# 21st CENTURY TRANSPORTATION COMMITTEE

Final Report

REPORT TO THE
2009 GENERAL ASSEMBLY
OF NORTH CAROLINA

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December 10, 2008

TO THE MEMBERS OF THE 2009 GENERAL ASSEMBLY:

The 21st Century Transportation Committee hereby submits its final report to you for your consideration. This report was prepared by the Committee pursuant to the letter from the President Pro Tempore of the Senate and the Speaker of the House, dated October 29th, 2007, creating the Committee, issued under the authority of G.S. 120-19.6(a1), Rule 31 of the Rules of the Senate of the 2007 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly.

J. Bradley Wilson

Brad Wilson
Chairman
21st CENTURY
TRANSPORTATION COMMITTEE

## Committee Proceedings

The 21st Century Transportation Committee was established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1), Rule 31 of the Rules of the Senate of the 2007 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly. The 21st Century Transportation Committee held thirteen meetings from November 2007 to December 2008.

In accordance with the charge, the committee studied the following:

(1) Ways to improve the transportation systems of the State in order to promote economic growth and ensure that the State can compete and participate in the global economy.

(2) Innovative methods to fund the transportation needs of the State, including an examination of traditional and nontraditional methods of financing transportation infrastructure.

(3) Priorities of the Department of Transportation, including methods to ensure adequate funding for corridors and projects of statewide significance.

(4) Methods to use new and innovative technology to improve the transportation system.

(5) Local funding options for transportation.

(6) Ways to adequately fund road construction to address urban congestion and to improve mobility.

(7) Methods to spend transportation funds in the most effective and cost efficient manner, including ways to use recycled materials, and reuse and recycle road materials.

(8) Ways to maintain the continued safety of the current transportation system, including an analysis of the safety and reliability of bridges in the State.

(9) The appropriate division of responsibility for transportation infrastructure between State and local government and any federal role in providing transportation infrastructure needs.

(10) An examination of the role of ports, airports, mass transit, rail, and pedestrian and cycling access in providing the transportation needs of the State.

(11) A review of public transportation needs in urban areas.

(12) Methods to encourage fuel conservation and energy conservation in North Carolina.

The 21st Century Transportation Committee members traveled to several cities across the state in 2007 and 2008, including Asheville, Charlotte, Raleigh and Wilmington, to gain information on transportation issues facing North Carolina as well as potential mobility solutions.

Below is a list of the meetings of the 21st Century Transportation Committee. A complete record of each meeting is available in the Committee notebook filed in the Legislative Library:

November 7, 2007
November 26, 2007
December 12, 2007
January 16, 2008
February 21, 2008
March 24, 2008
April 24, 2008
May 13, 2008
August 21, 2008
September 11, 2008
November 5, 2008
November 19, 2008
December 10, 2008

# Findings and Recommendations

## Findings

North Carolina faces many transportation challenges that need to be addressed in order for our State to be successful in the future. After hearing information from several sources across the State, the Committee finds:

Our State's population grew by 30% from 1990 to 2005. This rate of growth is faster than the U.S. growth rate of 19% and faster than all but eight other states. This robust growth is expected to continue. The 2005 estimated population was 8,679,291 while the projected population for 2030 is 12,465,478 – this is a rate of growth of more than 43% over the next twenty five years. By 2030, North Carolina is projected to become the 7th most populous state in the nation. This is the equivalent to adding a South Carolina to our State. This growth presents great opportunity and great challenges, particularly to our State's aging transportation infrastructure.

North Carolina currently ranks 2nd out of 50 states in total state maintained road mileage. On the other hand, the State ranks 49th in total revenue per lane-mile, and 47th in spending per lane mile.

According to a 2006 TRIP Report on the Interstate Highway system, 57% of all urban interstate miles in North Carolina and 47% of rural interstate miles are congested. In addition, 40% of all travel in urban areas is conducted during congested conditions. Estimates project a 50% growth in vehicle miles traveled over existing conditions by 2030.

Currently, North Carolina spends approximately 5% of its annual transportation budget on freight and passenger rail, ferries, mass rapid transit, busses, bicycling, pedestrian and other non-highway transportation options.

The North Carolina Department of Transportation reports that to meet current needs and to prepare North Carolina for 2030, an estimated additional investment of over $65 billion is required to plan, design, build and maintain all aspects of our transportation systems.

The user-pay model of taxing the consumption of fuel has worked well since 1921 and has adequately funded transportation needs in the State until recent years. As vehicles have become more fuel efficient, and gas prices have become more volatile, consumption has flattened and in recent months declined resulting in a precipitous drop in gas tax revenues. In addition, as the State works to promote the use of alternative fuels, revenues linked to the consumption of petroleum-based fuels are likely to continue to fall.

Toll roads are a user-pay model used in high-growth areas around the country.

North Carolina is a federal transportation “donor” state. The State continues to send more in transportation funds to Washington than it receives in return, for both highways and transit.

NCDOT reports that highway construction costs have increased 124% in the past six years.

North Carolina currently has over 2,500 structurally deficient bridges and ranks 41st out of the 50 states in terms of bridge deficiencies. The North Carolina Department of Transportation estimates that it needs to replace 400 bridges annually in order to reduce the number of structurally deficient bridges. Currently, the Department replaces only slightly more than 100 bridges annually.

As documented in the NCDOT Long Range Transportation Plan, currently 37 percent of State transportation expenditures are on the statewide tier of facilities, 19 percent on the regional tier, and 44 percent on the sub-regional tier. However, the statewide tier accounts for 49 percent of the needs while carrying 50 percent of all traffic, the regional tier is 12 percent of the needs and 15 percent of the traffic, and sub-regional tier is 39 percent of the need and 35 percent of the traffic.

North Carolina must simultaneously reduce the time and costs involved in delivering transportation projects. Currently, large projects take between 8 and 10 years for planning and permitting with increasing portions of transportation budgets being spent on these activities. North Carolina must do better at balancing these planning requirements with the fiscal stewardship our citizens deserve, as other states have done.

## Recommendations

In the course of 13 meetings over the last 14 months, the Committee has heard many recommendations to address the transportation needs of North Carolina.

In September 2004, the North Carolina Department of Transportation published its Long Range Multimodal Transportation Plan for the next 25 years. The report identified several transportation trends and challenges, including a then estimated shortfall of $29 billion in transportation needs versus anticipated revenues. By 2007 the estimated shortfall had grown to $65 billion. This shortfall is driven primarily by a 35% growth in population over the last 20 years, a 40% growth in vehicle-miles traveled over the last 10 years, an increase in construction costs of 124% over the past six years, and increasing pressures on transportation funds primarily supported by motor fuels taxes for maintenance of the existing highway system. Explosive growth in the urban areas and shifting demographic patterns are creating more demand for multi-modal transportation choices. The State is expected to experience a 67% increase in domestic freight tonnage over the next 20 years.

Although these challenges may appear daunting and insurmountable, they are a consequence of our successful and growing economy in North Carolina. Without this economic growth our list of challenges would be completely different and with little means of redress. Few would argue that the transportation needs are not currently outpacing available resources. North Carolina currently ranks 2nd out of 50 states in total state maintained road mileage, but 49th in total revenue per lane-mile and 47th in spending per lane mile. Currently, North Carolina spends approximately 5% of its annual transportation budget on freight and passenger rail, ferries, mass rapid transit, busses, bicycling, pedestrian and other transportation choices. In a growing and populous state, these statistics clearly show that North Carolina's challenges are directly related to the need for additional revenues not linked to motor fuels taxes. In addition, we must prioritize transportation spending based on statewide goals balancing mobility, connectivity and economic prosperity.

The committee recommends a "Fix-it-First" policy, which would ensure that we protect past investments in transportation systems and would also help reduce the long-term costs of repair by slowing the deterioration of existing roads, bridges and other infrastructure. A Fix-it-First strategy is not a Fix-it-Only strategy. A Fix-it-First is fiscally responsible with respect to maximizing investment dollars and in regards to support of our economy; will result in a balanced State transportation program; will result in increased citizen confidence regarding how State transportation dollars are spent.

Since the establishment of the 1989 Highway Trust Fund, most of the transportation funds allocated by the North Carolina Board of Transportation have been distributed using the "equity formula" as mandated by the General Assembly. Some have advocated for changes in the equity formula to better accommodate the needs of high growth areas. A considerable portion of state funds are distributed outside of the equity formula. NCDOT reports that 17% of the entire federal and state construction expenditures in the last 15 years were expended in only seven counties, with several high growth counties receiving almost 5 times the average per-county expenditure. While, the debate continues about the continued use of the equity formula, there is little debate that the State's current revenue model is woefully inadequate to meet the needs of a rapidly growing State and to serve all of its citizens' transportation needs - both urban and rural in a global economic environment.

Given the $65 billion statewide need, it is clear that no single financing or policy solution exists to solve the State's transportation challenges. Rather, a menu of options will be required to prevent a decline in mobility in the State. The Committee made interim recommendations in May for the 2008 Regular Session of the 2007 General Assembly and those recommendations are in the Appendix A of this report.

The goals of the Committee are to take North Carolina's road transportation system from a "D" rating to a "B" rating over the next 10 years and to put in place an effective multimodal transportation system that will reduce congestion, improve efficiency and productivity, increase safety, improve the environment, and support economic development throughout the state. Reaching these goals will require a new investment of $1 billion per year for the next 10 years, tolling of interstate highways, the creation of a dedicated funding source for intermodal solutions, additional local options to implement the right solutions for each area, improved long-term planning, and improved management and execution by the NCDOT and other involved agencies.

The Committee recommends that the General Assembly consider each of the following options as it searches for solutions to address the transportation needs in North Carolina.

**A menu of policy options for new funding for transportation is listed below:**

*Eliminate Transfers*. The Committee recommends eliminating all remaining transfers of funds from the Highway Trust Fund and the Highway Fund to the General Fund. This includes the transfers from Highway Fund for State Highway Patrol, Driver's Education Program, and reimbursement of sales tax exemption.

*Highway Use Tax*. The Committee recommends increasing the Highway Use Tax from 3% to 4% over two years. Several other Southeastern states already have taxes at this rate or higher. Increasing the rate to 4% would produce an additional $200 million annually, based on historical collections. In addition, the General Assembly should consider increasing the current $1000 cap on Class A and Class B commercial vehicles to adjust for inflation, imposing a differential rate for fuel efficient vehicles, and allocating new funds for specific purposes besides those currently mandated by the Highway Trust Fund.

