

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

HOUSE BILL 817
RATIFIED BILL

AN ACT TO STRENGTHEN THE ECONOMY THROUGH STRATEGIC
TRANSPORTATION INVESTMENTS.

The General Assembly of North Carolina enacts:

STRATEGIC TRANSPORTATION INVESTMENTS

SECTION 1.1.(a) Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 14B.

"Strategic Prioritization Funding Plan for Transportation Investments.

"§ 136-189.10. Definitions.

The following definitions apply in this Article:

- (1) Statewide strategic mobility projects. – Includes only the following:
 - a. Interstate highways and future interstate highways approved by the federal government.
 - b. Routes on the National Highway System as of July 1, 2012, excluding intermodal connectors.
 - c. Highway routes on the United States Department of Defense Strategic Highway Network (STRAHNET).
 - d. Highway toll routes designated by State law or by the Department of Transportation, pursuant to its authority under State law.
 - e. Highway projects listed in G.S. 136-179, as it existed on July 1, 2012, that are not authorized for construction as of July 1, 2015.
 - f. Appalachian Development Highway System.
 - g. Commercial service airports included in the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS) that provide international passenger service or 375,000 or more enplanements annually, provided that the State's annual financial participation in any single airport project included in this subdivision may not exceed five hundred thousand dollars (\$500,000).
 - h. Freight capacity and safety improvements to Class I freight rail corridors.
- (2) Regional impact projects. – Includes only the following:
 - a. Projects listed in subdivision (1) of this section, subject to the limitations noted in that subdivision.
 - b. U.S. highway routes not included in subdivision (1) of this section.
 - c. N.C. highway routes not included in subdivision (1) of this section.
 - d. Commercial service airports included in the NPIAS that are not included in subdivision (1) of this section, provided that the State's annual financial participation in any single airport project included in this subdivision may not exceed three hundred thousand dollars (\$300,000).
 - e. The State-maintained ferry system, excluding passenger vessel replacement.
 - f. Rail lines that span two or more counties not included in subdivision (1) of this section.



- g. Public transportation service that spans two or more counties and that serves more than one municipality. Expenditures pursuant to this sub-subdivision shall not exceed ten percent (10%) of any distribution region allocation.
- (3) Division needs projects. – Includes only the following:
- a. Projects listed in subdivision (1) or (2) of this section, subject to the limitations noted in those subsections.
 - b. State highway routes not included in subdivision (1) or (2) of this section.
 - c. Airports included in the NPIAS that are not included in subdivision (1) or (2) of this section, provided that the State's total annual financial participation under this sub-subdivision shall not exceed eighteen million five hundred thousand dollars (\$18,500,000).
 - d. Rail lines not included in subdivision (1) or (2) of this section.
 - e. Public transportation service not included in subdivision (1) or (2) of this section.
 - f. Multimodal terminals and stations serving passenger transit systems.
 - g. Federally funded independent bicycle and pedestrian improvements.
 - h. Replacement of State-maintained ferry vessels.
 - i. Federally funded municipal road projects.
- (4) Distribution Regions. – The following Distribution Regions apply to this Article:
- a. Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.
 - b. Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
 - c. Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.
 - d. Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.
 - e. Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.
 - f. Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
 - g. Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

"§ 136-189.11. Transportation Investment Strategy Formula.

(a) Funds Subject to Formula. – The following sources of funds are subject to this section:

- (1) Highway Trust Fund funds, in accordance with G.S. 136-176.
- (2) Federal aid funds.

(b) Funds Excluded From Formula. – The following funds are not subject to this section:

- (1) Federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149.
- (2) Funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department.

