

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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BILL DRAFT 2007-LBx-401L [v.1] (1/22)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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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 INCREASED FREIGHT SERVICE TO THE PORTS AND
MILITARY INSTALLATIONS, AND (5) EXPAND INTERCITY PASSENGER
RAIL SERVICE, AND TO EXTEND COMMON LEVELS OF LOCAL TRANSIT
FUNDING AUTHORIZATION TO THREE URBAN REGIONS.

The General Assembly of North Carolina enacts:

SUBCOMMITTEE DRAFT – NOT APPROVED

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.

SUBCOMMITTEE DRAFT

1 **"§ 136-251. Findings of fact.**

2 The General Assembly finds that:

- 3 (1) Most of North Carolina's growth is in its urban regions. According to
4 the State Data Center, during the first decade of the 21st Century, 66%
5 of the projected 1,270,000 growth in population is in 15 urban counties
6 surrounding Charlotte, Raleigh, and the Triad, while 40% is in just six
7 counties: Mecklenburg, Wake, Durham, Orange, Forsyth, and
8 Guilford.
- 9 (2) This large urban population growth greatly taxes resources. Despite
10 the visionary creation of the Highway Trust fund by the 1989 General
11 Assembly and the funding of urban loop highways, congestion
12 continues to grow at an exponential rate. Creation of a special fund to
13 help meet urban transportation needs with alternatives such as rail
14 transit and buses, coupled with land use planning, will spur and guide
15 economic development in a more economically and environmentally
16 sound manner. Charlotte's recent success in opening the first phase of
17 its light rail system, with ridership significantly over projections,
18 shows that North Carolinians are willing to use alternates.
- 19 (3) Accelerated use of rail for transport of freight will reduce highway
20 congestion as well as allow economic expansion in a way that lessens
21 the impact on the State highway system.
- 22 (4) Public transportation, in addition to a program of urban loops and toll
23 roads will enable North Carolina to have a balanced 21st Century
24 transportation system.
- 25 (5) As part of its initial program of internal improvements, the State
26 capitalized the North Carolina Railroad in the 1840s, and invested in
27 other railroads, and those internal improvements led to North
28 Carolina's rapid economic development. The North Carolina Railroad,
29 with a 317-mile corridor from Charlotte to Morehead City is still
30 owned by the State.
- 31 (6) Improved rail facilities and restoration of abandoned rail lines can
32 allow increased access to the North Carolina State Ports and military
33 installations located within the State.
- 34 (7) Session Law 2005-222 found that expanding and upgrading passenger,
35 freight, commuter, and short line rail service is important to the
36 economy of North Carolina; and provided that the State would seek to
37 provide matching funds so in part it can leverage the maximum federal
38 and private participation in funding needed rail initiatives, such as the
39 restoration of the rail corridor from Wallace to Castle Hayne, and a rail
40 connection between north-south and east-west routes in the vicinity of
41 Pembroke.
- 42 (8) Rail freight plays a vital role in economic development throughout the
43 State. Intermodal service depends on partnerships with trucking
44 companies, seaports, and others in the transportation logistics chain.

1 North Carolina has 3,250 main line miles of track, with Class I
2 railroads holding 79% of the trackage rights, the remainder controlled
3 by local railroads and switching and terminal railroads. The 2006 Mid-
4 Cycle Update to the North Carolina Statewide Intermodal
5 Transportation Plan identified \$799 million in freight rail needs over
6 the next 25 years, including maintenance and preservation,
7 modernization, and expansion.

8 (9) North Carolina's short line railroads play a key role in the State's
9 economic development and transportation service and are needed to
10 provide essential services to other modes of transportation and the
11 North Carolina port system. North Carolina agriculture is dependent
12 upon essential service by short line railroads. North Carolina economic
13 development and commerce is dependent upon essential service by
14 short line railroads; and grant funds may be used to improve and
15 restore tracks and lines. State funds are needed to maintain short line
16 railroads as a viable contributor to economic development, agriculture,
17 and transportation in this State in order to prevent the loss of regional
18 rail service. The Department of Transportation reported that 44,992
19 rail cars handled by short lines kept 179,688 trucks off North Carolina
20 highways.