*Vehicle Miles Traveled {VMT} Fee.* The Committee recognizes the State needs an alternative or supplement to the motor fuels tax. This fee would be a true user-fee independent of type or amount of fuel consumed. These days, North Carolinians are traveling more miles in more vehicles. However, our roadways are suffering from lack of maintenance and new construction due to the slow growth of motor fuels tax revenues due to improvements in fuel economy One possible solution is to base our tax on how much we drive, not how much fuel we consume – in other words, a "Vehicle Miles Traveled Fee" (VMT Fee). With the VMT fee the consumers would pay taxes proportionately to the number of miles they drive. There is a pilot project in Oregon that is testing the feasibility of a VMT fee. A simple approach to a VMT fee is to charge each passenger vehicle and truck 1/4 cent for each mile driven. The average driver drives 12,000 miles per year, so with an exemption for the first 2000 miles the cost to the average driver would be $25. This fee could be collected as a part of the vehicle annual inspection program. In addition, the General Assembly should consider authorizing a local option VMT fee.

*Vehicle Registration Fees.* The Committee recommends increasing the passenger vehicle registration fee (currently $28) by $30 over three years. This would provide additional revenues of $195 million annually. In Committee also recommends increasing other staggered registration fees by 25%. This would provide additional revenues of $50 million annually.

*Vehicle Registration Fees based on weight.* The Committee recommends the General Assembly consider charging registration fees based on vehicle weight for passenger vehicles. The following estimates are based on the Florida model. The Committee recognizes that implementation of this proposal may be difficult or costly.

| Vehicle Weight | Option 1 | Option 2 | Option 3 |
|---|---|---|---|
| < 2,499lbs | $27.60 | $33 | $37 |
| 2500-3499 | $35.60 | $43 | $47 |
| 3500 and up | $45.60 | $55 | $60 |
| Revenues | $70 Mill | $121 Mill | $150 Mill |

*Bonds*. The Committee recommends that the General Assembly authorize a referendum for general obligation bonds to accelerate construction on high traffic, high congestion roadways. The Committee recognizes that any issuance of bonds must be supported by new revenue.

*Special Federal Funding.* The Committee recommends that the State seek special federal funding for the Yadkin River Bridge Project and that NCDOT take needed actions to clear regulatory hurdles and prepare for letting to construction of this project.

*Local Option Sales Tax*. The Committee recommends that the General Assembly authorize a local option sales tax of up to 1% for transportation for counties, cities, and metropolitan regions. The Committee recommends requiring voter approval for the local option tax and granting the taxing entity the ability to set priorities between roads, transit, and other transportation modes.

*Indexing Fees.* The Committee recommends that the General Assembly index all fixed fees (such as registration, title, drivers license, etc.) to the consumer price index so that the fees would automatically change without legislative action. Based on an inflation rate of 3%, this would yield an additional $20 million annually in the first year alone.

*Tolls*. The Committee recommends increasing the use of toll roads. Specifically, the Committee recommends tolling I-95 border to border to support 180 miles of widening by an additional two lanes in each direction, tolling I-77 from the South Carolina border to I-40 (Statesville) to increase capacity a minimum of two lanes in each direction, and seeking federal approval to toll all interstates at the borders.

*Differential Fuel Tax Rates.* The Committee recommends that the General Assembly consider adopting differential fuel tax rates for diesel and gasoline

*Intermodal Recommendations.* The Committee recommends dedicating $ 170 million per year to fund the Intermodal Initiative recommended in the Interim Report of the 21st Century Transportation Committee (these recommendations can be found in the Appendix A of this report).

*Revision to Intermodal Draft Legislation in Interim Report.* The Committee recommends the language in proposed G.S. 136-252(a) be revised to read as follows, with the new language about Article 25 appearing in italics:

a) Cities, counties, *transportation authorities under Article 25 of Chapter 160A of the General Statutes*, regional public transportation authorities under Article 26 of Chapter 160A of the General Statutes, and regional transportation authorities under Article 27 of Chapter 160A of the General Statutes may receive grants from the fund for public transportation purposes, including planning and engineering.

**Other policy objectives**

*Mobility and Connectivity. The Committee makes the following recommendations with respect to mobility and connectivity:*

- Create a Congestion Reduction program focused on the Strategic Highway Corridors and the 7% of the highway system miles that carries 45% of the traffic. The estimated cost of this $120 million per year. The program would be focused on decreasing travel time and increasing travel reliability.
- Maximize capacity and utilization of rail freight movement consistent with the recommendations of Intermodal Committee and the North Carolina Railroad long range plans.
- Enhance mobility within all areas of the state by continued investment and the completion of Intrastate System Projects and the Strategic Highway Corridors and by allowing regions to re-prioritize and re-program existing funding consistent with changing transportation demands and economic growth patterns within each region.

- Enhance mobility and reduce congestion by accelerated investment and completion of all planned urban loops with priorities established based on measurable transparent criteria.
- Expand use of tolling and congestion pricing to include High Occupancy Tolls (HOT) lanes consistent and complimentary with current North Carolina Turnpike Authority projects and any newly authorized tolling projects.

*Preservation.* Well-maintained roads are essential for safe, efficient transportation, for both automobiles and public transit. Potholes, cracks in the roads, and age related deterioration all contribute to less safe driving conditions and exact a significant financial toll on auto-users. Recognizing that preservation of our current transportation system is as important as making improvements to the system, the Committee makes the following recommendations:

- Recommend adoption of a Fix-it-First policy within NCDOT. A Fix-it-First transportation policy would ensure that we protect past investments in transportation systems and would also help reduce the long-term costs of repair by slowing the deterioration of existing roads, bridges and other infrastructure. A Fix-it-First strategy is not a Fix-it-Only strategy. A Fix-it-First is fiscally responsible with respect to maximizing investment dollars and in regards to support of our economy; will result in a balanced state transportation program; and will result in increased confidence regarding how state transportation dollars are spent.
- Fully fund existing bridge replacement needs in North Carolina. This has an estimated cost of $300 Million.
- Create an effective Bridge Maintenance and Rehabilitation Program within existing maintenance funds.
- Create an annual Interstate Resurfacing Program from federal interstate maintenance funds within each Highway Division with interstates and remove interstate maintenance expenditures from equity calculations.
- Implement a measurable system preservation and maintenance program with quantitative measures of performance and measures of effectiveness (i.e. MOE = remaining service life of road network, MOP=annual miles resurfaced and reconstructed).

*Safety*. The Committee makes the following recommendations with respect to improving the safety of our highway system:

- Focused external safety and enforcement programs with adequate metrics to reduce fatal accidents and serious injuries on transportation facilities.
- Fully fund spot safety programs but hold program accountable for accident and injury reduction.
- Focus collaborative enforcement efforts within all enforcement agencies on top priority locations for accident and injury reduction based on frequency and severity of occurrence. Of particular interest are coordinated efforts focused on rural secondary roads which account for 34% of all fatal accidents.

*Performance and Accountability.* The Committee makes the following recommendations with respect to improving performance and accountability:

- Increase the policy, strategic planning, and governmental coordination focus of the Secretary and Board of Transportation with any safeguards and ethics reforms required to restore public trust and confidence in the delivery of transportation services.
- Reduce transportation administrative costs that do not directly improve road, bridge, or other key infrastructure within the State.
- Examine existing and recently proposed Department of Transportation organizational structure for opportunities to consolidate policy and programming responsibilities, decentralize project delivery to the greatest extent feasible to Highway Divisions, and reduce redundancy.
- Complete the implementation of planned measured performance objectives across the Department of Transportation for all key personnel and offices

*Increased Cooperation and Collaboration at all levels of Government.* The Department of Transportation should work to develop a closer relationship with local government to leverage state/local resources and better coordinate land use with transportation planning through empowerment of decision making responsibilities and accountability to Division Engineers working closely with Board of Transportation Members and Municipalities. The Department of Transportation should assist local governments in coordination of land-use and transportation planning while integrating pedestrian, bicycle, and transit improvements as appropriate. The General Assembly and NCDOT should work with the League of Municipalities, the Metropolitan Coalition, and the Association of County Commissioners to explore opportunities for improved delivery and efficiency of existing transportation services and, adequate and secure revenue sources for those current responsibilities, including increased Powell Bill funding to better address the increased cost of road construction and maintenance.

**Other Policy Considerations**

As the State moves forward with improving our transportation system, all affected parties should seek to incorporate the following considerations in their actions:

1) The provision of sustainable source of funding for transportation using a new 21st century economic model not tied primarily to petroleum use.
2) The provision of incentives to reduce dependence on petroleum based motor fuel.
3) The provision of new markets for alternative energy sources which support the development of a new energy economy in North Carolina.
4) The provision of incentives for a reduction in vehicle miles traveled.
5) The positioning of the State positively as a recipient of federal infrastructure/economic stimulus funds.
6) The reduction of congestion in urban areas and the promotion mobility with improved land use planning.
7) Enhance mobility and connectivity through the implementation of the intermodal recommendations.
8) Enhance mobility through integrating the inclusion of pedestrian, bicycle and transit improvements in all transportation projects as appropriate.

As the revenue challenges are solved, North Carolina must simultaneously reduce the time and costs involved in delivering transportation projects. Currently, large projects take between 8 and 10 years for planning and permitting with increasing portions of transportation budgets being spent on these activities. North Carolina must do better at balancing these planning requirements with the fiscal stewardship our citizens deserve, as other states have done.

With good transportation policy, adequate revenue, and responsible delivery of transportation services, North Carolina will be positioned to meet the mobility and access needs of our growing population, both urban and rural, well into the future.

**Marc Basnight**
**President Pro Tempore,**
**North Carolina Senate**

**Joe Hackney**
**Speaker,**
**North Carolina House of Representatives**

Raleigh, North Carolina 27601-1096

## 21st Century Transportation Committee

**Section 1**. The **21st Century Transportation Committee** (hereinafter "Committee") is established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1), Rule 31 of the Rules of the Senate of the 2007 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly.

**Section 2**. The Committee consists of the 24 members listed below. The President Pro Tempore of the Senate shall appoint 12 members of the Committee, and 4 of these 12 appointments shall be made upon the recommendation of the Governor. The Speaker of the House of Representatives shall appoint 12 members of the Committee, and 4 of these 12 appointments shall be made upon the recommendation of the Governor.