- (3) Funds received from the federal government that under federal law may only be used for Appalachian Development Highway System projects.
- (4) Funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project.
- (5) Funds committed to gap funding for toll roads funded with bonds issued pursuant to G.S. 136-176.
- (6) Funds obligated for projects in the State Transportation Improvement Program that are scheduled for construction as of April 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.
- (7) Toll collections from a turnpike project under Article 6H of this Chapter and other revenue from the sale of the Authority's bonds or notes or project loans, in accordance with G.S. 136-89.192.
- (8) Toll collections from the State-maintained ferry system collected under the authority of G.S. 136-82.
- (9) Federal State Planning and Research Program funds.
- (b1) Funds Excluded From Regional Impact Project Category. – Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects in the Regional Impact Project category are excluded from that category.
- (c) Funds With Alternate Criteria. – The following federal program activities shall be included in the applicable category of the Transportation Investment Strategy Formula set forth in subsection (d) of this section but shall not be subject to the prioritization criteria set forth in that subsection:
 - (1) Bridge replacement.
 - (2) Interstate maintenance.
 - (3) Highway safety improvement.
- (d) Transportation Investment Strategy Formula. – Funds subject to the Formula shall be distributed as follows:
 - (1) Statewide Strategic Mobility Projects. – Forty percent (40%) of the funds subject to this section shall be used for Statewide Strategic Mobility Projects.
 - a. Criteria. – Transportation-related quantitative criteria shall be used by the Department to rank highway projects that address cost-effective Statewide Strategic Mobility needs and promote economic and employment growth. The criteria for selection of Statewide Strategic Mobility Projects shall utilize a numeric scale of 100 points, based on consideration of the following quantitative criteria:
 - 1. Benefit cost.
 - 2. Congestion.
 - 3. Safety.
 - 4. Economic competitiveness.
 - 5. Freight.
 - 6. Multimodal.
 - 7. Pavement condition.
 - 8. Lane width.
 - 9. Shoulder width.
 - b. Project cap. – No more than ten percent (10%) of the funds projected to be allocated to the Statewide Strategic Mobility category over any five-year period may be assigned to any contiguous project or group of projects in the same corridor within a Highway Division or within adjoining Highway Divisions.
 - (2) Regional Impact Projects. – Thirty percent (30%) of the funds subject to this section shall be used for Regional Impact Projects and allocated by population of Distribution Regions based on the most recent estimates certified by the Office of State Budget and Management.
 - a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Regional Impact Projects involving highways that address cost-effective needs from a region-wide perspective and promote

economic growth. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. The criteria utilized for selection of Regional Impact Projects shall be based thirty percent (30%) on local input and seventy percent (70%) on consideration of a numeric scale of 100 points based on the following quantitative criteria:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.
9. Accessibility and connectivity to employment centers, tourist destinations, or military installations.

(3) Division Need Projects. – Thirty percent (30%) of the funds subject to this section shall be allocated in equal share to each of the Department divisions, as defined in G.S. 136-14.1, and used for Division Need Projects.

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Division Need Projects involving highways that address cost-effective needs from a Division-wide perspective, provide access, and address safety-related needs of local communities. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. The criteria utilized for selection of Division Need Projects shall be based fifty percent (50%) on local input and fifty percent (50%) on consideration of a numeric scale of 100 points based on the following quantitative criteria, except as provided in sub-subdivision b. of this subdivision:

1. Benefit cost.
2. Congestion.
3. Safety.
4. Freight.
5. Multimodal.
6. Pavement condition.
7. Lane width.
8. Shoulder width.
9. Accessibility and connectivity to employment centers, tourist destinations, or military installations.

b. Alternate criteria. – Funding from the following programs shall be included in the computation of each of the Department division equal shares but shall be subject to alternate quantitative criteria:

1. Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects in the Division Need Projects category.
2. Federal Transportation Alternatives funds appropriated to the State.
3. Federal Railway-Highway Crossings Program funds appropriated to the State.
4. Projects requested from the Department in support of a time-critical job creation opportunity, when the opportunity would be classified as transformational under the Job Development Investment Grant program established pursuant to G.S. 143B-437.52, provided that the total State investment in each fiscal year for all projects funded under this

sub-subdivision shall not exceed ten million dollars (\$10,000,000) in the aggregate or two million dollars (\$2,000,000) per project.

5. Federal funds for municipal road projects.

c. Bicycle and pedestrian limitation. – The Department shall not provide financial support for independent bicycle and pedestrian improvement projects, except for federal funds administered by the Department for that purpose. This sub-subdivision shall not apply to funds allocated to a municipality pursuant to G.S. 136-41.1 that are committed by the municipality as matching funds for federal funds administered by the Department and used for bicycle and pedestrian improvement projects. This limitation shall not apply to funds authorized for projects in the State Transportation Improvement Program that are scheduled for construction as of October 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.

(4) Criteria for nonhighway projects. – Nonhighway projects subject to this subsection shall be evaluated through a separate prioritization process established by the Department that complies with all of the following:

a. The criteria used for selection of projects for a particular transportation mode shall be based on a minimum of four quantitative criteria.

b. Local input shall include rankings of projects identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations.

c. The criteria shall be based on a scale not to exceed 100 points that includes no bonus points or other alterations favoring any particular mode of transportation.

(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

(1) Limitation on variance. – The Department, in obligating funds in accordance with this section, shall ensure that the percentage amount obligated to Statewide Strategic Mobility Projects, Regional Impact Projects, and Division Need Projects does not vary by more than five percent (5%) over any five-year period from the percentage required to be allocated to each of those categories by this section. Funds obligated among distribution regions or divisions pursuant to this section may vary up to ten percent (10%) over any five-year period.

(2) Calculation of variance. – Each year the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each division and region, the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. In the first variance calculation under this subdivision following the end of fiscal year 2015-2016, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous year. In the first variance calculation under this subdivision following the end of fiscal year 2016-2017, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous two fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2017-2018, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous three fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2018-2019, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous four fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision

(1) of this subsection for the next update of the Transportation Improvement Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable.

