



HOUSE BILL 198: North Carolina Department of Transportation Legislative Changes.

2023-2024 General Assembly

Committee:	Date:	August 13, 2024
Introduced by:	Prepared by:	Howard Marsilio Staff Attorney
Analysis of:	S.L. 2024-15	

OVERVIEW: *S.L. 2024-15 makes various changes to transportation laws and laws that relate to the North Carolina Department of Transportation.*

This bill was vetoed by the Governor on May 23, 2024, and that veto was overridden by the General Assembly on June 27, 2024. This act has various effective dates. Please see the full summary for more detail.

CURRENT LAW/BILL ANALYSIS:

TRANSPORTATION EMERGENCY RESERVE REPORT

Section 1: G.S. 136-44.2E(e) requires the North Carolina Department of Transportation (NCDOT) to submit a biennial report to the House of Representatives Appropriations Committee on Transportation, the Senate Appropriations Committee on the Department of Transportation, and the Fiscal Research Division on the Transportation Emergency Reserve, which includes results of its evaluation to determine the minimum amount of funds needed in the Emergency Reserve.

This section amends G.S. 136-44.2E(e) to require the NCDOT to submit an annual report for any year expenditures are made from the Emergency Reserve and submit that report to the Chairs of House and Senate Transportation in addition to those currently receiving the report.

This section became effective June 27, 2024.

PROGRESSIVE DESIGN-BUILD DELIVERY METHOD PILOT PROGRAM

Section 2: This section authorizes the NCDOT to establish, and submit a report based on, a pilot project to award contracts for up to five transportation projects utilizing a Progressive Design-Build delivery method. Only projects less than \$500 million and meeting other criteria are eligible.

This section became effective June 27, 2024.

INCREASE PROJECT CAP FOR PROJECT DELIVERY METHOD PILOT PROGRAM

Section 3: Section 34.13 of S.L. 2018-5, as amended by Section 21 of S.L. 2022-68, authorized the NCDOT to establish, and submit a report based on, a pilot project to award contracts for up to five (5) transportation projects utilizing a construction manager-general contractor delivery method. Only projects less than \$500 million and meeting other criteria are eligible.

This section increases the number of projects allowed under this pilot project from five to ten projects and increases the project cost limit from \$500 million to \$750 million.

This section became effective June 27, 2024.

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REPEAL TRAFFIC IMPACT ANALYSIS REPORT TO JLTOC

Section 4: G.S. 136-93.1A outlines the NCDOT's process, and time frames, for reviewing and making decisions on traffic impact analyses submitted to NCDOT. The NCDOT must submit a report to the Joint Legislative Transportation Oversight Committee on the number of times the NCDOT failed during the year preceding the report to meet the time frames and reasoning for each failure.

This section repeals this reporting requirement.

This section became effective June 27, 2024.

REPEAL CASH BALANCE TARGET AMOUNT REPORT

Section 5: G.S. 143C-6-11(m) requires the NCDOT to submit a monthly report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division when the combined average daily cash balance of the Highway Fund and the Highway Trust Fund is outside an amount equal to between fifteen and twenty percent (15-20%) of the total appropriations for the current fiscal year from those funds.

This section repeals this reporting requirement.

This section became effective June 27, 2024.

EXEMPTION FOR CERTAIN PUBLIC BUILDING CONTRACTS

Section 6: Article 8 of Chapter 143 outlines requirements and procedures that relate to public contracting and outlines specific requirements and procedures for public building contracts.

This section specifies that the general provisions, except for advertising and contract award provisions, of this article do not apply to building contracts entered into by the NCDOT for the construction, alteration, or repair of facilities jointly occupied by personnel of the Division of Motor Vehicles and the North Carolina Highway Patrol, and further specifies that the NCDOT and the Department of Administration have sole responsibility for these contracts.

This section became effective June 27, 2024, and applies to contracts entered into on or after that date.