The Committee shall select its chair upon the recommendation of the Governor. The Committee and the terms of the members shall expire when the Committee submits a final report to the General Assembly. Members serve at the pleasure of the appointing officer.

| **President Pro Tempore Appointments** | **Speaker of the House Appointments** |
|---|---|
| Senator David Hoyle | Representative Nelson Cole |
| Senator Clark Jenkins | Representative Becky Carney |
| Senator Richard Stevens | Representative Lorene Coates |
| Dr. Joseph Monroe, Dean, Guilford County | Representative Phillip Frye |
| Mr. Lanny Wilson, New Hanover County | Representative William C. "Bill" McGee |
| Mr. Billy Sewell, Onslow County | Representative William L. Wainwright |
| Mr. Stephen Zelnak, Jr., Wake County | The Honorable George W. Miller, Jr., Durham County |
| The Honorable Richard Blackburn, Ashe County | Ms. Nina Szlosberg, Wake County |
| *The Honorable Terry Bellamy, Buncombe County | *Mr. Charles F. Bowman, Mecklenburg County |
| *The Honorable Sam Hunt, Alamance County | *The Honorable Chuck McGrady, Henderson County |
| *The Honorable Allen Joines, Forsyth County | *Mr. D. Jordan "Jordy" Whichard, III, Pitt |

County

*Mr. Gregory Plemmons, Guilford County **Mr. Brad Wilson, Chair, Wake County

* Recommendation from Governor Michael F. Easley
** Recommendation for appointment as Chair by Governor Easley

**Section 3.** The Committee shall study the transportation infrastructure needs of the State. The Committee shall study and report on the following:

(1) Ways to improve the transportation systems of the State in order to promote economic growth and ensure that the State can compete and participate in the global economy.
(2) Innovative methods to fund the transportation needs of the State, including an examination of traditional and nontraditional methods of financing transportation infrastructure.
(3) Priorities of the Department of Transportation, including methods to ensure adequate funding for corridors and projects of statewide significance.
(4) Methods to use new and innovative technology to improve the transportation system.
(5) Local funding options for transportation.
(6) Ways to adequately fund road construction to address urban congestion and to improve mobility.
(7) Methods to spend transportation funds in the most effective and cost efficient manner, including ways to use recycled materials, and reuse and recycle road materials.
(8) Ways to maintain the continued safety of the current transportation system, including an analysis of the safety and reliability of bridges in the State.
(9) The appropriate division of responsibility for transportation infrastructure between State and local government and any federal role in providing transportation infrastructure needs.
(10) An examination of the role of ports, airports, mass transit, rail, and pedestrian and cycling access in providing the transportation needs of the State.
(11) A review of public transportation needs in urban areas.
(12) Methods to encourage fuel conservation and energy conservation in North Carolina.
(13) Any other issues the Committee finds relevant to this study.

**Section 4.** The Committee shall meet upon the call of the chair. A quorum of the Committee is a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

**Section 5**. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the

General Statutes. The Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

**Section 6**. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5 and 138-6, as appropriate.

**Section 7**. The expenses of the Committee shall be considered expenses incurred for the joint operation of the General Assembly. An initial allocation of $50,000 shall be provided to the Committee from funds appropriated to the General Assembly.

**Section 8.** The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Committee.

**Section 9**. The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Committee in the State Legislative Building or the Legislative Office Building.

**Section 10**. The Committee may submit an interim report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives, on or before May 1, 2008, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives, on or before December 31, 2008, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate on December 31, 2008, or upon the filing of its final report, whichever occurs first.

Effective this 29th day of October, 2007

| | |
|---|---|
| Marc Basnight | Joe Hackney |
| President Pro Tempore of the Senate | Speaker of the House of Representatives |

*10/29/07*

# Membership

## 21st Century Transportation Committee

**Pro Tem Appointments**

Sen. David Hoyle
300-A Legislative Office Building
Raleigh, NC 27603

Sen. S. Clark Jenkins
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Raleigh, NC 27607

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*Recommendations from Governor Michael F. Easley

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# APPENDIX A

Interim Report Approved by the 21st Century Transportation Committee
On May 14, 2008

**21st Century Transportation Committee**
**Finance Subcommittee**
**Recommendations**

There are six proposals for consideration:

Number 1 – Transfer Elimination- It is proposed that the Highway Trust Fund transfers to the General Fund of $172 million (G.S. 105-187.9(b)) be eliminated. This makes available to the Highway Trust Fund (HTF) the full amount for transportation needs.

Number 2 - North Carolina Turnpike's Authority Gap Funding – It is proposed that the Turnpike Authority (NCTA) will receive $45 million in FY2008-09 and an additional $30 million in FY2009-10; a total of $75 million annually from the Highway Trust Fund. This on-going stream of funding will be used by NCTA to obtain other funds by the NCTA, for construction of legislative-approved NCTA projects. This funding is made available through elimination of the transfer described in number 1 of these recommendations.

- During FY2008-09, it is proposed that approximately $45 million of the recaptured funds (no longer transferred) within the HTF, will be used for gap funding for the NCTA's projects.
- It is proposed that in FY2009-10, $75 million of the total recaptured funds will be used for gap funding for NCTA projects (this includes $45 million in the first year's recaptured funds and $30 million in the second year of the recaptured funds from transfers).
- The remainder of the transfer funds would be used to repay debt in support of the proposed bond issue in recommendation Number 3.

Number 3 – Bonds - According to the Debt Affordability Committee's study released in 2008; the Department of Transportation's funding streams (Highway Fund and Highway Trust Fund) have a debt capacity of $1.75 billion. It is recommended that the highest amount possible available be obtained in bonds to speed up project construction to avoid the ongoing inflation in construction costs.

These new funds would be used in the following manner: 50% loops and interstates to increase capacity based on congestion and mobility factors including appropriate funding for the Transportation Intermodal Fund, and 50% distributed through the equity formula for the bridge program and completion of the intrastate system as defined in G.S.136-179.

Number 4 – Debt service for Bonds – It is proposed that the new bonds will be paid for by a portion of the money recaptured through the elimination from the transfer of Highway Trust Fund.

- The funds available from eliminating the General Fund transfer (of funds not being obligated to the NCTA) will be used to pay debt service on the new bonds to be approved in 2008. This amount is approximately $97 million.

Number 5 - Bond Oversight for Transportation - It is proposed that the legislature create an entity to monitor and provide oversight for the expenditure of already issued bonds and new bond funds. The structure would be similar to the Legislative University Bond Oversight Committee with the Speaker of the House and President Pro Tem of the Senate appointing members and each designating an appointee as a co-chair. The Committee will be funded by Highway Fund dollars transferred from the Department of Transportation to the General Assembly.

The Committee will receive specific project and funding reports from NCDOT and the Treasurer's office. The Committee will report semi-annually to the Joint Legislative Transportation Oversight Committee and annually to the Appropriations Subcommittee for Transportation.

The detailed recommendation on bond oversight is at the end of this recommendations document.

Number 6 - Yadkin River Bridge / I-85
It is proposed to have NCDOT take needed actions to clear regulatory hurdles and prepare for letting to construction of a new bridge at I-85/Yadkin River (letting midyear 2009). NCDOT and the State of North Carolina will seek federal earmark funds for this specific project during 2008.
(The Finance Subcommittee of the 21st Century Transportation Committee will develop a backup funding recommendation by December 31, 2008.)

## Transportation Bond Oversight Committee

<u>Bond Oversight for Transportation</u> - It is proposed that the legislature create an entity to monitor and provide oversight for the expenditure of already issued bonds and any new bond funds. The structure would be set up similar to the Legislative University Bond Oversight Committee with the Speaker of the House and President Pro Tem of the Senate appointing members and each designating an appointee as a co-chair. The Committee will be funded by Highway Fund dollars transferred from the Department of Transportation to the General Assembly.

The Committee will receive specific project and funding reports from NCDOT and the Treasurer's office. The Committee will report bi-annually to the Joint Legislative Transportation Oversight Committee and annually to the Appropriations Subcommittee for Transportation.

<u>DOT and Bond Oversight</u>

Section 4. Transportation Bond Oversight Committee. – (a) Creation and Membership. The Transportation Bond Oversight Committee is established. The Committee shall be located administratively in the General Assembly. The Committee shall consist of 10 members appointed as provided below. In making appointments, each appointing officer shall select members who have appropriate experience and knowledge of the issues to be examined by the Committee and shall strive to ensure geographical diversity among the membership.

(1) Five members shall be appointed by the Speaker of the House of Representatives.
(2) Five members shall be appointed by the President Pro Tempore of the Senate.

Section 4.(b) Terms. Terms on the Committee are for three years and begin on January 15, except the terms of the initial members, which begin on appointment. A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

Section 4.(c) Duties. The Committee shall:

(1) Call for reports and presentations from the following parties and convene for the purpose of hearing from the following parties:
  a. The Secretary of the Department of Transportation.
  b. The Highway Administrator of Department of Transportation.
  c. The Chief Engineer of the Department of Transportation.
  d. The Administrator of the Transportation Improvement Program for the Department of Transportation.
  e. The Highway Division Engineers for the Department of Transportation.
  f. The State Treasurer.

(2) Analyze and prepare recommendations, based on the information received under subdivision (1) of this subsection, concerning the following issues:
   a. Whether expenditures of the proceeds from the bonds issued for transportation projects are in compliance with state and federal laws governing use of funds.
   b. Whether the awarded contracts are consistent with the budget and scope of the approved projects.
   c. Whether changes in construction methods could enhance cost savings and promotion of on-time completion of projects.
   d. Whether the bond issuances are adequately timed to reflect cash-flow requirements of the projects.
   e. Whether the bond projects, Transportation Improvement Plan projects, and other capital projects are being delivered within an adequate time-frame.
   f. Whether the recommendations by consultants McKinsey and Company are being implemented by the Department of Transportation for management and organizational improvements. This Committee may receive two reports each year on implementation status from Department of Transportation.

Section 4.(d) Reports. The Committee shall report semiannually to the Joint Legislative Transportation Oversight Committee and annually to the Joint Legislative Appropriation Subcommittees for Transportation.

Section 4.(e) Organization. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Committee. The Committee shall meet at least once a quarter upon the joint call of the cochairs. A quorum of the Committee is six members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

Section 4.(f) Funding. From funds appropriated to the Department of Transportation there shall be funds made available to the General Assembly, Legislative Services Commission to fund the work of the Transportation Bond Oversight Committee. Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1 and G.S. 138-5.

Section 4.(g) Staff. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

Section 4.(h) The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02.

Section 5. (i) Expiration. The Transportation Bond Oversight Committee terminates upon completion of all projects funded by bond proceeds issued in 2007 and beyond.

21st Century Transportation Committee
Prioritization, Best Practices, and Efficiency Subcommittee
DRAFT Interim Recommendations
For NCGA consideration
Session 2008

There are nine interim recommendations for consideration by the 21st Century Transportation Committee:

Numbers 1 & 2 – Transfer Elimination and Gap Funding : Details with Finance Subcommittee

Number 3 – Organization of NCDOT:

Based on NCDOT's internal assessment, there is a lack of formalized statewide long-term thinking, planning, and executing. There is little relationship between the Department's goals and staff level duties and performance. Too many poorly selected priorities dilute focus, overtax resources, and slow delivery, and there is a lack of accountability in delivery of transportation projects. There has been a considerable amount of work done by NCDOT's Transformation Management Team, and numerous options and recommendations for improvement are being development. Several critical activities are scheduled for completion within the next few months such as a completed organizational review, transportation delivery program improvements, mobility measures and improvements, project dashboard, etc. We commend the managers and employees directly involved with these efforts and encourage NCDOT to allow greater empowerment of these teams to immediately implement new ideas and strategies and encourage much more transparency and communications between these efforts and stakeholders, including this Committee.