(f) Incentives for Local Funding and Highway Tolling. – The Department may revise highway project selection ratings based on local government funding initiatives and capital construction funding directly attributable to highway toll revenue. Projects authorized for construction after November 1, 2013, and contained in the 10-year Department of Transportation work program are eligible for a bonus allocation under this subsection.

- (1) Definitions. – The following definitions apply in this subsection:
 - a. Bonus allocation. – The allocation obtained as a result of local government funding participation or highway tolling.
 - b. Local funding participation. – Non-State or nonfederal funds committed by local officials to leverage the commitment of State or federal transportation funds towards construction.
- (2) Funds obtained from local government funding participation. – Upon authorization to construct a project with funds obtained by local government funding participation, the Department shall make available for allocation as set forth in subdivision (4) of this section an amount equal to one-half of the local funding commitment for other eligible highway projects that serve the local entity or entities that provided the local funding.
- (3) Funds obtained through highway tolling. – Upon authorization to construct a project with funding from toll revenue, the Department shall make available for allocation an amount equal to one-half of the project construction cost derived from toll revenue bonds. The amount made available for allocation to other eligible highway projects shall not exceed two hundred million dollars (\$200,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds have been committed on or before July 1, 2015. The amount made available for allocation to other eligible highway projects shall not exceed one hundred million dollars (\$100,000,000) of the capital construction funding directly attributable to the highway toll revenues committed in the Investment Grade Traffic and Revenue Study, for a project for which funds are committed after July 1, 2015. If the toll project is located in one or more Metropolitan Planning Organization or Rural Transportation Planning Organization boundaries, based on the boundaries in existence at the time of letting of the project construction contract, the bonus allocation shall be distributed proportionately to lane miles of new capacity within the Organization's boundaries. The Organization shall apply the bonus allocation only within those counties in which the toll project is located.
- (4) Use of bonus allocation. – The Metropolitan Planning Organization, Rural Transportation Planning Organization, or the local government may choose to apply its bonus allocation in one of the three categories or in a combination of the three categories as provided in this subdivision.
 - a. Statewide Strategic Mobility Projects category. – The bonus allocation shall apply over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.
 - b. Regional Impact Projects category. – The bonus allocation is capped at ten percent (10%) of the regional allocation, or allocation to multiple regions, made over a five-year period and shall be applied over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.
 - c. Division Needs Projects category. – The bonus allocation is capped at ten percent (10%) of the division allocation, or allocation to multiple divisions, made over a five-year period and shall be applied over the five-year period in the State Transportation Improvement Program in the cycle following the contractual obligation.

(g) Reporting. – The Department shall publish on its Web site, in a link to the "Strategic Transportation Investments" Web site linked directly from the Department's home page, the following information in an accessible format as promptly as possible:

- (1) The quantitative criteria used in each highway and nonhighway project scoring, including the methodology used to define each criteria, the criteria presented to the Board of Transportation for approval, and any adjustments made to finalize the criteria.
- (2) The quantitative and qualitative criteria in each highway or nonhighway project scoring that is used in each region or division to finalize the local input score and shall include distinctions between Metropolitan Planning Organization and Rural Transportation Planning Organization scoring and methodologies.
- (3) Notification of changes to the methodologies used to calculate quantitative criteria.
- (4) The final quantitative formulas, including the number of points assigned to each criteria, used in each highway and nonhighway project scoring used to obtain project rankings in the Statewide, Regional, and Division categories. If the Department approves different formulas or point assignments regionally or by division, the final scoring for each area shall be noted.
- (5) The project scorings associated with the release of the draft and final State Transportation Improvement Program."

SECTION 1.1.(b) Effective July 1, 2019, G.S. 136-189.11(e)(2), as enacted by subsection (a) of this section, reads as rewritten:

"(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

- ...
- (2) Calculation of Variance. – Each year, the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each ~~division, division and region,~~ the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. ~~In the first variance calculation under this subdivision following the end of fiscal year 2015-16, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous year. In the first variance calculation under this subdivision following the end of fiscal year 2016-17, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous two fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2017-18, the target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous three fiscal years. In the first variance calculation under this subdivision following the end of fiscal year 2018-19, the~~ The target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous four-five fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision (1) of this subsection for the next update of the Transportation Improvement Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable."

SECTION 1.2. Strategic Prioritization Process Reporting. – The Department shall issue a draft revision to the State Transportation Improvement Program required by G.S. 143B-350(f)(4) no later than January 1, 2015. The Board of Transportation shall approve the revised State Transportation Improvement Program no later than July 1, 2015.