DEPARTMENT MAY SPECIFY MATERIAL SUBSTITUTION REQUIREMENTS

Section 7: G.S. 136-28.1 outlines contract letting procedures for construction, maintenance, operations, and repair necessary to carry out the responsibilities of the NCDOT.

This section authorizes the NCDOT to specify brand names or specific manufacturers for construction materials under specific circumstances.

This section became effective June 27, 2024, and applies to contracts entered into on or after that date.

REVISION TO ADVANCE RIGHT-OF-WAY ACQUISITION ACCOUNT

Section 8: Section 41.7 of S.L. 2022-74 required the State Controller to transfer the sum of \$109,834,972 from the Highway Fund to the Advance Right-of-way Acquisition Account of the Highway Trust Fund for the purchase of property under the Undue Hardship Advance Acquisition Program (Advance Acquisition Program), and directed the NCDOT to streamline the Advance Acquisition Program and submit quarterly reports to the General Assembly with program updates.

This section amends the transfer directive to broaden its use to the Advance Acquisition Program generally, rather than limiting those funds to Undue Hardship Acquisitions, and removes quarterly reporting requirements.

This section became effective June 27, 2024.

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EXTEND EXPIRATION DATE OF BUILD NC BOND ACT

Sections 9: S.L. 2018-16 enacted the Build NC Bond Act of 2018, which is a financing tool available to the NCDOT using special indebtedness under certain conditions set out in that act, and that act is set to expire December 31, 2028.

This section extends the validity of this act by amending its expiration date to December 31, 2031.

This section became effective June 27, 2024.

MODIFY BUILD NC BOND CASH BALANCE AND CONSULTATION REQUIREMENTS

Sections 10: S.L. 2018-16 enacted the Build NC Bond Act of 2018, which is a financing tool available to the NCDOT using special indebtedness under certain conditions set out in that act.

This section repeals the cash balance threshold issuance criteria that the average month-end cash balance for the first three months in the prior calendar year is equal to or less than \$1 billion. This section also temporarily (expires January 1, 2025) reduces the lead time required for NCDOT to consult with the State Treasurer, the Joint Legislative Transportation Oversight Committee, and the Joint Legislative Commission on Governmental Operations from 6 months to 3 months.

This section became effective June 27, 2024. Subsection (c) of this section expires January 1, 2025.

REMOVE RESIDENCY REQUIREMENT FOR SECRETARY OF TRANSPORTATION NONVOTING MEMBER APPOINTMENTS TO REGIONAL PUBLIC TRANSPORTATION AUTHORITY BOARDS OF TRUSTEES

Section 11: G.S. 160A-605 outlines the appointed membership requirements, among other aspects, for Regional Public Transportation Authority Boards of Trustees established under Article 26 of Chapter 160A.

This section repeals the requirement that ex-officio members, appointed by the Secretary of Transportation, must reside within the territorial jurisdiction of the Authority.

This section became effective June 27, 2024.

ADD VIN TO UNPAID TOLL BILL AND AUTHORIZE ELECTRONIC INFORMATION COLLECTION FOR OWNER VERIFICATION

Section 12: The North Carolina Turnpike Authority is a public agency within the NCDOT, charged with the construction, maintenance, and operation of toll roads and bridges within this State. Current law outlines procedures for sending bills by first-class mail to motor vehicle owners for the purpose of unpaid toll collection and specifies the information a bill must contain, such as the name and address of the registered owner, turnpike segment, etc.

This section amends bill information requirements to further require that the Vehicle Identification Number (VIN) or other vehicle identifying information appear on a bill and additionally authorizes the Authority to utilize digital communications and methods for motor vehicle owner verification to pursue a bill by first-class mail.

This section became effective July 1, 2024.

INCREASE TURNPIKE PROCESSING FEE FOR BILLING

Section 13: A person that receives an unpaid toll bill from the Turnpike Authority must either pay the bill or submit a request for bill review. The Authority is authorized to levy an additional \$6.00 processing fee, capped at \$48.00 per year, against a person that fails to act in a timely manner.

