for an officer to obtain liability insurance information when investigating a reportable accident. Third, it resolves the conflict between subsections (c) and (k) of G.S. 20-

166.1 concerning the punishment for failure to make a report of an accident involving a parked vehicle. Subsection (c) makes the failure a Class 1 misdemeanor and subsection (k) makes it a Class 2 misdemeanor. The bill makes all violations of G.S. 20-166.1 a Class 2 misdemeanor (as is stated in subsection (k)), thereby allowing the general punishment provisions in G.S. 20-176 to apply.

Fourth, section 2 deletes language in subsection (c) of the statute on the effect of a report because the same provision is repeated in subsection (i) and is therefore not necessary in subsection (c). Fifth, section 2 deletes language in subsection (i) concerning information the Division can give to interested parties because it is unnecessary. All the information the Division gives interested parties on the matter of insurance comes from public records.

Finally, section 2 moves the fee for a certified copy of an accident report from G.S. 20-166.1 to G.S. 20-42. It does this to consolidate the fee provisions so that one is not overlooked when any changes are made to the fees. In 1991, the fee in G.S. 20-42(b) for certified documents of the Division was increased from \$4.00 to \$5.00. A similar increase was not made in the fee for a certified copy of an accident report because that fee was set in a different statute and was overlooked. This section does not change the fee for a certified copy of an accident report; it simply moves the fee from one statute to another.

Section 3 replaces a reference in G.S. 20-179(d) to the \$500 threshold with the term "reportable accident." That statute sets out an aggravating factor to consider in determining the punishment of a person convicted of driving while impaired.

Section 4 repeals a statute that requires accident reports to include information on liability insurance. It does this because the requirement is included in G.S. 20-166.1, as rewritten by section 2 of this proposal, and is therefore not needed.

Section 5 amends G.S. 20-279.5 to replace a reference to the \$500 threshold with the term "reportable accident." That statute directs the Commissioner of Motor Vehicles to review accident reports to determine if a person does not have liability insurance and therefore needs to file a security deposit with the Division.

Section 6 amends G.S. 20-279.11 to delete a reference to G.S. 20-279.4, which is repealed by section 4 of this proposal. The section substitutes a reference to an accident report for the former reference to G.S. 20-279.4.

Section 7 amends G.S. 20-279.31 to delete references to G.S. 20-279.4, which is repealed by section 4 of this proposal, and to delete a punishment for failing to report a reportable accident that conflicts with the punishment set in G.S. 20-166.1.

Subsection (a) of G.S. 20-279.31 makes failure to report an accident a Class 3 misdemeanor punishable only by a \$25 fine. G.S. 20-166.1 makes the failure a Class 2 misdemeanor. Repealing the conflicting provision in G.S. 20-279.31(a) makes it clear that the punishment in G.S. 20-166.1 is the appropriate one.

Section 8 incorporates in G.S. 20-42 the fee provisions that were deleted from G.S. 20-166.1 by section 2 of this proposal. It does not change the fee for a certified copy of an accident report or the persons who are entitled to a free certified copy of an accident report.

Section 9 sets the effective date of the proposal. The effective date is November 1, 1995.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 7 (95-LJXZ-7(1.3))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Insurance Lapse Penalty Changes. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE PENALTIES FOR DRIVING A VEHICLE WITHOUT
3 INSURANCE.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 20-309(e) reads as rewritten:
6 "(e) ~~Upon termination by cancellation or otherwise of an~~
7 ~~insurance policy provided in subsection (b) of this section, the~~
8 ~~An insurer shall that, by cancellation or failure to renew,~~
9 ~~terminates a liability insurance policy must notify the Division~~
10 ~~of such termination; provided, no cancellation notice is required~~
11 ~~if the insurer issues a new insurance policy complying with this~~
12 ~~Article at the same time the insurer cancels or otherwise~~
13 ~~terminates the old policy, the termination. This requirement~~
14 ~~does not apply when an insurer issues a new liability insurance~~
15 ~~policy to replace the terminated policy and no lapse in coverage~~
16 ~~results, and the insurer sends results. In this circumstance,~~
17 ~~however, the insurer must notify the Division certificate of~~
18 ~~insurance form for the issuance of the new policy to the~~
19 ~~Division. The Division, upon receiving notice of cancellation or~~
20 ~~termination of an owner's financial responsibility as required by~~
21 ~~this Article, shall notify such owner of such cancellation or~~
22 ~~termination, and such owner shall, to retain the registration~~
23 ~~plate for the vehicle registered or required to be registered,~~
24 ~~within 10 days from date of notice given by the Division either:~~

- 1 ~~(1) Certify to the Division that he had financial~~
2 ~~responsibility effective on or prior to the date of~~
3 ~~such termination; or~~
4 ~~(2) In the case of a lapse in financial responsibility,~~
5 ~~pay a fifty dollar (\$50.00) civil penalty; and~~
6 ~~certify to the Division that he now has financial~~
7 ~~responsibility effective on the date of~~
8 ~~certification, that he did not operate the vehicle~~
9 ~~in question during the period of no financial~~
10 ~~responsibility with the knowledge that there was no~~
11 ~~financial responsibility, and that the vehicle in~~
12 ~~question was not involved in a motor vehicle~~
13 ~~accident during the period of no financial~~
14 ~~responsibility.~~

15 ~~Failure of the owner to certify that he has financial~~
16 ~~responsibility as herein required shall be prima facie evidence~~
17 ~~that no financial responsibility exists with regard to the~~
18 ~~vehicle concerned and unless the owner's registration plate has~~
19 ~~on or prior to the date of termination of insurance been~~
20 ~~surrendered to the Division by surrender to an agent or~~
21 ~~representative of the Division designated by the Commissioner, or~~
22 ~~depositing the same in the United States mail, addressed to the~~
23 ~~Division of Motor Vehicles, Raleigh, North Carolina, the Division~~
24 ~~shall revoke the vehicle's registration for 30 days.~~

25 ~~In no case shall any vehicle, the registration of which has~~
26 ~~been revoked for failure to have financial responsibility, be~~
27 ~~reregistered in the name of the registered owner, spouse, or any~~
28 ~~child of the spouse, or any child of such owner within less than~~
29 ~~30 days after the date of receipt of the registration plate by~~
30 ~~the Division of Motor Vehicles, except that a spouse living~~
31 ~~separate and apart from the registered owner may register such~~
32 ~~vehicle immediately in such spouse's name. Additionally, as a~~
33 ~~condition precedent to the reregistration of the vehicle by the~~
34 ~~registered owner, spouse, or any child of the spouse, or any~~
35 ~~child of such owner, except a spouse living separate and apart~~
36 ~~from the registered owner, the payment of a restoration fee of~~
37 ~~fifty dollars (\$50.00) and the appropriate fee for a new~~
38 ~~registration plate is required. Any person, firm or corporation~~
39 ~~failing to give notice of termination shall be subject to policy.~~
40 ~~The Commissioner of Insurance may assess a civil penalty of two~~
41 ~~hundred dollars (\$200.00) to be assessed by the Commissioner of~~
42 ~~Insurance upon a finding by the Commissioner of Insurance that~~
43 ~~good cause is not shown for such failure to give notice of~~
44 ~~termination to the Division, against an insurer that fails to~~

1 notify the Division, as required by this subsection, unless the
2 insurer establishes good cause for the failure."