The Board of Transportation plays a critical role in balancing diverse requirements and providing a strong linkage between transportation policy, programs, local governments, and our citizens. Additional laws or revised ethics policies can not improve upon the various changes and reorganizations that of previously occurred. Only strong leadership can ensure the NCDOT effectively fulfills its critical responsibilities and objectives. Therefore, the Prioritization Subcommittee recommends that the Secretary of NCDOT be legislatively selected as the Chairman of the Board of Transportation. As the only full time member of the board, the Secretary should provide the leadership to all members of the board necessary to maintain focus on transportation policies, programs, and long-term transportation needs. Additionally, the Subcommittee recommends that the Secretary not serve as the Chairman of the Board for the NC Turnpike Authority. The Legislative intent to provide some level of autonomy to the NCTA to improve on existing delivery processes is somewhat restricted with the existing organization. The State Highway Administrator should serve as the Chief Executive and be solely responsible for the Division of Highways operations and all Departments responsible for planning, programming, preconstruction, construction, maintenance, and operations. The current role for the Secretary to serve as a "CEO equivalent" and ex-officio Board member has resulted in producing a Chief Executive without a strong professional transportation background, decision making retained at a high level significantly impacting responsiveness, and a Board of Transportation that was marginalized by its ex-officio Secretary acting as CEO.

Number 4 – Roles and Responsibilities of the Board of Transportation –There are currently no recommended changes to the composition of the Board of Transportation. However, it is recommended that the roles and responsibilities of the board be adjusted, as authorized under the current statues by the Secretary, to include increased oversight in the scheduling, delivery, and costs of Transportation Projects and Programs, with less emphasis on reviewing and approving individual project expenditures for rights-of-way acquisition, utility relocation, secondary road additions and expenditures, etc. The Board of Transportation should increase their oversight responsibilities in the area of long term transportation needs and financing options, transportation policies, transportation program delivery, and coordination and cooperation with Municipal Planning Organizations, and local governments.

Number 5 – Mobility Corridors and Congestion Relief-
The Prioritization Subcommittee proposes that 50% of new revenues and/or bonding authorization be programmed on loops and interstate routes according to measures of congestion indices, travel time, average daily traffic, and accident rates, to modernize existing facilities, maximize capacity, remove bottlenecks which increase congestion, and add capacity where necessary, based on benefit/cost factors. These funds can also be used to accelerate planned loop projects where measurable congestion relief is provided.

Number 6 – Intrastate System and Bridge Preservation The Prioritization Subcommittee proposes that 50% of new revenues and/or bonding authorization be programmed against completion of the current Intrastate System and/or Bridge Replacement and Preservation allocated through the existing equity formula. If Intrastate System projects are not available for construction, these funds can only be used for replacing structurally deficient or functional obsolete bridges within a region or on mobility corridors according to item 5 above on statewide tier routes.

Number 7 -. Remove Interstate Maintenance from Equity Calculations - The Prioritization Subcommittee recommends removing the Federal Interstate Maintenance Funds from Equity Formula. IM Funds are approximately 3 % of the total federal and state transportation revenues. By removing them from equity calculations, similar to Congestion Mitigation and Air Quality funds, the Interstate System in NC can be maintained at a higher level of service without competing against other critical projects within a region, and would allow the establishment of an Interstate Resurfacing and Preventive Maintenance funding allocation annually to the Highway Divisions based on their Interstate Mileages to more economically provide preventive maintenance treatments in a timely manner.

Number 8 – Implementation of Key Studies Recommendations

Implement immediately (next 60 to 90 days) key recommendations from previous studies that to date have not been implemented:

- The NCDOT should develop meaningful and reliable highway performance objectives, measures and indicators for preconstruction and construction schedules and costs. Results should be compared to stabled goals as well as the results of prior periods, and should be reported internally and externally. Management should analyze results for variances, trends, and relationships and use them in budgetary, decision making, and improvement processes.
- Change the TIP structure to improve the ability to deliver projects as planned. Improve the Program and Project Delivery processes through streamlining of planning processes, improvements and decentralization of the bridge replacement.
- Establish measurable department-wide strategic objectives for program delivery, an annual business plan for improvements, and management accountabilities for accomplishing them. Provide proactive and standardized delivery reports at the program and project level to policy makers, customers, and business partners.

Number 9 – <u>Use of Highway Trust Funds for Secondary Roads for Bonding Authority for Item Numbers 5 and 6 Above</u>

Currently, 37 percent of state transportation expenditures are on the statewide tier of facilities, 19 percent on the regional tier, and 44 percent on the sub-regional tier. However, based on percentage of needs, the statewide tier accounts for 49 percent of the needs while carrying 50 percent of all traffic, the regional tier is 12 percent of the needs and 15 percent of the traffic, and sub-regional tier is 39 percent of the need and 35 percent of the traffic. The creation of the Highway Trust Fund mandated that all unpaved roads be paved. In 1989 there were over 16,000 miles of unpaved secondary roads, and currently less than 5,500 miles of unpaved roads, of which 1,800 can not be paved due to right-of-way and/or environmental issues. Therefore, the approximately 3,000 miles of unpaved roads remaining to be paved can be programmed and paved using the Highway Fund portion of the secondary roads program allowing the use of the Highway Trust Funds for increased bond authority in order to reduce congestion, and replace critical substandard bridge infrastructure. By using the $94 Million per year Highway Trust Fund allocation to Secondary Roads for existing and additional bonding authority for projects under item numbers 5 and 6, the percent expended by tier will better model the percentage of needs while increasing the priority for reducing congestion, and critical bridge infrastructure

REPORT OF THE INTERMODAL COMMITTEE AND
EXPLANATION OF
CONGESTION RELIEF AND INTERMODAL TRANSPORTATION
21$^{ST}$ CENTURY FUND

The Intermodal Committee recommends legislation to:

1. Create the Congestion Relief and Intermodal Transportation 21$^{st}$ Century Fund,
2. Set out a framework for grants for intermodal transit capital projects out of this fund, including standards for eligibility. These projects include urban transit and rail freight.
3. Authorize local option revenue options for major urban areas to match these grants
4. Authorize local option revenue options for other urban counties or counties contiguous to urban counties to allow them to raise additional revenues for public transportation systems.
5. Extend the State Ports Tax Credit for five years.

These recommendations allow the State's urban regions to remain good places to live, environmentally sound and economically viable. They allow new urban growth to be absorbed in an environmentally friendly manner, reducing demands on highways and infrastructure, and helping localities target and benefit from economic development. They will also allow strengthening the State's rail freight infrastructure, reducing demand on the highway system, allowing energy efficient movement of goods, and aiding development of the State's ports.

**BACKGROUND**

The Intermodal Committee has at its previous meetings heard from the State's two major Class I railroads (CSX and Norfolk Southern), the North Carolina Railway Association which represents short line railroads, and the North Carolina State Ports Authority all relating to needs for improving freight rail capacity, as well as from three major urban regions (Charlotte, Triangle, and Triad) as to their needs for urban transit capitol projects to help reduce and mitigate congestion in an environmentally sound manner. The committee has looked at the potential expenditures on these projects, and estimates State capital needs to match local, and possibly federal, funding at $1.976 billion over the next 12 fiscal years. This includes $120 million for state aid for rail access to the State ports, $119 million for Class 1 railroads, $65 million for short line railroads, $30 million for statewide bus grants to local governments, $34 million for expansion of intercity passenger rail, and $1.594 billion for urban transit capital grants in the Triangle, Triad, and Charlotte regions. The committee recommends capping the maximum amount of urban transit capital grants for any one region at 33% of the fund.

**NEEDS**

On an annualized basis, looking at projected capital improvement plans for local governments and educated projections, the annual needs would be $100 million in Fiscal Year 2009-2010, $112 million in 2010, between $151 and $173 million annually for the four years beginning 2011 through 2014, $189 million in 2015, between $154 million and

$180 million annually beginning 2016 through 2019, and $229 million in 2020. This averages $161 million per year. The committee recommends this level of funding on an ongoing basis with a continuing source of revenue because if not, grantees will be unable to plan and successfully carry out the programs. These figures are all in 2007 dollars, so any state revenues provided the fund will need to be adjusted over time to match inflationary increases. It should be noted that the actual allocations to the various regions and other applicants will be made by the Board of Transportation based on grant applications, the listed needs are merely illustrative about what could be funded.

The full committee has seen the transit plans for Charlotte and the Intermodal Committee has seen and discussed the plans for the Triangle and Triad. As these are ramping up over the next four fiscal years beginning 7/1/2009, early emphasis will be placed on grants for acquisition of buses by transit systems across the state (including $12.5 million the first year to cover the state share of $50 million in bus purchase). Other projects anticipated for funding during the first three years include between $10 and $12 million annually for intercity passenger rail, potential uses including a third daily AMTRAK frequency from Charlotte to Raleigh or Selma and a demonstration project by the North Carolina Railroad in Eastern North Carolina.

## FINDINGS

The Committee draft legislation makes a number of findings based on facts presented to and researched by the committee. Those findings, which will help you put this in perspective, are:

(1) Most of North Carolina's growth is in its urban regions. According to the State Data Center, during the first decade of the 21st Century, 66% of the projected 1,270,000 growth in population is in 15 urban counties surrounding Charlotte, Raleigh, and the Triad, while 40% is in just six counties: Mecklenburg, Wake, Durham, Orange, Forsyth, and Guilford.

(2) This large urban population growth greatly taxes resources. Despite the visionary creation of the Highway Trust fund by the 1989 General Assembly and the funding of urban loop highways, congestion continues to grow at an exponential rate. Creation of a special fund to help meet urban transportation needs with alternatives such as rail transit and buses, coupled with land use planning, will spur and guide economic development in a more economically and environmentally sound manner. Charlotte's recent success in opening the first phase of its light rail system, with ridership significantly over projections, shows that North Carolinians are willing to use alternates.

(3) Accelerated use of rail for transport of freight will reduce highway congestion as well as allow economic expansion in a way that lessens the impact on the State highway system.

(4) Public transportation, in addition to a program of urban loops and toll roads will enable North Carolina to have a balanced 21st Century transportation system.

(5) As part of its initial program of internal improvements, the State capitalized the North Carolina Railroad in the 1840s, and invested in other railroads, and those internal improvements led to North Carolina's rapid economic development. The North Carolina Railroad, with a 317-mile corridor from Charlotte to Morehead City is still owned by the State.

(6) Improved rail facilities and restoration of abandoned rail lines can allow increased access to the North Carolina State Ports and military installations located within the State.

(7) Session Law 2005-222 found that expanding and upgrading passenger, freight, commuter, and short line rail service is important to the economy of North Carolina; and provided that the State would seek to provide matching funds so in part it can leverage the maximum federal and private participation in funding needed rail initiatives, such as the restoration of the rail corridor from Wallace to Castle Hayne, a rail connection between north-south and east-west routes in the vicinity of Pembroke.