This section increases this processing fee authorization to \$9.00, with a \$72.00 annual cap.

This section became effective July 1, 2024.

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FERRY PRIORITY BOARDING

Section 14: Current law outlines the requirements and limitations for annual ferry priority boarding passes for vehicles providing commercial goods and services.

This section limits issuance of commercial goods and services priority passes to individual vehicles, rather than multiple vehicles owned by the same person, and clarifies that only one pass may be issued per vehicle per year.

This section became effective July 1, 2024.

REPEAL DRONE ACTIVITY REPORTING REQUIREMENT FROM DIVISION OF AVIATION ANNUAL REPORT

Section 15: G.S. 63-74.5 requires the Division of Aviation of the NCDOT to submit an annual report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division of the General Assembly, which includes a summary of activities related to unmanned aircraft systems.

This section repeals this reporting requirement regarding unmanned aircraft systems.

This section became effective June 27, 2024.

REVISE USE OF CERTAIN MATCHING FUNDS OF RAIL DIVISION

Section 16: S.L. 2022-74 provided for \$7,527,000 in non-recurring funds to match the Consolidated Rail Infrastructure and Safety Improvements (CRISI) federal grant funds for surveys, preliminary engineering, and rail improvements on the S-Line rail corridor.

This section expands the authorized use of these funds for a future grant to develop the S-Line beyond the CRISI grant announced from FY 2021 funds.

This section became effective June 27, 2024.

REVISE OUTDOOR ADVERTISING LAW

Section 17: Article 11 of Chapter 136, entitled Outdoor Advertising Control Act, outlines State policies, requirements, procedures, and limitations that relate to outdoor advertising placement, relocation, removal, and related vegetation clearance and maintenance surrounding outdoor advertising. Current law authorizes the issuance of permits for selective vegetation removal by owners of outdoor advertising, sets limitations for cut or removal zones, and outlines other aspects of the permitting process for that purpose.

This section: (i) amends maximum vegetation cut zone limits; (ii) clarifies that a sign owner may also include in the cut zone any area within ROW between the viewing zones of two sign faces on the same structure upon payment of \$150 per caliper inch to the Department; (iii) removes native redbud preservation requirements; (iv) specifies that vegetation removal permits may be issued for relocated outdoor advertising, that are otherwise compliant, within two years of relocation; (v) specifies that a new relocation site must not be denied due to the presence of viewing zone obstruction by vegetation; and (vi) specifies that an outdoor advertisement owner is permitted to remove any vegetation from private property to improve visibility with landowner consent.

This section became effective July 1, 2024, and applies to applications for selective vegetation removal permits submitted on or after that date.

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INCREASE FREQUENCY OF TAX REVENUE TRANSFER TO HIGHWAY FUND

Section 18: Sales tax proceeds are paid to the General Fund. There are a number of transfers of a portion of these proceeds to other funds, such as to the Public School Fund, the Dry-Cleaning Solvent Cleanup Fund, and the Division of Aviation as well as various distributions to local governments.

Effective July 1, 2022, the Secretary of Revenue is required to transfer, on a quarterly basis, a percentage of the net proceeds of sales tax revenues, ranging from 2% to 6% over 3 years, to the Highway and/or the Highway Trust Fund for transportation-related needs. The Highway Fund generally supports projects on the existing highway system, operations, and maintenance, including resurfacing highways, replacing bridges, and paving unpaved secondary roads. The Highway Trust Fund is generally used for capital improvement projects.

In fiscal year 2022-23, 2% was transferred to the Highway Fund. In fiscal year 2023-24, 1% was transferred to the Highway Fund and 3% was transferred to the Highway Trust Fund, for a total of 4%. In fiscal year 2024-25 and thereafter, 1.5% must be transferred to the Highway Fund and 4.5% must be transferred to the Highway Trust Fund, for a total of 6%.