3 Sec. 2. G.S. 20-311 reads as rewritten:

4 "§ 20-311. Revocation of registration when financial
5 responsibility not in effect. Action by Division when notified
6 that a vehicle is not insured.

7 Upon receipt of evidence that financial responsibility for the
8 operation of any motor vehicle registered or required to be
9 registered in this State is not or was not in effect at the time
10 of operation or certification that insurance was in effect, the
11 Division shall revoke the owner's registration plate issued for
12 the vehicle at the time of operation or certification that
13 insurance was in effect or the current registration plate for the
14 vehicle in the year registration has changed for 30 days.

15 The vehicle for which registration has been revoked pursuant to
16 this section may be registered at the end of the 30-day
17 revocation period upon certification of financial responsibility
18 and payment by the vehicle owner of a fifty-dollar (\$50.00)
19 administrative fee in addition to appropriate license fees. In no
20 event may such vehicle be registered prior to payment of the
21 fifty dollar (\$50.00) administrative fee.

22 (a) Action. -- When the Division receives evidence, by a notice
23 of termination of a liability insurance policy or otherwise, that
24 the owner of a motor vehicle registered or required to be
25 registered in this State does not have financial responsibility
26 for the operation of the vehicle, the Division must send the
27 owner a letter. The letter must notify the owner of the evidence
28 and inform the owner that the owner must respond to the letter
29 within 10 days of the date on the letter and explain how the
30 owner has met the duty to have continuous financial
31 responsibility for the vehicle. Based on the owner's response,
32 the Division must take the appropriate action listed:

33 (1) Division Correction. -- If the owner responds
34 within the required time and the response
35 establishes that the owner has not had a lapse in
36 financial responsibility, the Division must correct
37 its records.

38 (2) Penalty Only. -- If the owner responds within the
39 required time and the response establishes all of
40 the following, the Division must assess the owner a
41 penalty in the amount set in subsection (b) of this
42 section:

- 1 a. The owner had a lapse in financial
2 responsibility, but the owner now has
3 financial responsibility.
- 4 b. The vehicle was not involved in an accident
5 during the lapse in financial responsibility.
- 6 c. The owner did not operate the vehicle during
7 the lapse with knowledge that the owner had no
8 financial responsibility for the vehicle.
- 9 (3) Penalty and Revocation. -- If the owner responds
10 within the required time and the response
11 establishes any of the following, the Division must
12 assess the owner a penalty in the amount set in
13 subsection (b) and revoke the registration of the
14 owner's vehicle for the period set in subsection
15 (c):
- 16 a. The owner had a lapse in financial
17 responsibility and still does not have
18 financial responsibility.
- 19 b. The owner now has financial responsibility
20 even though the owner had a lapse, but the
21 vehicle was involved in an accident during the
22 lapse, the owner operated the vehicle during
23 the lapse with knowledge that the owner had no
24 financial responsibility for the vehicle, or
25 both.
- 26 (4) Revocation Pending Response. -- If the owner does
27 not respond within the required time, the Division
28 must revoke the registration of the owner's vehicle
29 for the period set in subsection (c). When the
30 owner responds, the Division must take the
31 appropriate action listed in subdivisions (1)
32 through (3) of this subsection as if the response
33 had been timely.
- 34 (b) Penalty Amount. -- The penalty amount is the greater of the
35 following:
- 36 (1) Twenty-five dollars (\$25.00).
- 37 (2) One dollar (\$1.00) multiplied by the product of the
38 number of days the owner had no financial
39 responsibility and the owner's driving points under
40 G.S. 20-16 on the day the lapse in financial
41 responsibility began.
- 42 A lapse in financial responsibility that results from failure
43 to make an installment payment of a premium on a liability

1 insurance policy begins the day after the installment was due
2 rather than the effective date of the policy.

3 If a vehicle owner is subject to a penalty because the owner
4 had a lapse in financial responsibility and still does not have
5 financial responsibility, the Division must assess part of the
6 penalty when it establishes that the owner is subject to a
7 penalty and part of it when the owner applies to the Division to
8 register a vehicle upon obtaining financial responsibility. The
9 Division must calculate the first part of the penalty based on
10 the number of days in the lapse up to the date of the revocation
11 notice the Division sends the owner. The Division must calculate
12 the second part of the penalty based on the number of days in the
13 lapse from the date of the revocation notice to the date the
14 owner obtains financial responsibility.

15 (c) Revocation Period. -- The revocation period for a
16 revocation based on a response that establishes that a vehicle
17 owner does not have financial responsibility is indefinite and
18 ends when the owner obtains financial responsibility or transfers
19 the vehicle to an owner who has financial responsibility. The
20 revocation period for a revocation based on a response that
21 establishes the occurrence of an accident during a lapse in
22 financial responsibility or the knowing operation of a vehicle
23 without financial responsibility is 30 days. The revocation
24 period for a revocation based on failure of a vehicle owner to
25 respond is indefinite and ends when the owner responds.

26 (d) Revocation Notice. -- When the Division revokes the
27 registration of an owner's vehicle, it must notify the owner of
28 the revocation. The notice must inform the owner of the
29 following:

- 30 (1) That the owner must return the vehicle's license
31 plate and registration card to the Division, if the
32 owner has not done so already, and that failure to
33 do so is a Class 2 misdemeanor under G.S. 20-45.
- 34 (2) That the vehicle's license plate and registration
35 card are subject to seizure by a law enforcement
36 officer.
- 37 (3) That the registration of the vehicle cannot be
38 renewed while the registration is revoked.
- 39 (4) That the owner must pay any penalties assessed, a
40 restoration fee, and the fee for a license plate
41 when the owner applies to the Division to register
42 a vehicle whose registration was revoked.

43 A vehicle whose registration has been revoked may not be
44 registered during the revocation period in the name of the owner,

1 a child of the owner, the owner's spouse, or a child of the
2 owner's spouse. This restriction does not apply to a spouse who
3 is living separate and apart from the owner.

4 (f) Registration After Revocation. -- At the end of a
5 revocation period, a vehicle owner who has financial
6 responsibility may apply to register a vehicle whose registration
7 was revoked. The owner must pay any penalty assessed, a
8 restoration fee of twenty-five dollars (\$25.00), and the fee for
9 a license plate."

10 Sec. 3. G.S. 20-316 reads as rewritten:

11 "§ 20-316. Divisional hearings upon lapse of liability insurance
12 coverage.