(8) Rail freight plays a vital role in economic development throughout the State. Intermodal service depends on partnerships with trucking companies, seaports, and others in the transportation logistics chain. North Carolina has 3,250 main line miles of track, with Class I railroads holding 79% of the trackage rights, the remainder controlled by local railroads and switching and terminal railroads. The 2006 Mid-Cycle Update to the North Carolina Statewide Intermodal Transportation Plan identified $799 million in freight rail needs over the next 25 years, including maintenance and preservation, modernization, and expansion.

(9) North Carolina's short line railroads play a key role in the State's economic development and transportation service and are needed to provide essential services to other modes of transportation and the North Carolina port system. North Carolina agriculture is dependent upon essential service by short line railroads. North Carolina economic development and commerce is dependent upon essential service by short line railroads; and grant funds may be used to improve and restore tracks and lines. State funds are needed to maintain short line railroads as a viable contributor to economic development, agriculture, and transportation in this State in order to prevent the loss of regional rail service. Short line railroads are essential to preserve and develop jobs in rural and small urban areas of North Carolina The Department of Transportation reported that 44,992 rail cars handled by short lines kept 179,688 trucks off North Carolina highways.

(10) Intermodal facilities and inland ports can greatly reduce freight traffic on North Carolina's highway system, reducing demand, congestion, and damage.

(11) The proposed North Carolina International Terminal would need high capacity Intermodal access.

(12) Significant local revenues are needed to match state funds so that a major portion of the expenses are borne by the localities receiving the majority of the benefits. A local option sales tax for public transportation was approved by a 58% favorable vote in Mecklenburg County in 1998, and reaffirmed by a 70% favorable vote in 2008. Extending this authority to additional jurisdictions, along with other revenue options will enable localities to demonstrate local support for additional transit options.

(13) Surveys have indicated broad public support for both providing additional public transportation options and allowing localities to generate revenue to match State grants.

## RECOMMENDATIONS

Based on these findings and demonstrated needs, the legislation:

1. Establishes the framework of the Congestion Relief and Intermodal Transportation 21st Century Fund.

LOCAL GOVERNMENT GRANTS

2. Allows for local government grants from the fund for public transportation purposes to cities, counties, and the state's two transportation authorities (PART in the Triad and Triangle Transit in the Research Triangle.)
3. Provides that grants to local government can not exceed 25% of the project cost, and must be matched by an equal or greater amount of funds by the applicant.
4. Sets the following preconditions for the local government grants: (i) the grant application is approved by all Metropolitan Planning Organizations whose

jurisdiction includes any of the service area of the grant applicant; (ii) The applicant has approved a transit plan that includes local planning politics and adopted plans that reasonably support transit ridership and appropriate land use; and (iii) The applicant has an adequate and sustainable source of funding established for its share of project costs.

5. Allows grants from the fund may be committed for a multi-year basis to stabilize the phased implementation of a plan. Funds appropriated shall remain available until expended.
6. Provides that Board of Transportation shall approve, and amend from time to time, a rolling 15-year plan projection for allocation of funds under this section.
7. Provides that no applicant may receive more than 33% of the total funds in a 15-year period.
8. Requires that qualification for federal funding shall be considered in the review and approval process

SHORT LINE RAILROAD GRANTS

9. Provides grants from the fund may also be made to state agencies and railroads for assistance to short line railroads to continue and enhance rail service in the State so as to assist in economic development and access to ports and military installations. Short line railroad grants shall not exceed 50% of the nonfederal share, and must be matched by equal or greater funding from the applicant. Total shortline railroad grants under this subdivision may not exceed five million dollars ($5,000,000) per fiscal year.

RAILROAD GRANTS

10. Provides grants from the fund may also be made to state agencies and railroads for assistance to any railroad in construction of (i) rail improvements and restorations and intermodal or multimodal facilities to serve ports and military installations; and (ii) inland ports to reduce truck traffic on the highway system. Grants shall not exceed 50% of the nonfederal share, and must be matched by equal or greater funding from the applicant. Total grants under may not exceed ten million dollars ($10,000,000) per fiscal year.

STATE PORTS RAILROAD GRANTS

11. Provides grants from the fund may also be made for assistance to the state ports in terminal railroad facilities and railroad operations. Grants under shall not exceed 50% of the nonfederal share, and must be matched by equal or greater funding from the applicant. Total grants may not exceed ten million dollars ($10,000,000) per fiscal year.

INTERCITY PASSENGER RAIL SERVICE

12. Provides that grants from the fund may also be made for expansion of intercity passenger rail service, including increased frequency and additional cities served.

**LOCAL REVENUE SOURCES**

The committee finds that local government financial participation in urban transit grants is required. Currently, Mecklenburg, the Triangle, and the Triad have different authorizations to raise such funding. Mecklenburg has authority for a sales tax, the Triangle and the Triad for a vehicle registration fee, and all three regions a levy on motor vehicle rentals. Other urbanized or urbanizing counties also have significant needs for new revenues for public transportation. The committee has examined the existing revenue options and the legislation will provide the following:

LOCAL OPTION SALES TAX WITH REFERENDUM

The 1997 General Assembly granted Mecklenburg County the option of levying a ½% sales tax for public transportation purposes. The legislation required a referendum Mecklenburg held its initial referendum in 1998, with voter approving the levy by a 58% to 42% margin. In 2007, a second referendum was held, with voters approving by a 70% to 30% margin continuation of the tax. The legislation will:

13. Make several technical corrections in the Mecklenburg transit tax.
14. Allow a 1/2% sales tax for public transportation purposes to be levied after a favorable referendum in one or more of the Triangle counties (Wake, Durham, and Orange) with approval of the applicable county board or boards of commissioners and the board of Triangle Transit. The transportation authority must propose a financial plan, which must be approved by the board of commissioners of each county in the district and by each MPO in the district prior to the levy of the tax. If the board of commissioners of a county in a multi-county district does not adopt the plan, the transportation authority may remove that county from the district and no tax may be levied in that county under this Part.
15. Allow a 1/2% sales tax for public transportation purposes to be levied after a favorable referendum in one of more of the major counties in the Triad (Forsyth or Guilford), who are likely to finance a major urban transit project. The tax will also require approval of the applicable county board or boards of commissioners and the Piedmont Authority for Regional Transportation (PART). The transportation authority must propose a financial plan, which must be approved by the board of commissioners of each county in the district and by each MPO in the district prior to the levy of the tax. If the board of commissioners of a county in a multi-county district does not adopt the plan, the transportation authority may remove that county from the district and no tax may be levied in that county under this Part.
16. Allow a ¼% sales tax for public transportation purposes to be levied after a favorable referendum in the remaining counties in the Triad: (Davidson, Randolph, Alamance, Davie, Rockingham, Surry, Stokes, and Yadkin) with approval of the applicable county board or boards of commissioners and the Piedmont Authority for Regional Transportation (PART). These eight counties are expected to have major needs for public transportation services, but not to the same extent as Forsyth and Guilford Counties. Programs in these counties might include significant expansion of bus service, including express bus service to employment centers, or extension of a commuter rail line.
17. In any multi-county referendum within either the Triangle or Triad, the total vote in all the counties voting determines the result. In both cases, if the initial favorable referendum is conducted in less than all the counties eligible, counties can be added later with approval of the applicable county board of commissioners, the applicable transportation authority, and the voters of the county or counties being added.

18. Allows a single county ¼% sales tax for public transportation purposes to be levied after a favorable referendum in any county contiguous to Mecklenburg County (Cabarrus, Gaston, Iredell, Lincoln and Union), in any county contiguous to Durham, Orange, or Wake Counties (Caswell, Chatham, Franklin, Granville, Harnett, Johnston, Lee, Nash, and Person), and in any county with a population of 160,000 or over according to the most recent decennial federal census (Buncombe, Cumberland and New Hanover as of 2008) These counties have substantial needs for urban transit, but not to the same level as those counties suggested to have a ½% limit. Programs in these counties might include significant expansion of bus service, or commuter rail links to other urban counties.

LOCAL VEHICLE REGISTRATION FEE AND MOTOR VEHICLE RENTAL FEE

The 1991 General Assembly allowed Triangle Transit to levy in Wake, Durham, and Orange County a vehicle registration fee of not to exceed five dollars ($5.00) per motor vehicle. That tax has been levied in all three counties. The 1997 General Assembly allowed PART to adopt a similar levy in the Triad Counties, but thus far this has been levied only in Randolph County.

19. The committee recommends raising the cap on vehicle registration fee for Triangle and Triad from five dollars ($5.00) to seven dollars ($7.00) to reflect inflation since it was first approved in 1991. The actual current rate of inflation would actually take the levy to $7.82, but the committee at this time recommends the increase to the even dollar amount.
20. The committee recommends extending the motor vehicle registration fee authority to Mecklenburg County. This action, coupled with recommendations 13 through 17 will give all three major urban areas the same local option authority.
21. The committee recommends extending the same motor vehicle registration fee authority to any county contiguous to Mecklenburg County (Cabarrus, Gaston, Iredell, Lincoln and Union), in any county contiguous to Durham, Orange, or Wake Counties (Caswell, Chatham, Franklin, Granville, Harnett, Johnston, Lee, Nash, and Person), and in any county with a population of 160,000 or over according to the most recent decennial federal census (Buncombe, Cumberland, and New Hanover as of 2008) In addition, to the extent that any of those counties does not levy the full permitted seven dollars, and city located wholly within that county will be authorized to levy a full dollar rate to the extent that the city and county rate added together does not exceed the seven dollar cap. It is felt that the extension of the motor vehicle registration fee to counties contiguous to urban areas will allow them to add additional public transportation services, especially commuter and express bus service to help improve air quality and commuting. Extension of this fee to large counties such as Buncombe, Cumberland, and New Hanover will allow them to provide enhanced public transportation services.
22. The committee also recommends extending the authority to levy a motor vehicle rental charge of not to exceed five percent which is now authorized in the Triad, Triangle and Mecklenburg to any county with a population of 160,000 or over according to the most recent decennial federal census (Buncombe, Cumberland, and New Hanover as of 2008) for the same purposes and rationale. Similar

provisions to #21 will allow municipal levy in those counties if the county does not levy the tax or does not levy the full five percent.

**STATE PORTS TAX CREDIT**

The state ports tax credit encourages businesses to use the two State-owned port terminals at Wilmington and Morehead City. The committee recommends extending the credit from its current 2009 expiration out five years to 2014. This extension has been requested by the North Carolina Ports Authority. The five-year extension of the Ports Tax Credit would allow the Ports to continue offering this business incentive to existing and potential customers and to stimulate economic growth for the State. Extending the NC Ports tax credit costs the State's general fund less than one million dollars each year, and allows companies such as Goodyear, CK International, JB International, Drexel Heritage Furniture, QVC, Martin Marietta, EN Beards Hardwoods Lumber, Edwards Wood Products, Culp, Inc., Broyhill, Kilop USA, Thomasville Furniture, Cormetech, Stein Fibers, Ltd., New South International, and Sonoco to be competitive in world markets. The NC Ports tax credit supports these and other industries and the thousands of jobs and millions of dollars in tax revenues that they contribute to our State.