This section increases the frequency of these transfers from quarterly to monthly, beginning with the 2024-2025 fiscal year.

This section became effective July 1, 2024.

REVISE MONTHLY FINANCIAL STATEMENT REPORT

Section 19: G.S. 143C-6-11(q) requires the NCDOT to post on their website, and submit to the Board of Transportation, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division a financial statement report that includes, among other information, NCDOT's projected revenues and Spend Plan for the next 18 months.

This section reduces the projection window from 18 months to 12 months.

This section became effective June 27, 2024.

DEPARTMENT FEE STUDY FOR DRIVEWAY, SUBDIVISION, TRAFFIC IMPACT ANALYSIS, AND ENCROACHMENT REVIEW PROGRAMS

Section 20: This section requires the NCDOT to study current fee authorizations, and their implementation, for programs that issue permits, approvals, or certifications related to driveways, subdivisions, traffic impact analyses, and encroachment reviews. The report must be submitted by December 31, 2024 to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division and must also include legislative recommendations for additional fee authority/clarifications needed for these programs and include funding requirements/changes based on those recommendations.

This section became effective June 27, 2024.

REPEAL UNMANNED AIRCRAFT SYSTEM OPERATION REGULATIONS

Section 21: Article 10 of Chapter 63, entitled Operation of Unmanned Aircraft Systems, regulates unmanned aircraft systems within this State and outlines training requirements and permit requirements for commercial operation of unmanned aircraft systems.

This section repeals Article 10 of Chapter 63 and makes a conforming change to strike a reference within the General Statutes and clarifies that prosecution for offenses under this Article committed before the effective date of its repeal are not abated or affected by the repeal.

This section becomes effective December 1, 2024.

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REVISE HIGHWAY FUND AND HIGHWAY TRUST FUND AVAILABILITY FOR FY 2021-2022 AND FY 2022-2023

Section 22: This section makes various revisions to Highway Fund and Highway Trust Fund availability schedules for the fiscal years of 2021-2022 and 2022-2023 within appropriations acts for those fiscal years.

This section became effective June 27, 2024.

ALCOHOL SALES ON TRAINS

Section 23: Currently alcoholic beverages may be sold on trains in this State in compliance with Article 2C of Chapter 105 (Alcoholic Beverage License and Excise Taxes). Malt beverages, unfortified wine, and fortified wine may be sold and delivered by any wholesaler or retailer licensed in this State to an officer or agent of a rail line that carries at least 60,000 passengers annually.

This section expands rail line eligibility to buy and have malt beverages, unfortified wine, and fortified wine delivered to include rail lines that are at least 100 miles long and connect to the national rail network.

This section became effective June 27, 2024.

ADDITIONAL ROAD AND BRIDGE NAMING DIRECTIVES

Section 24: Section 41.7 of S.L. 2023-134 required the NCDOT to designate various road sections and bridges as named bridges in honor of certain individuals.

This section amends Section 41.7 of S.L. 2023-134 to include the following designations:

- The bridge on North Carolina Highway 87 that crosses over U.S. Highway 701 in Bladen County as the "Deputy Sheriff James B. Collins Bridge."
- The bridge on U.S. Highway 701 that crosses over Browns Creek in Bladen County as the "Deputy Sheriff J. Roger Stocks Bridge."
- The bridge on North Carolina Highway 410 that crosses over Crawley Swamp in Bladen County as the "Deputy Sheriff Dewayne C. Hester Bridge."
- The bridge on U.S. Highway 701 that crosses over Turnbull Creek in Bladen County as the "Detention Officer James A. Smith Bridge."

This section became effective June 27, 2024.

EFFECTIVE DATE: This bill was vetoed by the Governor on May 23, 2024, and that veto was overridden by the General Assembly on June 27, 2024. Except as otherwise provided, this act became effective June 27, 2024.