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

24 (11) The proposed North Carolina International Port would need high
25 capacity Intermodal access.

26 **"§ 136-252. Grants to local governments and transportation authorities.**

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

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

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

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

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

40 (c) Grants from the fund may be committed for a multi-year basis to stabilize the
41 phased implementation of a plan. The Board of Transportation shall approve, and
42 amend from time to time, a rolling multi-year projection of up to 15 years for allocation
43 of funds under this section. No applicant is eligible under the 15-year plan projection for

1 more than one-third of the total funds to be granted under this Article during that 15-
2 year period.

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

6 **"§ 136-253. Grants to other units.**

7 Grants from the fund may also be made to state agencies and railroads for the
8 following purposes:

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

18 (2) Assistance to any railroad in construction of (i) rail improvements and
19 restorations and intermodal or multimodal facilities to serve ports and
20 military installations; and (ii) inland ports to reduce truck traffic on
21 the highway system. Grants under this subdivision shall not exceed
22 50% of the nonfederal share, and must be matched by equal or greater
23 funding from the applicant. Total grants under this subdivision may
24 not exceed ten million dollars (\$10,000,000) per fiscal year.

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

32 (4) Expansion of intercity passenger rail service, including increased
33 frequency and additional cities serviced. Routes under this section
34 must either connect urban regions or extend beyond the territorial
35 jurisdiction of a transportation authority.

36 **"§ 136-254. Grant approval.**

37 All grants made under this Article are subject to approval of the Board of
38 Transportation. The fund shall be administered in conjunction with G.S. 136-44.20, and
39 any funds allocated under that section shall continue to be available, or the Department
40 of Transportation may reprogram that to the fund."

41
42 CHAPTER II. Public Transportation Sales Tax: Mecklenburg, Triangle, Triad.

43 SECTION 2.(a) Section 1(a) of S.L. 1997-417 is recodified as G.S. 105-
44 510.1.

1 service transportation systems, and expansion of public transportation service to
2 unserved areas in the county.

3 **"§ 105-508. Local election on adoption of sales and use tax.**

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

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

13 **'[] FOR [] AGAINST**

14 One-half percent (1/2%) local sales and use taxes, in addition to the current ~~two percent~~
15 ~~(2%)~~-local sales and use taxes, to be used only for public transportation systems.'

16 **"§ 105-509. Levy and collection of sales and use tax.**

17 If the majority of those voting in a referendum held pursuant to this ~~Article-Part~~ vote
18 for the levy of the tax, the board of commissioners of the county may, by resolution,
19 levy one-half percent (1/2%) local sales and use taxes in addition to any other State and
20 local sales and use taxes levied pursuant to law. Except as provided in this ~~Article, Part,~~
21 the adoption, levy, collection, administration, and repeal of these additional taxes shall
22 be in accordance with Article 39 of this Chapter. In applying the provisions of Article
23 39 of this Chapter to this ~~Article-Part~~, references to 'this Article' mean 'Part 1 of Article
24 43 of Chapter 105 of the General Statutes'.

25 A tax levied under this ~~Article-Part~~ does not apply to the sales price of food that is
26 not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from
27 the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased with
28 coupons issued under the Food Stamp Program, 7 U.S.C. ~~§ 51.~~ § 2011.

29 **"§ 105-510. Distribution and use of taxes.**

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

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

42 (b) Use. – A county must allocate the net proceeds distributed to it in accordance
43 with its financial plan adopted pursuant to G.S. 105-507 and use the net proceeds only
44 for financing, constructing, operating, and maintaining local public transportation

1 systems. Any other unit of local government may use the net proceeds distributed to it
2 under this ~~Article Part~~ only for financing, constructing, operating, and maintaining
3 local public transportation systems. Every unit of government shall use the net proceeds
4 to supplement and not to supplant or replace existing funds or other resources for public
5 transportation systems.

6 **"§ 105-510.1. Applicability. This ~~section Part~~ applies only to Mecklenburg County.**
7 Part 3. Transportation Authorities.

8 **"§ 105-510.5. Limitations.**

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

- 10 (1) It operates a public transportation system.
11 (2) It has developed a financial plan and distributed it to each unit of local
12 government located within its territorial jurisdiction. The financial plan
13 must provide for equitable use of the net proceeds within the special
14 district created under this Part. The plan may be revised from time to
15 time.
16 (3) The tax is approved by the voters.