13 Any person whose ~~registration~~ license plate has been revoked
14 under G.S. 20-309(e) or 20-311 may request a hearing. Upon
15 receipt of such a request, the Division shall, as early as
16 practical, afford him an opportunity for hearing. Upon such
17 hearing must hold a hearing as soon as practical. At the
18 hearing, the duly authorized agents of the Division may
19 administer oaths and issue subpoenas for the attendance of
20 witnesses and the production of relevant books and documents. If
21 it appears that continuous financial responsibility existed for
22 the vehicle involved, or if it appears the lapse of financial
23 responsibility is not reasonably attributable to the neglect or
24 fault of the person whose ~~registration~~ license plate was revoked,
25 the Division shall withdraw its order of revocation and such the
26 person may retain the ~~registration~~ license plate. Otherwise, the
27 order of revocation shall be affirmed and the ~~registration~~
28 license plate surrendered."

29 Sec. 4. This act becomes effective January 1, 1996, and
30 applies to lapses of financial responsibility occurring on or
31 after that date.

32

33

Explanation of Proposal 7
Insurance Lapse Penalty Changes

This proposal makes three changes in the consequences of driving a vehicle without liability insurance for the vehicle, effective January 1, 1996, and makes technical changes to the affected statutes. The three changes are:

- (1) A change in the penalty amount from \$50 to the greater of (i) \$25 or (ii) the dollar amount equal to the number of days in a lapse in insurance multiplied by the owner's drivers license points.
- (2) A change in the revocation period for the failure of a vehicle owner to have insurance from 30 days to an indefinite period that ends when the owner obtains insurance.
- (3) A change in the restoration fee from \$50 to \$25.

The Division of Motor Vehicles of the Department of Transportation asked the committee to review the insurance penalty provisions as a result of the number of complaints the Division receives about those provisions. The committee reviewed the provisions and determined that changes are needed to make the penalties fit the purpose for which they are imposed. The purpose of imposing penalties for lapses in insurance is to prevent drivers from operating vehicles that are uninsured. The penalty needs to be high enough so that it is not cheaper to pay a penalty when the Division determines there has been a lapse than it is to maintain insurance and it should not be so high as to be excessively harsh when applied to unintentional and unknowing lapses.

The committee decided that the current penalty of \$50 does not gauge the penalty to the risk. The danger of an uninsured driver to the motoring public is greater for drivers with poor driving records than it is for drivers with good driving records. A flat \$50 penalty does not distinguish between drivers, however. To make the penalty fit the risk, the committee decided to change the penalty from a fixed penalty to one based on a simple formula. The formula is the days in a lapse multiplied by the drivers license points of the person who had the lapse, with the proviso that the penalty must be at least \$25. Thus, if the lapse were for 12 days and the person had 5 drivers license points, the penalty would be \$60. If the person had no points, the penalty would be \$25.

The committee decided that the fixed 30-day revocation period should also be changed to fit the purpose of preventing the operation of an uninsured vehicle. Once a person who had a lapse obtains insurance, the risk to others posed by driving without

insurance is over. The committee reasoned that the person should then be able to renew the revoked registration and not wait until the end of the 30-day period. Finally, the committee decided that the \$50 restoration fee can be lowered to \$25. The restoration fee for a drivers license, other than one revoked for driving while impaired, is \$25.

Section 1 of the proposal deletes from G.S. 20-309(e) the current provisions on the penalties for having a lapse in insurance. It does this because the revised provisions are incorporated in G.S. 20-311, as rewritten by section 2 of the proposal.

Section 2 revises the insurance penalty provisions as described above and adds more of the current procedure concerning imposition of the penalty to the statutes. Section 3 makes a conforming change needed as a result of moving the penalty provisions from G.S. 20-309 to G.S. 20-311. Section 4 sets the effective date at January 1, 1996.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 8 (95-RWZ-011)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Let Dot Sell Ferry Souvenirs. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO SELL
3 SOUVENIRS ON FERRIES AND AT FERRY FACILITIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 136-82 reads as rewritten:
6 "§ 136-82. Department of Transportation to establish and
7 maintain ferries.
8 The Department of Transportation is vested with authority to
9 provide for the establishment and maintenance of ferries
10 connecting the parts of the State highway system, whenever in its
11 discretion the public good may so require, and to prescribe and
12 collect such tolls therefor as may, in the discretion of the
13 Department of Transportation, be expedient.
14 To accomplish the purpose of this section said Department of
15 Transportation is authorized to acquire, own, lease, charter or
16 otherwise control all necessary vessels, boats, terminals or
17 other facilities required for the proper operation of such
18 ferries or to enter into contracts with persons, firms or
19 corporations for the operation thereof and to pay therefor such
20 reasonable sums as may in the opinion of said Department of
21 Transportation represent the fair value of the public service
22 rendered.
23 ~~To provide for the comfort and convenience of the passengers on~~
24 ~~the ferries established and maintained pursuant to this section,~~

1 ~~the~~ The Department of Transportation, notwithstanding any other
2 provision of law, may operate, or contract for the operation of,
3 concessions on the ferries and at ferry facilities to provide to
4 passengers on the ferries food, drink, and other refreshments,
5 and personal comfort items for these passengers. items, and
6 souvenirs publicizing the ferry system."

7 Sec. 2. This act becomes effective July 1, 1995.

***** EXPLANATION *****

This proposal amends G.S. 136-82 to allow DOT to sell or contract for the sale of souvenirs publicizing the ferry system on ferries and at ferry facilities.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 9 (95-RWZ-011)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Let Dot Dredge For Local Gov't. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PERFORM
3 DREDGING SERVICES FOR UNITS OF LOCAL GOVERNMENT.
4 The General Assembly of North Carolina enacts:
5 Section 1. Article 6 of Chapter 136 of the General
6 Statutes is amended by adding a new section to read:
7 "§ 136-82.3. Authority to perform dredging services.
8 The Department of Transportation may perform dredging services,
9 on a cost-reimbursement basis, for a unit of local government if
10 the unit cannot obtain the services from a private company at a
11 cost that the unit can afford. A unit of local government is
12 considered to be unable to obtain dredging services at a cost it
13 can afford if it solicits bids for the dredging services in
14 accordance with Article 8 of Chapter 143 of the General Statutes
15 and does not receive a responsible bid to perform the services
16 for the amount of funds available to the unit to pay for the
17 services."
18 Sec. 2. G.S. 66-58(c) is amended by adding a new
19 subdivision to read:
20 "(16) The performance by the Department of
21 Transportation of dredging services for a unit
22 of local government."
23 Sec. 3. This act becomes effective July 1, 1995.

** * * Explanation * * **

This proposal amends G.S. 66-58 (restrictions on government business activity) and adds new G.S. 136-82.2 to allow the Department of Transportation to perform dredging services on a cost reimbursement basis for local governments.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 10 (95-RWZ-002)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: License Photos Confidential.

(Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CONFIDENTIAL ALL PHOTOGRAPHIC IMAGES RECORDED BY
3 THE DIVISION OF MOTOR VEHICLES FOR DRIVERS LICENSES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 20-43(a) reads as rewritten:
6 "(a) All records of the Division, other than those declared by
7 law to be confidential for the use of the Division, shall be open
8 to public inspection during office hours. A photographic image
9 recorded in any format by the Division for a drivers license is
10 confidential and shall not be released except for law enforcement
11 purposes."
12 Sec. 2. This act is effective upon ratification.

***** Explanation *****

Currently, the Division of Motor Vehicles does not retain a copy of the photographs that appear on drivers licenses. The Division has proposed the installation of a new photography system for drivers licenses that would digitally record each applicant's photograph and retain the image in a computer database. This proposal, which has not as yet been funded, caused concern among members of the Joint Legislative Transportation Oversight Committee about misuse of the database and the privacy of those photographed. To address these concerns, the Committee approved this proposal. It amends the drivers license records law (G.S. 20-43) to make confidential any photographic image recorded by the Division of Motor Vehicles for drivers licenses. Under this proposal, images recorded by the Division for drivers licenses could only be released for law enforcement purposes.

**SUBCOMMITTEE
REPORTS**

SUBCOMMITTEES

The Chairmen of the Transportation Oversight Committee appointed a new subcommittee and continued one subcommittee to deliberate on issues and bring back recommendations to the full Committee. The subcommittees and their membership are as follows:

INMATE LABOR

Representative Bob Hunter, Chair

Representative Mary McAllister
Senator Jim Speed
Senator Paul Smith

MOTOR FUEL TAX EVASION

Representative John McLaughlin, Chair

Representative Ed Bowen
Senator Paul Smith

**REPORT FROM THE SUBCOMMITTEE ON THE USE OF
INMATE LABOR IN ROAD SQUADS**

This subcommittee made eleven recommendations to the General Assembly and to the Departments of Correction and Transportation in the Spring of 1994. The subcommittee continued its work in the fall to follow-up on these recommendations.

COMMITTEE PROCEEDINGS

November 2, 1994 Meeting

The subcommittee reviewed the actions taken by the Departments of Correction and Transportation since the group's recommendations were published in April. The committee recommendations and the department actions are summarized below:

- 1) **Recommend that the Departments of Transportation and Correction review all of their procedures to maximize the use of road squad inmate labor without imperiling the public. Assign a lead staff person to oversee, coordinate and evaluate procedures to ensure that the greatest number of inmates are assigned to road squads.**

Response: Lead staff persons are Frank Pace for the Department of Transportation (DOT) and Boyd Bennett for the Department of Correction (DOC). DOT reports that the numbers of medium custody inmates increased from 736 to 784 in 1993-94. The medium custody inmate utilization increased from 47.5% to 59.6% in 1993-94. This means the inmates worked 59.6% of the days they were paid to work. DOC receives an appropriation for medium custody workers whether they show up at DOT or not.

- 2) **Recommend that at each road squad unit a labor pool be created. This would allow for the replacement of inmates who are not available on a particular day, thereby assuring an ample pool of eligible inmates. In addition, it is recommended that DOC develop a procedure to make relief officers available when needed for road squads.**

Response: Labor pools have been created at prisons that have had difficulties in meeting road squad quotas. DOC has been unable to develop a procedure to make relief officers available because it has not received an appropriation for additional staff. When possible, correctional officers are assigned to the road squad to replace an absent officer.

- 3) Recommend that inmates who meet the criteria for road squad assignment be assigned to units with road squads, and the DOC review their need for road squads, by unit, in order to assign as many eligible inmates to road squad units as possible.

Response: This is an ongoing process for the Division of Prisons.

- 4) Recommend placing more minimum custody inmates on road squads, including using 14 man crews under DOC supervision.

Response: A new work program called the Community Work Program will have 41 crews at 13 sites across the state. The crews will be supervised by a correctional officer and will work for cities, counties and other governmental agencies. DOT will not be the primary focus of these crews, but will receive some man-hours of labor.

- 5) Recommend that DOC construct additional day room space onto existing barracks.

Response: No action

- 6) Recommend that DOC funding be based on the actual number of labor days for both minimum and medium custody inmates.

Response: No action

- 7) Recommend that DOC comply with the requirements of G.S. 148-26.5 and compute the annual cost of the inmate labor road squad program, and report these costs to the Joint Legislative Transportation Oversight Committee. The Fiscal Research Division will work with the department in preparing a format for computing the actual costs of operating the inmate road squads.

Response: No action.

- 8) Recommend DOC review its practice of prohibiting the use of inmates with serious assaultive crimes against persons until they are within 6 months of being eligible for minimum custody. A recommendation is that DOC consider changing the 6 month time frame to one year and 2 years for all others.

Response: The Division of Prisons is revising its policy to allow assaultive inmates on road squads when they are within 12 months of being eligible for minimum custody.

- 9) Recommend that DOT identify employees of the DOT and inmates on road squads by means of signs and appropriate apparel, or other ways of identifying work crews on our highways and roads.

Response: DOT is using "Inmates Working" signs for medium custody crews. 2,000 safety vests with INMATE printed in four inch block letters have been issued.

- 10) Recommend that the departments use more inmates to paint guard rails and eradicate weeds and shrubs around guard rails and road signs. Recommend that DOC review their policy of not allowing medium custody inmates to use chain saws.

Response: DOT has directed their personnel to make these assignments part of the inmate program. Chain saws are still not allowed by DOC.

- 11) Require both departments to report quarterly to the Joint Legislative Transportation Oversight Committee on the status of their efforts to comply with the recommendations of the subcommittee and full committee. The Fiscal Research Division staff will make recommendations on reporting requirements to the departments.

Response: Both departments have reported.

January 11, 1995 Meeting

The Department of Correction (DOC) provided answers to several questions raised by the subcommittee at its meeting on November 2.

- DOC is considering a new health grading program that would increase the number of health grades from 3 to 4. Those inmates with minor health problems now graded B and not allowed to work on a road squad, would be given a grade that recognizes their health limitations but still permits them to work.

- DOC will add 35 medium security road squads with 420 inmates by June 1995. The inmates are housed in 9 prison units in the Piedmont and Eastern regions of the state. This increase will push the cost of the medium custody road squads to \$10.7 million from its current budget of \$6.1 million. DOT pays \$4.6 million from the Highway Fund for its share of the program cost.

- DOC gave the committee copies of the inmate assignment file summaries for 1993 and 1994 (see attached). The number of inmates assigned to work detail rose from 14,886 in 1993 to 15,988 in 1994.

- DOC has produced a brochure on the inmate labor program, and has written numerous news releases that have been carried in papers across the state. The Subcommittee was given a packet of articles written on working inmates. Rep. Hunter asked that legislative staff work with DOC in publicizing the inmate labor program.