SECONDARY ROADS CHANGES

SECTION 2.1. G.S. 20-85 reads as rewritten:
"§ 20-85. **Schedule of fees.**

...

(a1) One dollar (\$1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources. ~~An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited as follows:~~

- ~~(1) The first four hundred thousand dollars (\$400,000) collected shall be credited to the Reserve for Visitor Centers in the Highway Fund.~~
- ~~(2) Any additional funds collected shall be credited to the Highway Trust Fund and, notwithstanding G.S. 136-176(b), shall be allocated and used for urban loop projects.~~

(a2) From the fees collected under subdivisions (a)(1) through (a)(9) of this section, the Department shall annually credit the sum of four hundred thousand dollars (\$400,000) to the Reserve for Visitor Centers in the Highway Fund.

(b) Except as otherwise provided in ~~subsection (a1)~~subsections (a1) and (a2) of this section, the fees collected under subdivisions (a)(1) through (a)(9) of this section shall be credited to the North Carolina Highway Trust Fund. The fees collected under subdivision (a)(10) of this section shall be credited to the Highway Fund. ~~Fifteen dollars (\$15.00) of each title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5.~~

...."

SECTION 2.2.(a) G.S. 136-44.2 reads as rewritten:

"§ 136-44.2. Budget and appropriations.

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the ~~construction and maintenance~~construction, maintenance, and improvement programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall also include State-maintained, nonhighway modes of transportation as well transportation.

(b) All ~~construction and maintenance~~construction, maintenance, and improvement programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~maintenance and construction~~construction, maintenance, and improvement of secondary roads, to be allocated in

accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction and maintenance~~construction, maintenance, and improvement of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

...."

SECTION 2.2.(b) Effective July 1, 2014, G.S. 136-44.2, as rewritten by subsection

(a) of this section, reads as rewritten:

"§ 136-44.2. Budget and appropriations.

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the ~~construction, maintenance, maintenance~~ and improvement programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall also include State-maintained, nonhighway modes of transportation.

(b) All ~~construction, maintenance, maintenance~~ and improvement programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. ~~Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed~~ Proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to ~~G.S. 136-44.7 and 136-44.8~~G.S. 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for ~~construction, maintenance, maintenance~~ and improvement of secondary roads, to be allocated in accordance with ~~G.S. 136-44.5 and 136-44.6~~G.S. 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the ~~construction, maintenance, maintenance~~ and improvement of secondary roads in the county for which they are allocated pursuant to ~~G.S. 136-44.5 and 136-44.6~~G.S. 136-44.6.

...

(g) The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars (\$100,000) before any other allocations from the appropriations for State maintenance for ~~primary, secondary, and urban~~primary and secondary road systems are made, based upon the same proportion as is appropriated to each system."

SECTION 2.3.(a) G.S. 136-44.2A reads as rewritten:

"§ 136-44.2A. Secondary road ~~improvement~~construction program.

There shall be annually allocated from the Highway Fund to the Department of Transportation for secondary road ~~improvement~~construction programs developed pursuant to ~~G.S. 136-44.7 and 136-44.8~~, a sum provided by law. ~~equal to that allocation made from the~~

~~Highway Fund under G.S. 136-41.1(a). In addition, as provided in G.S. 136-176(b)(4) and G.S. 20-85(b), revenue is annually allocated from the Highway Trust Fund for secondary road construction. Of the funds allocated from the Highway Fund, the sum of sixty-eight million six hundred seventy thousand dollars (\$68,670,000) shall be allocated among the counties in accordance with G.S. 136-44.5(b). All funds allocated from the Highway Fund for secondary road improvements in excess of that amount shall be allocated among the counties in accordance with G.S. 136-44.5(c). All funds allocated from the Highway Trust Fund for secondary road improvement programs shall be allocated in accordance with G.S. 136-182."~~

~~SECTION 2.3.(b) Effective July 1, 2014, G.S. 136-44.2A is repealed.~~

~~SECTION 2.4. G.S. 136-44.2C is repealed.~~

~~SECTION 2.5. Article 2A of Chapter 136 is amended by adding a new section to~~

~~read:~~

~~"§ 136-44.2D. Secondary unpaved road paving program.~~

~~(a) The Department of Transportation shall expend funds allocated to the paving of unpaved secondary roads for the paving of unpaved secondary roads based on a statewide prioritization. The Department shall pave the eligible unpaved secondary roads that receive the highest priority ranking within this statewide prioritization. Nothing in this subsection shall be interpreted to require the Department to pave any unpaved secondary roads that do not meet secondary road system addition standards as set forth in G.S. 136-44.10 and G.S. 136-102.6. The Highway Trust Fund shall not be used to fund the paving of unpaved secondary roads."~~