The state ports tax credit, originally enacted in 1992, encourages exporters and importers to use State-owned port terminals. This credit, extended in 1995, 1997, 2001, 2002 and 2004 expires January 2009.

The tax credit equals the amount of wharfage, handling, and throughput charges paid to the North Carolina State Ports Authority in the taxable year that exceeds the average amount of charges paid to the Authority for the current tax year and the two previous tax years. The credit is limited to 50% of the tax imposed on the taxpayer for the taxable year and has a five-year carry forward on excess credit. The maximum cumulative credit that one taxpayer may claim is $2 million. The estimated cost to the General Fund is less than one million annually.

Recommended by Intermodal Committee to full 21st Century Transportation Committee
May 14, 2008
F:/MyDocuments/21st Century Intermodal Committee Report 05142008.doc

| Fiscal Year | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| all numbers in millions | | | | | | | | | | | | | millions |
| **Triangle Region (needs)** | $16 | $45 | $85 | $118 | $171 | $346 | $461 | $373 | $287 | $300 | $416 | $518 | $3,136 |
| Triangle Region w/33% cap 2011 | 16 | 45 | 75 | 107 | 161 | 336 | 449 | 361 | 267 | 280 | 396 | 488 | 2,981 |
| **Triad Region** | $7 | $16 | $46 | $80 | $64 | $72 | $134 | $142 | $148 | $90 | $95 | $200 | $1,094 |
| **Statewide Bus Improvements** | 50 | 16 | 10 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | $121 |
| **Hwy and Rail Grade Separation** | $12 | $6 | $5 | $0 | $5 | $5 | $0 | $0 | $5 | $5 | $5 | $5 | $53 |
| **Charlotte/ Mecklenburg Region** | $167 | $218 | $414 | $379 | $354 | $124 | $106 | $67 | $102 | $136 | $117 | $117 | $2,301 |
| | | | | | | | | | | | | | |
| **Total** | $252 | $301 | $550 | $571 | $428 | $542 | $694 | $575 | $527 | $516 | $618 | $815 | $6,550 |
| | | | | | | | | | | | | | |
| **25% State Share of Investment** | $ 63 | $ 75 | $ 138 | $ 143 | $ 107 | $ 136 | $ 174 | $ 144 | $ 132 | $ 129 | $ 155 | $ 204 | $ 1,638 |
| | | | | | | | | | | | | | |
| **Short Line Grants - State Share** | 5 | 5 | 5 | 5 | 10 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | $65 |
| **Freight Rail Grants- State Share** | 10 | 10 | 10 | 9 | 20 | 5 | 5 | 10 | 10 | 10 | 10 | 10 | $119 |
| **Ports Rail Grants - State Share** | 10 | 10 | 10 | 10 | 20 | 5 | 5 | 10 | 10 | 10 | 10 | 10 | $120 |
| | | | | | | | | | | | | | |
| **Intercity Passenger Rail** | 12 | 12 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $34 |
| (3rd Amtrak train Raleigh-Charlotte) | | | | | | | | | | | | | |
| (NC RR demonstration project) | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| **Total Fund Needs** | $ 100 | $ 112 | $ 173 | $ 167 | $ 157 | $ 151 | $ 189 | $ 169 | $ 157 | $ 154 | $ 180 | $ 229 | $ 1,935 |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| **TOTAL STATE REVENUES millions** | 110 | 110 | 167 | 167 | 167 | 167 | 167 | 167 | 167 | 167 | 167 | 212 | $161 |
| | | | | | | | | | | | | | |
| **Carry Forward/Shortfall** | $ 10 | $ 8 | $ 2 | $ 3 | $ 13 | $ 29 | $ 8 | $ 6 | $ 16 | $ 29 | $ 17 | $ (0) | |
| | | | | | | | | | | | | | |

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 2007**

**H** **D**

**HOUSE DRH70631-LBxz-401T (1/22)**

| Short Title: | Congestion Relief/Intermodal Transport Fund. | (Public) |
|---|---|---|
| Sponsors: | Representative. | |
| Referred to: | | |

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A CONGESTION RELIEF AND INTERMODAL TRANSPORTATION 21ST CENTURY FUND, TO PROVIDE FOR ALLOCATION OF THOSE FUNDS TO: (1) LOCAL GOVERNMENTS AND TRANSPORTATION AUTHORITIES FOR PUBLIC TRANSPORTATION PURPOSES, (2) SHORT-LINE RAILROADS, FOR ASSISTANCE IN MAINTAINING AND EXPANDING FREIGHT SERVICE STATEWIDE, (3) RAILROADS FOR INTERMODAL FACILITIES, MULTIMODAL FACILITIES, AND INLAND PORTS, (4) MAKE CAPITAL IMPROVEMENTS ON RAIL LINES TO ALLOW IMPROVED FREIGHT SERVICE TO THE PORTS AND MILITARY INSTALLATIONS, (5) EXPAND INTERCITY PASSENGER RAIL SERVICE, AND TO EXTEND COMMON LEVELS OF LOCAL TRANSIT FUNDING AUTHORIZATION TO THREE URBAN REGIONS, AND ALLOW OTHER LOCAL GOVERNMENTS SIMILAR OPTIONS FOR LOCAL TRANSIT FUNDING, AND TO EXTEND THE STATE PORTS TAX CREDIT, ALL AS RECOMMENDED BY THE 21ST CENTURY TRANSPORTATION COMMITTEE.

The General Assembly of North Carolina enacts:

CHAPTER I. Fund Created.

**SECTION 1.** Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 19.

"Congestion Relief and Intermodal 21st Century Transportation Fund.

"**§ 136-250. Congestion Relief and Intermodal Transportation 21st Century Fund.**

There is established in the State treasury the Congestion Relief and Intermodal Transportation 21st Century Fund, hereinafter referred to as the Fund. The Fund shall consist of all revenues appropriated and allocated to it. Interest on earnings of the Fund shall remain within the Fund.

"**§ 136-251. Findings of fact.**

The General Assembly finds that:

(1) Most of North Carolina's growth is in its urban regions. According to the State Data Center, during the first decade of the 21st century, sixty-six percent (66%) of the projected 1,270,000 growth in population is in 15 urban counties surrounding Charlotte, Raleigh, and the Triad, while forty percent (40%) is in just six counties: Mecklenburg, Wake, Durham, Orange, Forsyth, and Guilford.

(2) This large urban population growth greatly taxes resources. Despite the visionary creation of the Highway Trust Fund by the 1989 General Assembly and the funding of urban loop highways, congestion continues to grow at an exponential rate. Creation of a special fund to help meet urban transportation needs with alternatives such as rail transit and buses, coupled with land use planning, will spur and guide economic development in a more economically and environmentally sound manner. Charlotte's recent success in opening the first phase of its light rail system, with ridership significantly over projections, shows that North Carolinians are willing to use alternates.

(3) Accelerated use of rail for transport of freight will reduce highway congestion as well as allow economic expansion in a way that lessens the impact on the State highway system.

(4) Public transportation, in addition to a program of urban loops and toll roads, will enable North Carolina to have a balanced 21st century transportation system.

(5) As part of its initial program of internal improvements, the State capitalized the North Carolina Railroad in the 1840s, and invested in other railroads, and those internal improvements led to North Carolina's rapid economic development. The North Carolina Railroad, with a 317-mile corridor from Charlotte to Morehead City, is still owned by the State.

(6) Improved rail facilities and restoration of abandoned rail lines can allow increased access to the North Carolina State Ports and military installations located within the State.

(7) Session Law 2005-222 found that expanding and upgrading passenger, freight, commuter, and short-line rail service is important to the economy of North Carolina; and provided that the State would seek to provide matching funds partly so it can

leverage the maximum federal and private participation to fund needed rail initiatives, such as the restoration of the rail corridor from Wallace to Castle Hayne, and a rail connection between north-south and east-west routes in the vicinity of Pembroke.

(8) Rail freight plays a vital role in economic development throughout the State. Intermodal service depends on partnerships with railroads, trucking companies, seaports, and others in the transportation logistics chain. North Carolina has 3,250 mainline miles of track, with Class I railroads holding seventy-nine percent (79%) of the trackage rights, the remainder controlled by local railroads and switching and terminal railroads. The 2006 Mid-Cycle Update to the North Carolina Statewide Intermodal Transportation Plan identified seven hundred ninety-nine million dollars ($799,000,000) in freight rail needs over the next 25 years, including maintenance and preservation, modernization, and expansion.

(9) North Carolina's short-line railroads play a key role in the State's economic development and transportation service and are needed to provide essential services to other modes of transportation and the North Carolina port system. North Carolina agriculture is dependent upon essential service by short-line railroads. North Carolina economic development and commerce are dependent upon essential service by short-line railroads, and grant funds may be used to improve and restore tracks and lines. State funds are needed to maintain short-line railroads as a viable contributor to economic development, agriculture, and transportation in this State in order to prevent the loss of regional rail service. The Department of Transportation reported that 44,992 rail cars handled by short lines kept 179,688 trucks off North Carolina highways. Short-line railroads are essential to preserve and develop jobs in rural and small urban areas of North Carolina.

(10) Intermodal facilities and inland ports can greatly reduce freight traffic on North Carolina's highway system, reducing demand, congestion, and damage.

(11) The proposed North Carolina International Terminal will need high capacity intermodal access.

(12) Significant local revenues are needed to match State funds so that a major portion of the expenses is borne by the localities receiving the majority of the benefits. A local option sales tax for public transportation was approved by a fifty-eight percent (58%) favorable vote in Mecklenburg County in 1998, and reaffirmed by a seventy (70%) favorable vote in 2008. Extending this authority to additional jurisdictions, along with other revenue

options, will enable localities to demonstrate local support for additional transit options.

(13) Surveys have indicated broad public support for providing additional public transportation options and for allowing localities to generate revenue to match State grants.

"**§ 136-252. Grants to local governments and transportation authorities.**

(a) Cities, counties, regional public transportation authorities under Article 26 of Chapter 160A of the General Statutes, and regional transportation authorities under Article 27 of Chapter 160A of the General Statutes may receive grants from the fund for public transportation purposes, including planning and engineering.

(b) No grant may be approved from the fund unless:

(1) The application is approved by all Metropolitan Planning Organizations under Article 16 of this Chapter whose jurisdiction includes any of the service area of the grant applicant.

(2) The applicant has approved a transit plan that includes local planning policies and adopted plans that reasonably support transit ridership and appropriate land use.

(3) The applicant has an adequate and sustainable source of funding established for its share of project costs.