- DOC will re-evaluate the number of inmates assigned to road squads once several lawsuits are settled.

- DOC reported that in December, only 4% of the days were not worked due to the lack of an officer being available.

**NORTH CAROLINA DEPARTMENT OF CORRECTION
DIVISION OF PRISONS**

Assignment File Summary

	<u>11-1-93</u>	<u>12-15-94</u>
<u>INMATE ASSIGNMENTS</u>		
1. On-Unit Assignments (Food Service Maintenance, etc.)	4,577	4,892
2. Off-Site Assignments (State/Local Gov., etc.)	552	542
3. Road Squads	1,554	1,616
4. Enterprise	1,758	1,848
5. Work Release Program	1,068	1,088
6. Education Related Programs	4,117	3,742
7. Substance Abuse Programs	258	257
8. Construction	118	56
9. Other Program Assignments (Vocational Rehabilitation, etc.)	884	1,947
	———	———
	14,886	15,988
<u>INMATES UNAVAILABLE FOR ASSIGNMENT</u>		
New Admissions	64	1,283
Administrative Segregation	835	757
Disciplinary Segregation	232	418
Intensive Management	1,739	1,345
Protective Custody	93	69
Health Service (Mental Health, Inpatient, etc.)	365	339
	———	———
	3,328	4,211
<u>INMATES UNASSIGNED</u>		
Unassigned (Out-to-Court, Off-Site Hospital, etc.)	523	559
Assignment Pending (New Arrivals, Waiting Transfer, etc.)	2,970	2,005
	———	———
Population Count on November 1, 1993	21,707	
Population Count on December 15, 1994		22,763



FUEL TAX EVASION SUBCOMMITTEE REPORT

The Fuel Tax Evasion Subcommittee was appointed to review the Department of Transportation's proposed expenditures for improved detection and enforcement of motor fuel tax law evasion in North Carolina. Representative John McLaughlin was chairman of the subcommittee, and Representative Ed Bowen and Senator Paul Smith were members. The subcommittee met once on October 20, 1994.

Section 14 of Chapter 754 of the 1993 Session Laws (Regular Session 1994) authorizes the Secretary of the Department of Transportation to expend funds within its existing budget for the 1994-95 fiscal year to "expand efforts that encourage compliance with fuel tax laws." The authorizing legislation required the Department to provide the Joint Legislative Transportation Oversight Committee with an itemized list of planned expenditures for their review prior to implementation.

The Department established a \$2 million reserve for FY1994-95 from surplus revenues available after the close of the 1993-94 fiscal year. With the cooperation of tax administrators from the Department of Revenue and officers in the Enforcement Section of the Division of Motor Vehicles, the Department of Transportation developed a comprehensive Fuel Tax Compliance Plan that was submitted to the Joint Legislative Transportation Oversight Committee on October 5, 1994. The committee appointed a subcommittee to study the plan and formulate recommendations for action that would be considered at the committee's November meeting.

The Department of Transportation chose to address the fuel tax evasion problem with an eight-year plan that has three phases: near-term, intermediate and long-term. A summary of the expenditures and objectives of each phase are provided on the following page. Cumulative multiyear cost projections were estimated by the Department at \$23.6 million, which also estimated an eventual increase of annual fuel tax revenues of \$40 million.

The subcommittee heard an explanation of the Plan from the Department of Transportation. Staff then presented an itemized list of the expenditures in the Plan as well as the following findings:

1. Expenditures beyond fiscal year 1994-95 are outside the scope of the authorizing law and expenditures in future years need to be addressed by the House and Senate Appropriations Committees in the budgets for those years.

2. The Plan's major focus is more effective enforcement of fuel tax laws among interstate motor carriers. The exchange of data between Division of Motor Vehicles Enforcement and the Department of Revenue is critical for this effort to succeed.

Expenditures necessary to accomplish this exchange are:

- (a) Three additional management information systems positions in the Department of Revenue.
- (b) Funds for Lockheed contracts to move the motor fuel taxpayer database from the management of the Lockheed Corporation to the Department of Revenue.
- (c) Consultant fees in the Department of Transportation to build the inter-agency data exchange network.
- (d) The purchase of 150 cellular phones for Division of Motor Vehicles enforcement vehicles.

3. All other expenditures in the Plan presented to the Transportation Oversight Committee are non-essential expenditures for the 1994-95 fiscal year and should be brought before the Senate and House Appropriations committees when the General Assembly convenes in 1995.

Subcommittee staff then presented an alternative expenditure plan based on the previous findings. After a period of discussion, the subcommittee adopted the alternative plan.

THE FUEL TAX COMPLIANCE PLAN

BACKGROUND

House Bill 1843, enacted during the 1994 Session, authorized the Department of Transportation to expend funds within their existing budget for the 1994-95 fiscal year to "expand efforts that encourage compliance with fuel tax laws". These expenditures must be itemized and provided to the Transportation Oversight Committee and members of the House and Senate Appropriations committees for review before DOT can make those expenditures.

At the end of the last fiscal year, DOT set aside a \$2 million one-time reserve for this purpose. A reserve, by definition, consists of non-recurring dollars.

The Fuel Tax Compliance Plan developed by DOT, with the help of the Motor Fuels Tax Division of the Department of Revenue, goes beyond the one-year authorization of expenditures provided for in HB 1843. Their plan is an eight-year plan that takes place in three phases.

NEAR TERM PHASE

The first phase will start immediately and will be completed in 15 months. Estimated expenditures are \$3.1 million for this period, and cumulative expenditures over the life of the eight-year plan are \$13.9 million.

NCDOT expenditures consist of:

- A. Hiring 6 permanent employees in the MIS Division: \$347,508 (full fiscal year cost)
- B. 10,400 hours of consultant time at \$50/hour
- C. 11 personal computers for use by the 6 additional DOT employees and the consultants
- D. \$6000/month rent for additional space to house the computers, new DOT personnel, and consultants
- E. Purchase of 300 cellular telephones to put in all DMV Enforcement Section vehicles
- F. Cellular network service contract of \$150,000 per year to service the 300 cellular phones
- G. Additional SIPS mainframe charges of \$240,000/year
- H. A one-time consultant fee of \$125,000 to transfer NC's motor fuel taxpayer database from the Lockheed Corporation to the Department of Revenue
- I. \$100,000 for DOT to advertise the enhanced enforcement efforts
- J. Additional expenses of \$33,000 for training of personnel and maintenance of the new data processing equipment

The Department of Revenue's estimated expenditures consist of:

- A. Hiring of 10 permanent employees in the Motor Fuels Tax Division at \$461,112 (full FY cost)
- B. \$380,500 in additional data processing equipment
- C. Additional office space rental at \$1,350/month
- D. Additional expenses totaling \$38,756 in new employee support (travel, utilities, telephone and postage) plus a one-time office furniture expense of \$6000

The goal of the first phase of the eight-year plan is to develop a database system of motor carrier activity that can be accessed by DMV enforcement personnel. From weigh station terminals and from cellular telephones in enforcement vehicles, DMV will check on the status of a motor carrier account for both fuel tax and DMV violations. If found to be delinquent, the tax can be collected or the truck can be detained. In addition, motor carriers will be expected to provide certain information to DMV personnel at all weigh stations, such as estimates of miles driven in North Carolina and amounts of fuel purchased in the state. Data collection and data entry at this phase are manual. The Department of Revenue will cross-check this data with their fuel tax accounts. They'll be looking for DMV reports on truckers who consistently report no fuel tax mileage in North Carolina.