~~SECTION 2.6.(a) G.S. 136-44.5 reads as rewritten:~~

~~"§ 136-44.5. Secondary roads; mileage study; allocation of funds.~~

~~(a) Before July 1, in each calendar year, the Department of Transportation shall make a study of all State-maintained unpaved and paved secondary roads in the State. The study shall determine:~~

- ~~(1) The number of miles of unpaved State-maintained roads in each county eligible for paving and the total number of miles that are ineligible;~~
- ~~(2) The total number of miles of unpaved State-maintained roads in the State eligible for paving and the total number of miles that are ineligible; and~~
- ~~(3) The total number of paved State-maintained roads in each county, and the total number of miles of paved State-maintained roads in the State.~~

~~In this subsection, (i) ineligible unpaved mileage is defined as the number of miles of unpaved roads that have unavailable rights-of-way or for which environmental permits cannot be approved to allow for paving, and (ii) eligible unpaved mileage is defined as the number of miles of unpaved roads that have not been previously approved for paving by any funding source or has the potential to be programmed for paving when rights-of-way or environmental permits are secured. Except for federal-aid programs, the Department shall allocate all secondary road improvement funds on the basis of a formula using the study figures.~~

~~(b) The first sixty-eight million six hundred seventy thousand dollars (\$68,670,000) shall be allocated as follows: Each county shall receive a percentage of these funds, the percentage to be determined as a factor of the number of miles of paved and unpaved State-maintained secondary roads in the county divided by the total number of miles of paved and unpaved State-maintained secondary roads in the State, excluding those unpaved secondary roads that have been determined to be eligible for paving as defined in subsection (a) of this section. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be The amounts appropriated by law for secondary road construction, excluding unpaved secondary road funds, shall be allocated among counties based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.~~

~~(c) Funds allocated for secondary road construction in excess of sixty-eight million six hundred seventy thousand dollars (\$68,670,000) shall be allocated to each county based on the percentage proportion that the number of miles in the county of State-maintained unpaved secondary roads bears to the total number of miles in the State of State-maintained unpaved secondary roads. In a county that has roads with eligible miles, these funds shall only be used for paving unpaved secondary road miles in that county. In a county where there are no roads eligible to be paved as defined in subsection (a) of this section, the funds may be used for improvements on the paved and unpaved secondary roads in that county. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage.~~

~~(d) Copies of the Department study of unpaved and paved State-maintained secondary roads and copies of the individual county allocations shall be made available to newspapers having general circulation in each county."~~

~~SECTION 2.6.(b) Effective July 1, 2014, G.S. 136-44.5 is repealed.~~

~~SECTION 2.6.(c) G.S. 136-44.6 reads as rewritten:~~

~~"§ 136-44.6. **Uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds.**~~

~~The Department of Transportation shall develop a uniformly applicable formula for the allocation of secondary roads maintenance and improvement funds for use in each county. The formula shall take into consideration the number of paved and unpaved miles of state-maintained secondary roads in each county and such other factors as experience may dictate. This section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."~~

~~SECTION 2.6.(d) Secondary Road Funding. – The sum of fifteen million dollars (\$15,000,000) in nonrecurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the secondary road construction program under G.S. 136-44.2A, as enacted by Section 2.3 of this act, and the sum of twelve million dollars (\$12,000,000) in recurring funds for the 2013-2014 fiscal year is allocated from the Highway Fund for the paving of unpaved roads pursuant to G.S. 136-44.2D, as enacted by Section 2.5 of this act.~~

~~SECTION 2.7. G.S. 136-44.7 reads as rewritten:~~

~~"§ 136-44.7. **Secondary roads; annual work program; right-of-way acquisition.**~~

~~(a) The Department of Transportation shall be responsible for developing criteria for improvements and maintenance of secondary roads. The criteria shall be adopted by the Board of Transportation before it shall become effective. The Department of Transportation shall be responsible for developing annual work programs for both construction and maintenance of secondary roads in each county in accordance with criteria developed. It shall reflect the long-range and immediate goals of the Department of Transportation. Projects on the annual construction program for each county shall be rated according to their priority based upon the secondary road criteria and standards which shall be uniform throughout the State. Tentative construction projects and estimated funding shall also be listed in accordance to priority. The annual construction program shall be adopted by the Board of Transportation before it shall become effective.~~

~~(b) When a secondary road in a county is listed in the first 10 secondary roads to be paved during a year on a priority list issued by the Department of Transportation under this section, the secondary road cannot be removed from the top 10 of that list or any subsequent list until it is paved. All secondary roads in a county shall be paved, insofar as possible, in the priority order of the list. When a secondary road in the top 10 of that list is removed from the list because it has been paved, the next secondary road on the priority list shall be moved up to the top 10 of that list and shall remain there until it is paved.~~

