



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

JAMES H. TROGDON, III
SECRETARY

November 4, 2019

President Pro Tem Phil Berger
16 West Jones Street
Raleigh, NC 27601

Senator Dan Blue
16 West Jones Street
Raleigh, NC 27601

Speaker Tim Moore
16 West Jones Street
Raleigh, NC 27601

Representative Darren Jackson
300 N. Salisbury Street
Raleigh, NC 27603

Dear Legislative Leaders:

Thank you for your support of transportation in North Carolina. Since being sworn in as Secretary, I have worked with you to build, expand, maintain and operate the most safe and efficient transportation system possible for the people of North Carolina. Recent criticism of the performance of NCDOT in news reports compels me to provide a background on how we arrived at our current cash balance. More specifically, routine transfers between the Highway Trust Fund and the Highway Fund have been inaccurately criticized and this letter describes the history of those transfers what further cooperation we may need to provide a sustainable cash balance at NCDOT. We are committed to working with the NCGA to better manage cash to withstand future costs associated with natural disasters and MAP Act Settlements.

From day one I have agreed with the General Assembly that the backlog of projects resulting in over \$2 Billion in cash was unacceptable and accelerating project delivery was a top priority. In 2015, legislators set a cash ceiling of \$1Billion and charged NCDOT to set a plan to decrease cash balance below that threshold by completing projects across the state. The General Assembly recognized that we are experiencing more growth than New York, New Jersey, Ohio, Illinois, and Michigan combined, and reduced congestion and enhanced mobility will sustain our economy and future competitiveness.

To meet this challenge, NCDOT developed a plan that was communicated repeatedly in presentations to the General Assembly, transportation planning organizations and chambers of commerce across our state. I am proud that we were able to make substantial progress in reducing project development timelines from 10 years to 3 years for Environmental Impact Statements, from 7 years to 2 years for Environmental Assessments, and from 5 years to less than 1 year for Categorical Exclusions.

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This has allowed us to either start construction or have scheduled construction within months on projects like:

- Widening I-95 for the first time in our state's history
- Completion of I-840 in Greensboro
- Widening I-40 from Johnston County into Raleigh
- Widening I-26 in Henderson and Buncombe Counties
- Widening the last remaining section of I-440
- Completion of I-295 in Fayetteville
- Starting multiple sections of the Winston Salem Beltway
- Improving I-40 Business in Winston Salem
- Multiple projects to bring US 70 to Interstate standards as I-42
- Widening I-85 in Rowan and Cabarrus County
- Widening I-485 between US-74 and I-77
- Accelerating NC 540 from NC-55 to I-40

With these successes have come challenges that have required the department to rise to the occasion. We faced unprecedented natural disasters and responded swiftly. In January 2017 five months after Hurricane Matthew nearly 200 roads remained closed. We reopened these roads within 60 days. Following Hurricane Florence there were more than 2,500 road closures. Within 45 days, 98% were reopen. Within 60 days, 100% were reopen. Storms have historically cost NCDOT an average of \$66 million a year. Since 2017, that average has increased to \$222 million per year. Natural disasters cost transportation more in the last three years then they did in the preceding decade.

After several setbacks in court cases associated with the Map Act, it became necessary that NCDOT begin settling cases rather than continuing to keep impacted citizens in limbo and major projects stalled. NCDOT settled 6 cases in the 5 years prior to 2018. NCDOT began more frequently settling instead of litigating cases to expedite project delivery and decrease potential liability to the state, resulting in the settlement of nearly 400 cases and acquisition of nearly 1,000 parcels in the last 12 months. At 8 percent compounded interest from the date a map was filed, scores of impacted citizens and multiple judicial rebukes, further delays would have been costly and irresponsible. The same realities prompted the General Assembly to take the necessary step of repealing the Map Act.

Because of these challenges, we have been forced to take difficult actions in order to reduce spending to stay above the legislatively mandated cash floor of 7.5% of revenue currently \$293 million. These actions have understandably caused concern.

Recent criticism that the department both spent more than it received in revenue in FY2019 and inappropriately moved funds between the Highway Trust Fund and Highway Fund fails to consider the dynamic nature of a multi-billion capital program, where construction projects are paid over several years and state funding does not revert at the end of the fiscal year. It simply does not take into account the carry-forward nature of the state's transportation budget nor does it consider the unprecedented costs that storms and Map Act compliance cost the state. When those elements are considered, the math is simple.

When the General Assembly passed the landmark and transformative Strategic Transportation Investment Act in 2013, transportation decision-making became data-driven and transparent for the first time in the state's history and proved to be a national model for how state governments select transportation projects. This important law better defined the uses of the Highway Fund and Highway Trust Fund. However, at

the time this law was enacted, the accounting system used by the department did not change with it. The Highway Fund continues to be the spending account for all of transportation. Revenues in the Highway Trust Fund must be transferred to the Highway Fund to be expended. This process worked as intended for decades but we now realize it should have been changed with the passage of STI. We are developing a plan to modernize this structure to combine all construction accounts within the Trust Fund, and all operations and maintenance accounts in the Highway Fund. However, as the structure currently exists, transfers between the funds are necessary to deliver the state's transportation programs.

Because of the complexity of managing such a large capital program, it is vital that the department be accountable. The department continues to be subject to annual financial audits by state and federal agencies. Any transfers or loans between the Highway Fund and Highway Trust Fund were processed in the same manner using the same process as has been done since at least the early 2000s. These items were fully disclosed and explained during BUILD NC bond sale. Those bonds were rated at AA+, a strong rating for debt not backed by the full faith and credit of the state. At the request of the State Treasurer, we agreed to change a two-decades old process to add additional notifications to his office.

The liquidity issues we face did not exist previously because funds accumulated as projects went undelivered. With the support of the General Assembly, we overcame those challenges. Together, we have made tremendous improvements to the state's transportation infrastructure. Since 2011, the number of active construction projects have more than doubled. Since 2016, we have doubled the number of lane miles being resurfaced annually. Since 2011, the number of structurally deficient bridges has been cut in half, and for the first time in the state's history represent less than 10% of all bridges across the state.

This past year has proven we cannot wait any longer to modernize our accounting system to support the STI legislation. And we must work with the General Assembly to develop improved strategies for storm-related payments and reflect those improvements in our cash modeling system.

As Secretary of Transportation, I am committed to working within the legislative guidelines to complete projects across the state and response to emergencies as they occur. A strong NCDOT is vital to grow our economy and protect our communities and I believe recent history proves we are strongest when we work together to tackle our greatest challenges. I appreciate your attention to these issues and for working to better the transportation infrastructure on which we all depend.

Sincerely,



MG(R) James H. Trogdon, III, PE
Secretary of Transportation

cc: Senate and House Appropriation Chairs
Council of State