INTERMEDIATE PHASE

The intermediate phase will start in early 1996 and be completed in 1999. Estimated expenditures during this period are \$4.5 million, and total expenditures are \$5.6 million.

In general, expenditures here consist of buying personal computers for DMV enforcement vehicles and beginning the modernization of the entire computer system in the enforcement section of the Division of Motor Vehicles. The software in several sections, such as Motor Carrier Safety and Overweight Penalties, will be rewritten. Major expenses during this phase are consultant costs of \$3.1 million and vehicular PC purchases of \$900,000, plus some rental expenses of additional floor space.

LONG TERM PHASE

The long-term phase begins in 1999 and is completed in 2001. Estimated expenditures in this period are \$4.1 million.

Expenditures in this phase consist of establishing a state IVHS (Intelligent Vehicle Highway System). A detailed expenditure list will be developed in future years after a national committee recommends a list of standards for all states to incorporate in their programs. Anticipated recommendations are utilizing transponders or bar codes on trucks to collect identifying data electronically while the trucks are in motion. The Department of Revenue also intends to establish an electronic funds transfer program for motor carriers to pay their quarterly fuel tax payments.

**MANDATED
REPORTS**

MANDATED REPORTS

The Department of Transportation has submitted to the Transportation Oversight Committee all reports either mandated by the General Assembly or requested by the Committee members and staff. The key findings and recommendations of each report are summarized below.

EMISSIONS INSPECTION PROGRAM - QUARTERLY REPORT

The effective date for the new state emission law was October 1, 1994. The new law was designed to place North Carolina in compliance with EPA regulations on inspection and maintenance (I/M) programs as required by the Clean Air Act. DMV reports an I/M budget of \$2,031,586 in 1994-95. The new law places these funds in a dedicated nonreverting fund. There are 28 Emission inspectors that cover 1,281 stations in 19 counties. The new law creates additional audits for the staff to perform. The law also requires computer matching of emissions inspection records with registration information. This computer matching system will not be ready until March 1995.

RESERVE FUNDS

The General Assembly estimated that the 1993-94 credit balance in the Highway Fund would be \$40.5 million due to reversions and revenue in excess of estimates. The actual credit balance for last fiscal year came in at \$54,963,878.87. The \$14,463,878 in unanticipated revenue was placed into the following reserves:

Aid to Municipalities	\$737,081.00
Secondary Road Construction	737,081.00
Uncollectible Accounts	57,490.06
Operations Administration ⁽¹⁾	1,054,991.00
Increased Subsistence Allowance ⁽²⁾	200,000.00
Emergencies/Public Access Roads	2,000,000.00
Highway Maintenance	9,677,235.81
	<u>\$14,463,878.87</u>

- (1) Includes \$400,000 to match federal grant on motor carriers and \$580,000 for DMV telephones.
- (2) General Assembly increased subsistence rates, but failed to increase Highway Fund budget.

SMALL BUSINESS ENTERPRISE PROGRAM - QUARTERLY REPORT

The first projects in this program were let to contract in February, 1994. From February to October 1994, 496 projects were awarded to small businesses totaling \$8.9 million. Of this amount, 9% went to minority owned businesses and 23% went to women owned businesses.

CARAT UPDATE

The Congestion Avoidance and Reduction for Autos and Trucks (CARAT) program was initiated in 1992 in the Charlotte urban area. This project will utilize traffic management technologies to reduce congestion on I-77. To date, DOT has written a CARAT proposal and area-wide plan, prepared contract documents, started a Motorist Assistance Patrol, obtained variable message signs and highway advisory radio, and upgraded alternate routes.

RIGHT-OF-WAY MOWING CONTRACTS

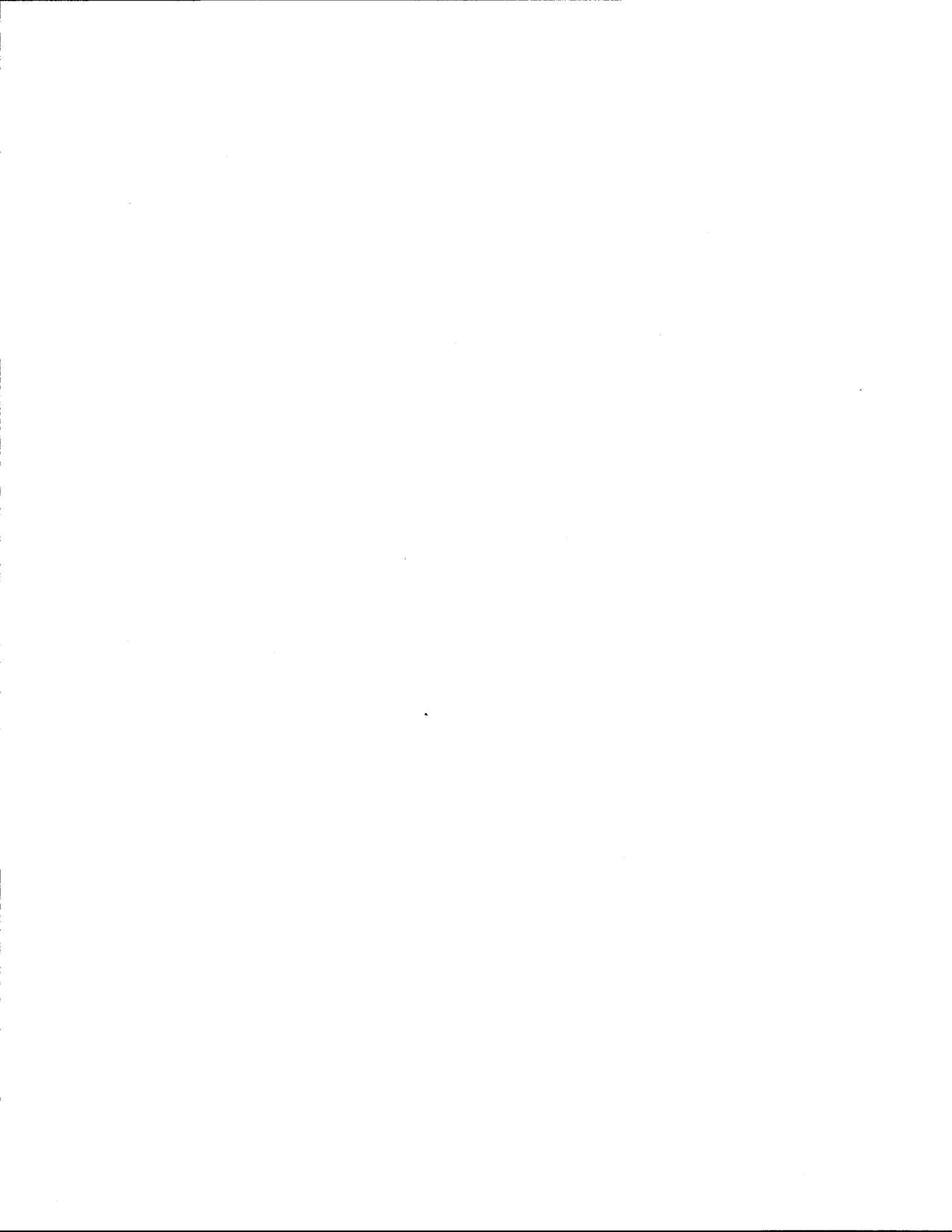
DOT began contract mowing in 1986 and now 70% of all road miles are mowed by contractors. In 1994, 92 counties used private mowers under a 1, 2, or 3 year contract. The overall performance by these contractors was good.