17 **"§ 105-510.6. Local election on adoption of sales and use tax- regional public**
18 **transportation authority.**

19 (a) Special district. A transportation authority may create a special district that
20 consists of the entire area of one or more counties within its territorial jurisdiction and
21 may levy on behalf of the special district the tax authorized in this section. A special
22 district created pursuant to this subsection is a body corporate and politic and has the
23 power to carry out the purposes of this subsection. The board of trustees of the
24 transportation authority shall serve, ex officio, as the governing body of a special
25 district it creates pursuant to this subsection. The proceeds of a tax levied under this
26 section may be used only for the benefit of the special district and only for the purposes
27 provided in this Article.

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

- 30 (1) In the case of a single-county special district, a majority of the county
31 board of commissioners within the special district
32 (2) In the case of a multi-county special district, a majority vote of all the
33 county boards of commissioners within the special district

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

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

43 **[] FOR [] AGAINST**

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

3 **"§ 105-510.7. Levy and collection of sales and use tax – regional public**
4 **transportation authority.**

5 If the majority of those voting in a referendum held pursuant to G.S. 105-510.6 vote
6 for the levy of the tax, the transportation authority may, by resolution, levy one-half
7 percent (1/2%) local sales and use taxes within the **special district**, in addition to any
8 other State and local sales and use taxes levied pursuant to law. **In determining the**
9 **results of the election in a multi-county district, all the counties of the district shall be**
10 **considered to be one unit.** Except as provided in this Part, the adoption, levy, collection,
11 administration, and repeal of these additional taxes shall be in accordance with Article
12 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this
13 Article, references to 'this Article' mean 'Part 2 of Article 43 of Chapter 105 of the
14 General Statutes'. Any repeal of the tax shall be done by the same procedure as its
15 enactment under section, and a petition for repeal under G.S. 105-473 shall be judged
16 by the total votes in all three counties.

17 **"§ 105-510.8. Expansion of district.**

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

26 **"§ 105-510.9. Exemption of food.**

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

31 **"§ 105-510.10 Distribution and use of taxes.**

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

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

41
42 CHAPTER III. Extension of Vehicle Registration Charge to Mecklenburg County.

43 SECTION 3. Section 6.2 of S.L. 1997-417, as added by Section 30 of S.L.
44 2006-162 reads as rewritten:

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

4 (1) Article 50 of Chapter 105 of the General Statutes, as enacted by
5 Section 3 of this act, and the board of commissioners of that county is
6 considered the board of trustees of the authority under Article 50.
7 G.S. 105-554 of Article 50 does not apply to the proceeds of a tax
8 imposed by a county considered an authority under this section. The
9 proceeds of a tax imposed by a county considered an authority under
10 this section must be transferred to the largest city in that county
11 operating a public transportation system and used only for financing,
12 constructing, operating, and maintaining a public transportation
13 system. The proceeds may supplant existing funds allocated for a
14 public transportation system. The term 'public transportation system'
15 has the same meaning as defined in ~~G.S. 105-506 of Article 43.~~ G.S.
16 105-506.

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

26
27 CHAPTER IV. Local Vehicle Registration Charge Adjusted for Inflation.

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

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

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

36 "(d) Special Tax District. – If a regional transportation authority created under
37 Article 27 of Chapter 160A of the General Statutes has not levied the tax under this
38 section or has levied the tax at a rate of less than ~~five dollars (\$5.00)~~ seven dollars
39 (\$7.00) it may create a special district that consists of the entire area of one or more
40 counties within its territorial jurisdiction and may levy on behalf of the special district
41 the tax authorized in this section. The rate of tax levied within the special district may
42 not, when combined with the rate levied within the entire territorial jurisdiction of the
43 authority, exceed ~~five dollars (\$5.00).~~ seven dollars (\$7.00). The regional transportation
44 authority may not levy or increase a tax within the special district unless the board of

1 commissioners of each county in the special district has adopted a resolution approving
2 the levy or increase.

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

11 **SECTION 5.** This act is effective when it becomes law.