~~(c) When it is necessary for the Department of Transportation to acquire a right-of-way in accordance with (a) and (b) of this section in order to pave a secondary road or undertake a maintenance project, the Department shall negotiate the acquisition of the right-of-way for a period of up to six months. At the end of that period, if one or more property owners have not dedicated the necessary right-of-way and at least seventy-five percent (75%) of the property owners adjacent to the project and the owners of the majority of the road frontage adjacent to the project have dedicated the necessary property for the right-of-way and have provided funds required by Department rule to the Department to cover the costs of condemning the remaining property, the Department shall initiate condemnation proceedings pursuant to Article 9 of this Chapter to acquire the remaining property necessary for the project.~~

~~(d) The Division Engineer is authorized to reduce the width of a right-of-way to less than 60 feet to pave an unpaved secondary road with the allocated funds, provided that in all circumstances the safety of the public is not compromised and the minimum accepted design practice is satisfied."~~

~~SECTION 2.8.(a) G.S. 136-44.8 reads as rewritten:~~

~~"§ 136-44.8. **Submission of secondary roads construction and unpaved roads paving programs to the Boards of County Commissioners.**~~

~~(a) The Department of Transportation shall post in the county courthouse a county map showing tentative secondary road paving projects rated according to the priority of each project in accordance with the criteria and standards adopted by the Board of Transportation. The map shall be posted at least two weeks prior to the public meeting of the county commissioners at~~

~~which the Department of Transportation representatives are to meet and discuss the proposed secondary road construction program for the county as provided in subsection (c).~~

~~(a1) Representatives of the Department of Transportation shall provide to the board of county commissioners in each county the proposed secondary road construction program and, if applicable to that county, a list of roads proposed for the annual paving program approved by the Board of Transportation. If a paving priority list is presented, it shall include the priority rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.~~

~~(b) The Department of Transportation shall provide a notice to the public of the public meeting of the board of county commissioners at which the annual secondary road construction program for the county proposed by the Department is to be presented to the board and other citizens of the county as provided in subsection (c). The notice shall be published in a newspaper published in the county or having a general circulation in the county once a week for two succeeding weeks prior to the meeting. The notice shall also advise that a county map is posted in the courthouse showing tentative secondary road paving projects rated according to the priority of each project.~~

~~(c) Representatives of the Department of Transportation shall meet with the board of county commissioners at a regular or special public meeting of the board of county commissioners for each county and present to and discuss with the board of county commissioners and other citizens present, the proposed secondary road construction program for the county. The presentation and discussion shall specifically include the priority rating of each tentative secondary road paving project included in the proposed construction program, according to the criteria and standards adopted by the Board of Transportation.~~

~~At the same meeting after the presentation and discussion of the annual secondary road construction program for the county or at a later meeting, the board of county commissioners may (i) concur in the construction program as proposed, or (ii) take no action, or (iii) make recommendations for deviations in the proposed construction program, except as to paving projects and the priority of paving projects for which the board in order to make recommendations for deviations, must vote to consider the matter at a later public meeting as provided in subsection (d).~~

~~(d) The board of county commissioners may recommend deviations in the paving projects and the priority of paving projects included in the proposed secondary road construction program only at a public meeting after notice to the public that the board will consider making recommendations for deviations in paving projects and the priority of paving projects included in the proposed annual secondary road construction program. Notice of the public meeting shall be published by the board of county commissioners in a newspaper published in the county or having a general circulation in the county. After discussion by the members of the board of county commissioners and comments and information presented by other citizens of the county, the board of county commissioners may recommend deviations in the paving projects and in the paving priority of secondary road projects included in the proposed secondary road construction program. Any recommendation made by the board of county commissioners for a deviation in the paving projects or in the priority for paving projects in the proposed secondary road construction program shall state the specific reason for each such deviation recommended.~~

~~(e) The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county. However, no consideration shall be given to any recommendation by the board of county commissioners for a deviation in the paving projects or in the priority for paving secondary road projects in the proposed construction program that is not made in accordance with subsection (d).~~

~~(f) The secondary road construction program and unpaved roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given to the board of county commissioners. The Department of Transportation shall post a copy of the adopted program, including a map showing the secondary road paving projects rated~~

according to the approved priority of each project, at the courthouse, within 10 days of its adoption by the Board of Transportation. The board of county commissioners may petition the Board of Transportation for review of any changes to which it does not consent and the determination of the Board of Transportation shall be final. Upon request, the most recent secondary road construction and unpaved roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each county available to the newspapers having a general circulation in the county."