In 1993, the cost per shoulder mile for mowing by state forces was \$25.19, while the cost per mile for contractors was \$23.56. 22 contractors do the state's mowing with Dixie Lawn Service controlling contracts for 32 counties.

ADOPT-A-HIGHWAY PROGRAM

This report reviewed the legal issues relating to the use of contract services to clean the roadsides under the Adopt-a-highway program. Department of Justice attorneys argue that the firm contracting out its roadside cleanup could be violating 1) the law against advertising on highway right-of-way, 2) the Umstead Act by competing with the private billboard industry, and 3) state purchasing laws that authorize the Secretary of Administration to contract for services. The Department of Justice says contracting out could be a violation of the law, but does not definitively state that it is a violation. If the General Assembly is interested in allowing businesses to contract out their roadside cleanup duties for Adopt-a-highway, then the Departments of Justice and Transportation suggests legislation be approved for that purpose. There is currently no statute

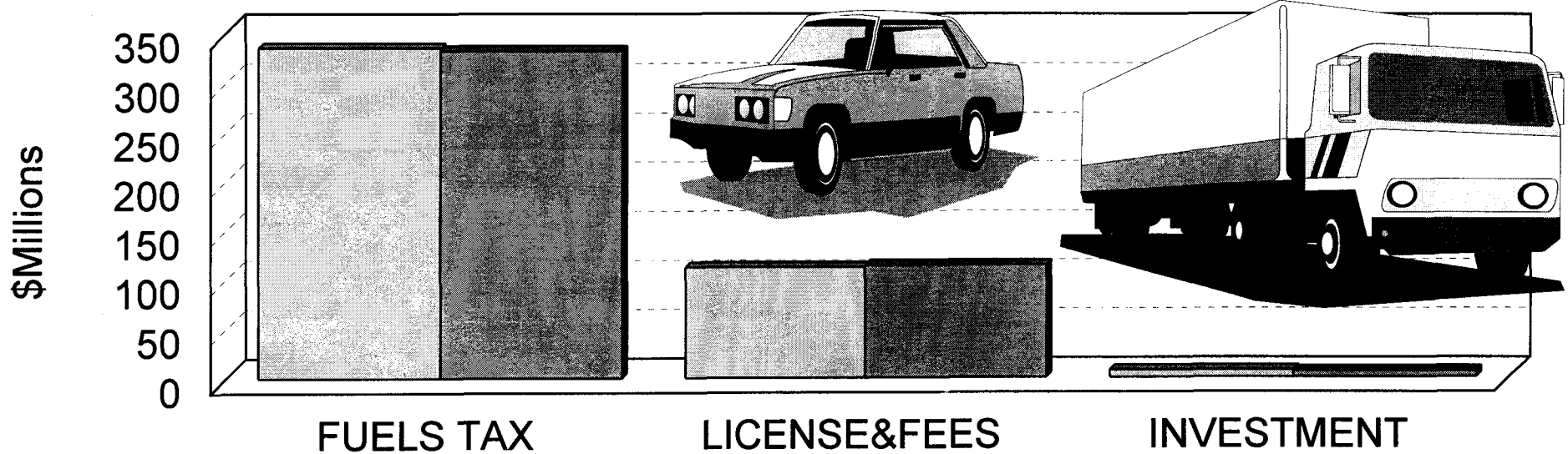
authorizing the Adopt-a-highway program. DOT is opposed to the commercialization of this program.



APPENDIX

HIGHWAY FUND REVENUES

JULY - DECEMBER FY1994-95



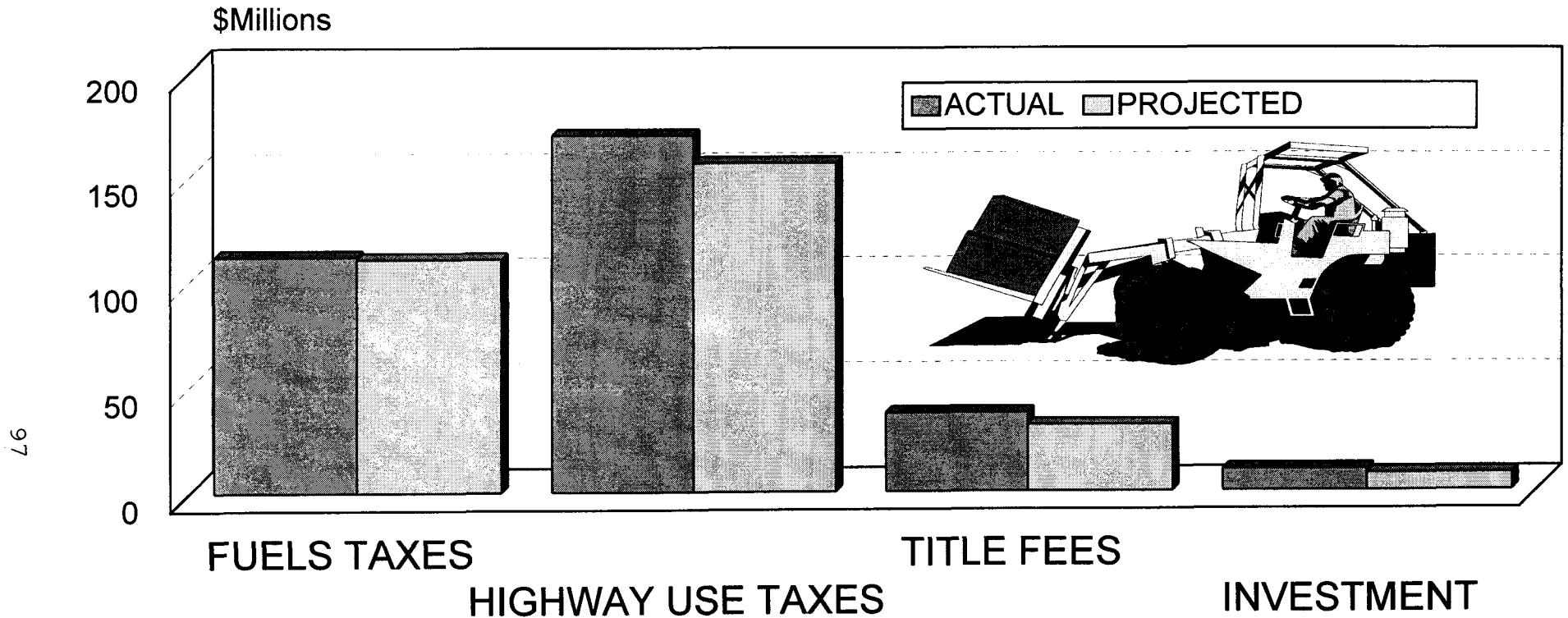
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ACTUAL
 PROJECTED