(c) Grants from the fund may be committed for a multiyear basis to stabilize the phased implementation of a plan, including multiyear allotments. The Board of Transportation shall approve, and amend from time to time, a rolling multiyear projection of up to 15 years for allocation of funds under this section. No applicant is eligible under the 15-year plan projection for more than one-third of the total funds to be granted under this Article during that 15-year period.

(d) No grant under this section may exceed twenty-five percent (25%) of the cost of the project and must be matched by an equal or greater amount of funds by the applicant. In evaluating projects, qualification for federal funding shall be considered.

"**§ 136-253. Grants to other units.**

(a) Grants from the fund may also be made to State agencies and railroads for the following purposes:

(1) Assistance to short line railroads to continue and enhance rail service in the State so as to assist in economic development and access to ports and military installations. This may involve both the Rail Industrial Access program and the Short Line Infrastructure Access Program, as well as other innovative programs. Grants under this subdivision shall not exceed fifty percent (50%) of the nonfederal share, and must be matched by equal or greater funding from the applicant. Total grants under this subdivision may not exceed five million dollars ($5,000,000) per fiscal year.

(2) Assistance to any railroad in construction of (i) rail improvements and restorations and intermodal or multimodal facilities to serve ports and military installations; and (ii) inland ports to reduce truck traffic on the highway system. Grants under this subdivision shall not exceed fifty percent (50%) of the nonfederal share and must be matched by equal or greater funding from the applicant. Total grants under this subdivision may not exceed ten million dollars ($10,000,000) per fiscal year.

(3) Assistance to the State ports in terminal railroad facilities and operations, and to improve access to military installations, and to the North Carolina International Terminal. Grants under this subdivision shall not exceed fifty percent (50%) of the nonfederal share and must be matched by equal or greater funding from the applicant. Total grants under this subdivision may not exceed ten million dollars ($10,000,000) per fiscal year.

(4) Expansion of intercity passenger rail service, including increased frequency and additional cities serviced or introduction of commuter rail service. Routes under this section must extend beyond the territorial jurisdiction of a transportation authority.

(b) Grants under subsection (a) of this section may serve more than one of the four listed purposes.

"**§ 136-254. Grant approval.**

All grants made under this Article are subject to approval of the Board of Transportation. The fund may be administered in conjunction with G.S. 136-44.20 and G.S. 136-44.36, but any funds allocated under those sections shall continue to be available as provided therein.

"**§ 136-255. Funds remain available until expended.**

Appropriations to the fund remain available until expended."

CHAPTER II. Public Transportation Sales Tax: Mecklenburg, Triangle, Triad.

**SECTION 2.(a)** Section 1(a) of S.L. 1997-417 is recodified as G.S. 105-510.1.

**SECTION 2.(b)** Article 43 of Chapter 105 of the General Statutes, as enacted by S.L. 1997-417 and amended by subsection (a) of this section, reads as rewritten:

"Article 43.

"Local Government Sales and Use Taxes for Public Transportation.

"Part 1. General.

"**§ 105-505. Short title; purpose.**

This Article is the Local Government Public Transportation Sales Tax Act and may be cited by that name. This Article gives the ~~counties~~ counties and transportation authorities of this State an opportunity to obtain an additional source of revenue with which to meet their needs for financing local public transportation systems. It provides ~~counties~~ them with authority to levy one-half percent (1/2%) sales and use taxes. All such taxes must be approved in a referendum.

"**§ 105-506. Definitions.**

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

(1) Board of trustees. – The governing body of an Authority.

~~(1)~~(2) Net proceeds. – Gross proceeds less the cost of administering and collecting the tax.

~~(2)~~(3) Public transportation system. – Any combination of real and personal property established for purposes of public transportation. The systems may include one or more of the following: structures, improvements, buildings, equipment, vehicle parking or passenger transfer facilities, railroads and railroad rights-of-way, rights-of-way, bus services, shared-ride services, high-occupancy vehicle facilities, car-pool and vanpool programs, voucher programs, telecommunications and information systems, integrated fare systems, bus lanes, and busways. The term does not include, however, streets, roads, or highways except to the extent they are dedicated to public transportation vehicles or to the extent they are necessary for access to vehicle parking or passenger transfer facilities.

(4) Transportation authority. – A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of Chapter 160A of the General Statutes.

"**§ 105-506.1. Exemption of food.**

A tax levied under this Article does not apply to the sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 2011.

"Part 2. Mecklenburg County.

"**§ 105-507. Limitations.**

A county may not levy a tax under this ~~Article~~ Part unless the county or at least one unit of local government in the county operates a public transportation system. In addition, a county may not levy a tax under this ~~Article~~ Part unless it has developed a financial plan and distributed it to each unit of local government in the county that operates a local public transportation system. The financial plan must provide for equitable allocation of the net proceeds distributed to the county in consideration of the identified needs of local public transportation systems in the county, countywide human service transportation systems, and expansion of public transportation service to unserved areas in the county.

"**§ 105-508. Local election on adoption of sales and use tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied in accordance with this ~~Article.~~ Part. The election shall be held on a date jointly agreed upon by the boards and shall be held in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

'[ ] FOR [ ] AGAINST

One-half percent (1/2%) local sales and use taxes, in addition to the current ~~two percent (2%)~~ local sales and use taxes, to be used only for public transportation systems.'

"**§ 105-509. Levy and collection of sales and use tax.**

If the majority of those voting in a referendum held pursuant to this ~~Article~~ Part vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this ~~Article,~~ Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this ~~Article~~Part, references to 'this Article' mean 'Part 1 of Article 43 of Chapter 105 of the General Statutes'.

~~A tax levied under this Article does not apply to the sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51.~~

"**§ 105-510. Distribution and use of taxes.**

(a) Distribution. – The Secretary shall, on a quarterly basis, allocate to each taxing county the net proceeds of the tax levied under this ~~Article~~ Part by that county. If the Secretary collects taxes under this ~~Article~~ Part in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate these taxes among the taxing counties, in proportion to the amount of taxes collected in each county under this ~~Article~~ Part in that month and shall include them in the quarterly distribution.

The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita basis among the county and the units of local government in the county that operate public transportation systems. No proceeds shall be distributed to a county that does not operate a public transportation system or to a unit of local government that does not operate a public transportation system.

(b) Use. – A county must allocate the net proceeds distributed to it in accordance with its financial plan adopted pursuant to G.S. 105-507 and use the net proceeds only for financing, constructing, operating, and maintaining local public transportation systems. Any other unit of local government may use the net proceeds distributed to it under this ~~Article~~ Part only for financing, constructing, operating, and maintaining local public transportation systems. Every unit of government shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems.

"**§ 105-510.1. Applicability.**

This ~~section~~ Part applies only to Mecklenburg County.

"Part 3. Transportation Authorities.

"**§ 105-510.5. Limitations.**

A transportation authority may not levy a tax under this Part unless:

(1) It operates a public transportation system.

(2) It has developed a financial plan and distributed it to each unit of local government located within its territorial jurisdiction. The plan must be approved by the board of commissioners of each county in the district prior to the levy of the tax. If the board of commissioners of a county in a multicounty district does not adopt the plan, the transportation authority may remove that county from the district, and no tax may be levied in that county under this Part. The financial plan must provide for equitable use of the net proceeds within the special district created under this Part and consider (i) the identified needs of local public transportation systems in the district, (ii) human service transportation systems within the district, and (iii) expansion of public transportation systems to underserved areas of the district. The financial plan must also be approved by all Metropolitan Planning Organizations under Article 16 of this Chapter whose jurisdiction includes any of the area of the special district. The plan may be revised from time to time.

(3) The tax is approved by the voters.

"**§ 105-510.6. Local election on adoption of sales and use tax – regional public transportation authority.**

(a) Special District. – A transportation authority may create a special district that consists of the entire area of one or more counties within its territorial jurisdiction and may levy on behalf of the special district the tax authorized in this section. A special district created pursuant to this subsection is a body corporate and politic and has the power to carry out the purposes of this subsection. The board of trustees of the transportation authority shall serve, ex officio, as the governing body of a special district it creates pursuant to this subsection. The proceeds of a tax levied under this section may be used only for the benefit of the special district and only for the purposes provided in this Article. In the case of a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes, the special district may not include counties other than Forsyth and Guilford Counties.

(b) Resolution. – The board of trustees of the authority, with the concurrent vote of:

(1) In the case of a single-county special district, a majority of the county board of commissioners within the special district,

(2) In the case of a multicounty special district, a majority vote of all the county boards of commissioners within the special district,

may direct the respective county board or boards of elections to conduct an advisory referendum within the special tax district on the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied within the district in accordance with this Part. The election shall be held on a date jointly agreed upon by the authority and the county board or boards of elections and shall be held in accordance with the procedures of G.S. 163-287. The board or boards of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

'[ ] FOR [ ] AGAINST

One-half percent (1/2%) local sales and use taxes, to be used only for public transportation systems.'

"**§ 105-510.7. Levy and collection of sales and use tax – regional public transportation authority.**

If the majority of those voting in a referendum held pursuant to G.S. 105-510.6 vote for the levy of the tax, the transportation authority may, by resolution, levy one-half percent (1/2%) local sales and use taxes within the special district, in addition to any other State and local sales and use taxes levied pursuant to law. In determining the results of the election in a multicounty district, all the counties of the district shall be considered to be one unit. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean 'Part 2 of Article 43 of Chapter 105 of the General Statutes.' Any repeal of the tax shall be done by the same procedure as its enactment under this section, and a petition for repeal under G.S. 105-473 shall be judged by the total votes in all three counties.

"**§ 105-510.8. Expansion of district.**

If a special district established under this Part does not include all the counties in the territorial jurisdiction of a transportation authority, it may be expanded to include an additional whole county or counties by joint action of the board of trustees of the transportation authority and the board of commissioners of the county or boards of commissioners of the counties to be added, with the approval of the voters in the county or counties to be added. The procedure for addition of a county or counties shall be the same as for the initial creation of the district, but the referendum shall be held separately within each of the counties to be added.

"**§ 105-510.9. Distribution and use of taxes.**

(a) Distribution. – The Secretary shall, on a quarterly basis, allocate to each transportation authority the net proceeds of the tax levied under this Part within the special tax district, to be used for the benefit of that district.

(b) Use. – A transportation authority must expend the net proceeds distributed to it in accordance with its financial plan adopted pursuant to G.S. 105-510.5 and use the net proceeds only for financing, constructing, operating, and maintaining local public transportation systems. The transportation authority shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems.

"Part 4. Other Counties.

"**§ 105-510.12. Limitations.**

A county may not levy a tax under this Part unless the county or at least one unit of local government in the county operates a public transportation system or contracts with a transportation authority to provide a public transportation system. In addition, a county may not levy a tax under this Part unless it has developed a financial plan and distributed it to each unit of local government in the county that operates a local public transportation system. The financial plan must provide for equitable allocation of the net proceeds distributed to the county in consideration of the identified needs of local public transportation systems in the county, countywide human service transportation systems, and expansion of public transportation service to unserved areas in the county.