SECTION 2.8.(b) Effective July 1, 2014, G.S. 136-44.8, as rewritten by subsection (a) of this section, reads as rewritten:

"§ 136-44.8. **Submission of unpaved secondary roads construction and unpaved roads paving programs to the Boards of County Commissioners.**

(a) ~~Representatives~~ In each county having unpaved roads programmed for paving, representatives of the Department of Transportation shall annually provide to the board of county commissioners in each county those counties the proposed secondary road construction program and, if applicable to that county, a list of roads proposed for the annual paving program approved by the Board of Transportation. If a ~~The paving priority list is presented, it shall include the priority rating of each secondary road paving project included in the proposed paving program according to the criteria and standards adopted by the Board of Transportation.~~

...
(e) ~~The Board of Transportation shall adopt the annual secondary construction program for each county after having given the board of county commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county.~~

(f) ~~The secondary road construction and unpaved secondary roads paving programs adopted by the Board of Transportation shall be followed by the Department of Transportation unless changes are approved by the Board of Transportation and notice of any changes is given to the board of county commissioners. Upon request, the most recent unpaved secondary road construction and unpaved roads paving programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the annual construction program for each affected county available to the newspapers having a general circulation in the county."~~

SECTION 2.9. G.S. 136-182 is repealed.

STATE AID TO MUNICIPALITIES/POWELL BILL CHANGES

SECTION 3.1. G.S. 136-41.1 reads as rewritten:

"§ 136-41.1. **Appropriation to municipalities; allocation of funds generally; allocation to Butner.**

(a) There is annually appropriated out of the State Highway Fund a sum equal to ten and four-tenths percent (10.4%) of the net amount after refunds that was produced during the fiscal year by a one and three-fourths cents (1 3/4¢) tax on each gallon of motor fuel taxed the tax imposed under Article 36C of Chapter 105 of the General Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. One-half of the amount appropriated shall be allocated in cash on or before October 1 of each year to the cities and towns of the State in accordance with this section. The second one-half of the amount appropriated shall be allocated in cash on or before January 1 of each year to the cities and towns of the State in accordance with this section. ~~In addition, as provided in G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to the cities and towns of this State to be used for the same purposes and distributed in the same manner as the revenue appropriated to them under this section from the Highway Fund. Like the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund shall be based on revenue collected during the fiscal year preceding the date the distribution is made.~~

Seventy-five percent (75%) of the funds appropriated for cities and towns shall be distributed among the several eligible municipalities of the State in the percentage proportion that the population of each eligible municipality bears to the total population of all eligible

municipalities according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer. This annual estimation of population shall include increases in the population within the municipalities caused by annexations accomplished through July 1 of the calendar year in which these funds are distributed. Twenty-five percent (25%) of said fund shall be distributed among the several eligible municipalities of the State in the percentage proportion that the mileage of public streets in each eligible municipality which does not form a part of the State highway system bears to the total mileage of the public streets in all eligible municipalities which do not constitute a part of the State highway system.

It shall be the duty of the mayor of each municipality to report to the Department of Transportation such information as it may request for its guidance in determining the eligibility of each municipality to receive funds under this section and in determining the amount of allocation to which each is entitled. Upon failure of any municipality to make such report within the time prescribed by the Department of Transportation, the Department of Transportation may disregard such defaulting unit in making said allotment.

The funds to be allocated under this section shall be paid in cash to the various eligible municipalities on or before October 1 and January 1 of each ~~year~~ as provided in this section. Provided that eligible municipalities are authorized within the discretion of their governing bodies to enter into contracts for the purpose of maintenance, repair, construction, reconstruction, widening, or improving streets of such municipalities at any time after January 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount received by such municipality during the preceding fiscal year, in anticipation of the receipt of funds under this section during the next fiscal year, to be paid for out of such funds when received.

The Department of Transportation may withhold each year an amount not to exceed one percent (1%) of the total amount appropriated for distribution under this section for the purpose of correcting errors in allocations: Provided, that the amount so withheld and not used for correcting errors will be carried over and added to the amount to be allocated for the following year.

The word "street" as used in this section is hereby defined as any public road maintained by a municipality and open to use by the general public, and having an average width of not less than 16 feet. In order to obtain the necessary information to distribute the funds herein allocated, the Department of Transportation may require that each municipality eligible to receive funds under this section submit to it a statement, certified by a registered engineer or surveyor of the total number of miles of streets in such municipality. The Department of Transportation may in its discretion require the certification of mileage on a biennial basis.

...."

SECTION 3.2. G.S. 136-181 is repealed.

SECTION 3.3. G.S. 136-41.3 reads as rewritten:

"§ 136-41.3. Use of funds; records and annual statement; excess accumulation of funds; contracts for maintenance, etc., of streets.

(a) Uses of Funds. – The funds allocated to cities and towns under the provisions of G.S. 136-41.2 shall be expended by said cities and towns only for the purpose of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes, or for the planning, construction and maintenance of ~~bikeways located within the rights of way of public streets and highways, bikeways, greenways,~~ or for the planning, construction, and maintenance of sidewalks along public streets and ~~highways.~~ sidewalks.