	ACTUAL	PROJECTED	OVERAGE
FUELS TAXES	\$335.4	\$332.2	\$3.2
DMV FEES	\$112.5	\$114.5	-\$2.0
INVESTMENT	\$7.5	\$6.5	\$1.0
SIX-MONTH TOTAL	\$455.4	\$453.2	\$2.2

HIGHWAY TRUST FUND REVENUES

JULY-DECEMBER FY1994-95



	ACTUAL	PROJECTED	OVERAGE
FUELS TAXES	\$111.8	\$110.6	\$1.2
HIGHWAY USE TAX	\$169.8	\$156.5	\$13.3
TITLE FEES	\$37.5	\$31.6	\$5.9
INVESTMENT	\$10.4	\$8.3	\$2.1
SIX-MONTH TOTAL	\$329.5	\$307.0	\$22.5

Route	Total Miles		Route Status		Fully Funded Construction		Remaining Costs Per 8/94 TIP (Excludes PE)	Federal Dollars Authorized As of 12/31/94	State Dollars Authorized As of 12/31/94	Total Dollars Authorized As of 12/31/94
	PE	ROW Const.	Miles	% of Total	Miles	% of Total				
I-40	X	X	21.4	6.1%	1.3	110,496,000	25,274,395			25,274,395
I-77	X	X	8.9	122.5%	10.9	12,800,000	26,485,000	31,245,798		57,790,798
I-85	X	X	68.1	83.7%	57.0	128,723,000	308,868,654	51,377,665		360,246,319
I-95			N/A	N/A		3,400,000				
US-1	X	X	100.1	25.1%	25.1	214,450,000	34,697,896	94,791,445		129,489,341
US-13	X		45.9	0.0%		106,270,000	800,000	600,000		1,400,000
US-17	X	X	188.8	19.5%	36.9	591,753,000	5,928,095	77,908,197		83,834,292
US-19/19E			29.7	0.0%		44,400,000				
US-19	X	X	28.1	3.6%	1.0	281,877,000	3,319,133			3,319,133
US-23	X	X	30.0	9.9%	3.0	201,830,000	23,017,956	5,708,949		28,726,905
US-23-441	X	X	11.4	52.8%	6.0	7,125,000	6,256,287	20,466,000		26,722,287
US-52	X	X	22.5	56.0%	12.6	39,200,000	39,351,963	45,700,599		85,052,562
US-64 (95 to US17)	X	X	98.5	13.1%	12.9	341,135,000	19,517,710	62,285,777		81,803,487
US-64 (Lex to Flaj)	X	X	84.9	14.1%	12.0	142,680,000	35,140,928	12,405,952		47,546,880

Route	Total Miles	Route PE	Route ROW Const.	Fully Funded Construction Miles % of Total	Remaining Costs Per 6/94 TIP (Excludes PE)	Federal Dollars Authorized As of 12/31/94	State Dollars Authorized As of 12/31/94	Total Dollars Authorized As of 12/31/94
US-70	64.9	X	X	6.2	292,082,000	13,988,176	14,041,329	28,029,505
US-74	51.7	X	X	1.0	318,265,000	42,427,500	19,365,798	61,793,298
US-74 (I26 to I85)	18.3		X	100.0%	0	18,538,110	28,058,175	46,596,285
US-158	240.3	X	X	10.6	479,825,000	725,000	41,412,237	42,137,237
Bridge	9.9	X		0.0%	48,350,000		375,000	375,000
US-221	70.2	X	X	2.0	162,970,000	11,625,758	3,709,111	15,334,869
US-220	30.1	X	X	20.7	149,135,000	49,707,903	36,484,800	86,192,703
US-220 (to VA line)	30.6	X	X	6.7	18,500,000		19,300,000	19,300,000
US-284	27.1	X	X	14.4	116,825,000	24,898,849	22,845,369	47,744,218
US-321	38.5	X	X	13.4	68,670,000	47,648,770	15,269,939	62,918,709
US-421 (TN to I40)	63.3	X	X	9.9	232,387,000	9,445,702	25,549,053	34,994,755
US-421 (G'boro to Sanford)	37.4	X	X	12.3	132,650,000	19,840,395		19,840,395
NC-24 (& NC-24-27)	211.7	X	X	33.4	496,166,500	32,364,895	45,207,398	77,562,293

Route	Total Miles	PE	ROW Const.	Fully Funded Construction Miles % of Total (Excludes PE)	Remaining Costs Per 6/94 TIP	Federal Dollars Authorized As of 12/31/94	State Dollars Authorized As of 12/31/94	Total Dollars Authorized As of 12/31/94
NC-67	81.2	X	X	10.8	168,717,500	30,804,977	22,647,495	53,452,472
NC-105	14.6			0.0%	34,700,000			
NC-168	18.5	X	X	0.0%	24,040,000		11,818,000	11,818,000
NC-194	10.3			0.0%	26,850,000			
TOTAL INTRASTATE	1756.9			338.2	4,997,072,000	830,692,082	708,574,086	1,539,236,168
Asheville Western Loop	3.2			0.0%	99,300,000			
Charlotte Outer Loop	68.1	X	X	20.0	578,704,000	225,718,624	21,505,080	247,223,704
Durham Northern Loop	16.4	X		0.0%	88,850,000		1,500,000	1,500,000
Greensboro Loop	41.6	X	X	0.0%	513,700,000	10,371,500	5,082,822	15,454,322
Raleigh Outer Loop	38.0	X	X	5.1	412,832,000	134,954,342	18,734,666	153,689,008
Wilmington Bypass	20.2	X		0.0%	157,525,000	600,000	850,000	1,450,000
Winston-Salem N Belt	24.5	X		0.0%	305,800,000		1,250,000	1,250,000
TOTAL LOOPS	212.0			25.1	2,156,311,000	371,644,468	48,932,568	420,577,034