"**§ 105-510.13 Local election on adoption of sales and use tax.**

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of one-quarter percent (1/4%) may be levied in accordance with this Part. The election shall be held on a date jointly agreed upon by the boards and shall be held in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

'[ ] FOR [ ] AGAINST

One-quarter percent (1/4%) local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.'

"**§ 105-510.14. Levy and collection of sales and use tax.**

If the majority of those voting in a referendum held pursuant to this Part vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy one-quarter percent (1/4%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to 'this Article' mean 'Part 1 of Article 43 of Chapter 105 of the General Statutes.'

"**§ 105-510.15. Distribution and use of taxes.**

(a) Distribution. – The Secretary shall, on a quarterly basis, allocate to each taxing county the net proceeds of the tax levied under this Part by that county. If the Secretary collects taxes under this Part in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate these taxes among the taxing counties, in proportion to the amount of taxes collected in each county under this Part in that month and shall include them in the quarterly distribution.

The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita basis among the county and the units of local government in the county that operate public transportation systems. No proceeds shall be distributed to a county that does not operate a public transportation system or to a unit of local government that does not operate a public transportation system.

(b) Use. – A county must allocate the net proceeds distributed to it in accordance with its financial plan adopted pursuant to G.S. 105-507 and use the net proceeds only for financing, constructing, operating, and maintaining local public transportation systems. Any other unit of local government may use the net proceeds distributed to it under this Part only for financing, constructing, operating, and maintaining local public transportation systems. Every unit of government shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems.

"**§ 105-510.16. Applicability.**

(a) This Part only applies in counties that meet one or more of the following criteria:

(1) Have a population of 160,000 or over according to the most recent decennial federal census.

(2) Are members of a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.

(3) Are contiguous to Mecklenburg County.

(4) Are contiguous to Wake, Durham, or Orange County.

(b) This Part does not apply to Durham, Forsyth, Guilford, Mecklenburg, Orange, or Wake Counties."

CHAPTER III. Extension of Vehicle Registration Charge to Mecklenburg County.

**SECTION 3.** Section 6.2 of S.L. 1997-417, as added by Section 30 of S.L. 2006-162, reads as rewritten:

"**SECTION 3.1.** A county authorized to impose a tax under Part 2 of Article 43 of Chapter 105 of the General ~~Statutes, as enacted by Part 1 of this act,~~ Statutes is considered an authority ~~under~~ under:

(1) Article 50 of Chapter 105 of the General Statutes, as enacted by Section 3 of this act, and the board of commissioners of that county is considered the board of trustees of the authority under Article 50. G.S. 105-554 of Article 50 does not apply to the proceeds of a tax imposed by a county considered an authority under this section. The proceeds of a tax imposed by a county considered an authority under this section must be transferred to the largest city in that county operating a public transportation system and used only for financing, constructing, operating, and maintaining a public transportation system. The proceeds may supplant existing funds allocated for a public transportation system. The term 'public transportation system' has the same meaning as defined in ~~G.S. 105-506 of Article 43.~~ G.S. 105-506.

(2) Article 51 of Chapter 105 of the General Statutes, as enacted by Section 4 of this act, and the board of commissioners of that county is considered the board of trustees of the authority under Article 51. The proceeds of a tax imposed by a county considered an authority under this section must be transferred to the largest city in that county operating a public transportation system and used only for financing, constructing, operating, and maintaining a public transportation system. The term 'public transportation system' has the same meaning as defined in G.S. 105-506."

CHAPTER IV. Local Vehicle Registration Charge Adjusted for Inflation.

**SECTION 4.(a)** Effective July 1, 2008, G.S. 105-561(a) reads as rewritten:

"(a) Tax Authorized. – The board of trustees of an Authority may, by resolution, levy an annual license tax in accordance with this Article upon any motor vehicle with a tax situs within its territorial jurisdiction. The purpose of the tax levied under this Article is to raise revenue for capital and operating expenses of an Authority in providing public transportation systems. The rate of tax levied under this Article must be a full dollar amount, but may not exceed ~~five dollars ($5.00)~~ seven dollars ($7.00) a year.

**SECTION 4.(b)** Effective July 1, 2008, G.S. 105-561(d) reads as rewritten:

"(d) Special Tax District. – If a regional transportation authority created under Article 27 of Chapter 160A of the General Statutes has not levied the tax under this section or has levied the tax at a rate of less than ~~five dollars ($5.00)~~ seven dollars ($7.00), it may create a special district that consists of the entire area of one or more counties within its territorial jurisdiction and may levy on behalf of the special district the tax authorized in this section. The rate of tax levied within the special district may not, when combined with the rate levied within the entire territorial jurisdiction of the authority; exceed ~~five dollars ($5.00).~~ seven dollars ($7.00). The regional transportation authority may not levy or increase a tax within the special district unless the board of commissioners of each county in the special district has adopted a resolution approving the levy or increase.

A special district created pursuant to this subsection is a body corporate and politic and has the power to carry out the purposes of this subsection. The board of trustees of the regional transportation authority created under Article 27 of Chapter 160A of the General Statutes shall serve, ex officio, as the governing body of a special district it creates pursuant to this subsection. The proceeds of a tax levied under this subsection may be used only for the benefit of the special district and only for the purposes provided in G.S. 105-564. Except as provided in this subsection, a tax levied under this subsection is governed by the provisions of this Article."

CHAPTER V. Extension of Vehicle Registration Charge and Motor Vehicle Rental Charge to Counties Contiguous to the Triangle and Mecklenburg County and to Other Urban Counties.

**SECTION 5.** Subchapter IX of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 52. Urban County Vehicle Rental Tax and Registration Tax.

"**§ 105-557. Urban County Vehicle Rental Tax.**

(a) This section only applies in counties that meet all of the following criteria:

(1) Has a population of 160,000 or over according to the most recent decennial federal census.

(2) Is not a member of a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.

(3) Is not contiguous to Mecklenburg County.

(4) Is not contiguous to Wake, Durham, or Orange County.

(b) This section does not apply to Durham, Forsyth, Mecklenburg, Orange, or Wake Counties.

(c) A county is considered an authority under Article 50 of this Chapter, and the board of commissioners of that county is considered the board of trustees of the authority under Article 50.

(d) To the extent that any county does not levy the full percentage authorized by Article 50 of this Chapter, any city located wholly within that county is considered an authority under Article 50 of this Chapter, and may levy a percentage under that Article as if it were an authority, such that the total gross levy of the county and city does not exceed the maximum permitted by law. For that purpose, the governing board of that city is considered the board of trustees of the authority under Article 50. If thereafter the county levies a tax at a rate that, combined with the city rate, would exceed the maximum, then the new county rate shall become effective on the first day of the next fiscal year beginning at least 60 days after adoption, and that levy automatically reduces the city rate on that date so the combined rate does not exceed the maximum.

(e) The proceeds of a tax imposed by a county or city considered an authority under this section may be used by that county or city to operate or contract for the operation of a public transportation system and used only for financing, constructing, operating, and maintaining a public transportation system. The term 'public transportation system' has the same meaning as defined in G.S. 105-506.

"**§ 105-558; Urban County Vehicle Registration Tax.**

(a) A county authorized to impose a tax under Part 4 of Article 43 of Chapter 105 of the General Statutes is considered an authority under Article 51 of this Chapter, and the board of commissioners of that county is considered the board of trustees of the authority under Article 51.

(b) To the extent that any county does not levy the full amount authorized by Article 51 of this Chapter, any city located wholly within that county is considered an authority under Article 51 of this Chapter and may levy an amount under that Article (in whole dollars) as if it were an authority, such that the total gross levy of the county and city does not exceed the maximum permitted by law. For that purpose, the governing board of that city is considered the board of trustees of the authority under Article 51. If thereafter the county levies a tax at a rate that, combined with the city rate, would exceed the maximum, then the new county rate shall become effective on the first day of the next fiscal year beginning at least 60 days after adoption, and that levy automatically reduces the city rate on that date so the combined rate does not exceed the maximum.

(c) The proceeds of a tax imposed by a county or city considered an authority under this section may be used by that county or city to operate or contract for the operation of a public transportation system and used only for financing, constructing, operating, and maintaining a public transportation system. The term 'public transportation system' has the same meaning as defined in G.S. 105-506. Any levy by a city under this section is in addition to any authority granted by G.S. 20-97 or any other local act."

CHAPTER V. Extension of State Ports Tax Credit.

**SECTION 6.(a)** G.S. 105-130.41(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2009~~ 2014."

**SECTION 6.(b)** G.S. 105-151.22(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2009~~ 2014."

**SECTION 7.** This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 2007**

**U** **D**

**BILL DRAFT 2007-RWz-10 [v.7] (04/01)**

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)**
**4/7/2008 12:07:30 PM**

Sponsors: .

Referred to:

A JOINT RESOLUTION URGING CONGRESS TO END NORTH CAROLINA'S STATUS AS A DONOR STATE OF FEDERAL HIGHWAY TAX REVENUES, AND TO RETURN ONE HUNDRED PERCENT OF THE FEDERAL HIGHWAY REVENUES THE STATE REMITS TO THE FEDERAL GOVERNMENT EACH YEAR, IN ORDER FOR THE STATE TO ADDRESS ITS URGENT TRANSPORTATION NEEDS.

Whereas, under the federal Intermodal Surface Transportation Efficiency Act of 1991 the State received an eighty-two and seven tenth percent (82.7%) return on the federal highway tax revenue it remitted to the federal Highway Trust Fund; and

Whereas, under the federal 1998 Transportation Equity Act for the 21st Century (TEA-21) the State received an eighty-nine and two tenth percent (89.2%) return on the federal highway tax revenue it remitted to the federal Highway Trust Fund; and

Whereas, the 2005 federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) promised that the State would increase its share of federal highway revenue to ninety-two percent (92%) by the 2008-2009 fiscal year; and

Whereas, under SAFETEA-LU the State has so far received only eighty-nine and seven tenth percent (89.7%) of the federal highway tax revenue it remitted to the federal Highway Trust Fund; and

Whereas, the State has urgent transportation needs that could be addressed if the State received a fair share of the federal highway tax revenue it remitted to the federal Highway Trust Fund each year; Now, therefore, Be it resolved by the House of Representatives, the Senate concurring:

**SECTION 1.** The United States Congress is urged to provide the State with all the federal highway tax funds it was promised under the 2005 federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), and to end the State's status as a donor State of federal highway tax revenues in the next federal transportation reauthorization act, due for enactment by Congress in 2009, by providing that State with one hundred percent (100%) of the federal highway funds it remits to the federal taxes to the federal Highway Trust Fund each year.

**SECTION 2.** The Secretary of State shall transmit a copy of this joint resolution to each member of the United States Congress representing North Carolina.

**SECTION 3.** This resolution is effective upon ratification.