(b) Records and Annual Statement. – Each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall maintain a separate record of accounts indicating in detail all receipts and expenditures of such funds. It shall be unlawful for any municipal employee or member of any governing body to authorize, direct, or permit the expenditure of any funds accruing to any municipality by virtue of G.S. 136-41.1 and 136-41.2 for any purpose not herein authorized. Any member of any governing body or municipal employee shall be personally liable for any unauthorized expenditures. On or before the first day of August each year, the treasurer, auditor, or other responsible official of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 shall file a statement under oath with the Secretary of

Transportation showing in detail the expenditure of funds received by virtue of G.S. 136-41.1 and 136-41.2 during the preceding year and the balance on hand.

(c) Excess Accumulation of Funds Prohibited. – No funds allocated to municipalities pursuant to G.S. 136-41.1 and 136-41.2 shall be permitted to accumulate for a period greater than permitted by this section. Interest on accumulated funds shall be used only for the purposes permitted by the provisions of G.S. 136-41.3. Except as otherwise provided in this section, any municipality having accumulated an amount greater than the sum of the past 10 allocations made, shall have an amount equal to such excess deducted from the next allocation after receipt of the report required by this section. Such deductions shall be carried over and added to the amount to be allocated to municipalities for the following year. Notwithstanding the other provisions of this section, the Department shall adopt a policy to allow small municipalities to apply to the Department to be allowed to accumulate up to the sum of the past 20 allocations if a municipality's allocations are so small that the sum of the past 10 allocations would not be sufficient to accomplish the purposes of this section.

(d) Contracts for Maintenance and Construction. – In the discretion of the local governing body of each municipality receiving funds by virtue of G.S. 136-41.1 and 136-41.2 it may contract with the Department of Transportation to do the work of maintenance, repair, construction, reconstruction, widening or improving the streets in such municipality; or it may let contracts in the usual manner as prescribed by the General Statutes to private contractors for the performance of said street work; or may undertake the work by force account. The Department of Transportation within its discretion is hereby authorized to enter into contracts with municipalities for the purpose of maintenance, repair, construction, reconstruction, widening or improving streets of municipalities. And the Department of Transportation in its discretion may contract with any city or town which it deems qualified and equipped so to do that the city or town shall do the work of maintaining, repairing, improving, constructing, reconstructing, or widening such of its streets as form a part of the State highway system.

In the case of each eligible municipality, as defined in G.S. 136-41.2, having a population of less than 5,000, the Department of Transportation shall upon the request of such municipality made by official action of its governing body, on or prior to June 1, 1953, or June 1 in any year thereafter, for the fiscal year beginning July 1, 1953, and for the years thereafter do such street construction, maintenance, or improvement on nonsystem streets as the municipality may request within the limits of the current or accrued payments made to the municipality under the provisions of G.S. 136-41.1.

In computing the costs, the Department of Transportation may use the same rates for equipment, rental, labor, materials, supervision, engineering and other items, which the Department of Transportation uses in making charges to one of its own department or against its own department, or the Department of Transportation may employ a contractor to do the work, in which case the charges will be the contract cost plus engineering and inspection. The municipality is to specify the location, extent, and type of the work to be done, and shall provide the necessary rights-of-way, authorization for the removal of such items as poles, trees, water and sewer lines as may be necessary, holding the Department of Transportation free from any claim by virtue of such items of cost and from such damage or claims as may arise therefrom except from negligence on the part of the Department of Transportation, its agents, or employees.

If a municipality elects to bring itself under the provisions of the two preceding paragraphs, it shall enter into a two-year contract with the Department of Transportation and if it desires to dissolve the contract at the end of any two-year period it shall notify the Department of Transportation of its desire to terminate said contract on or before April 1 of the year in which such contract shall expire; otherwise, said contract shall continue for an additional two-year period, and if the municipality elects to bring itself under the provisions of the two preceding paragraphs and thereafter fails to pay its account to the Department of Transportation for the fiscal year ending June 30, by August 1 following the fiscal year, then the Department of Transportation shall apply the said municipality's allocation under G.S. 136-41.1 to this account until said account is paid and the Department of Transportation shall not be obligated to do any further work provided for in the two preceding paragraphs until such account is paid.

Section 143-129 of the General Statutes relating to the procedure for letting of public contracts shall not be applicable to contracts undertaken by any municipality with the Department of Transportation in accordance with the provisions of the three preceding paragraphs.

(e) Permitted Offsets to Funding. – The Department of Transportation is authorized to apply a municipality's share of funds allocated to a municipality under the provisions of G.S. 136-41.1 to any of the following accounts of the municipality with the said Department of Transportation, which the municipality fails to pay:

- (1) Cost sharing agreements for right-of-way entered into pursuant to G.S. 136-66.3, but not to exceed ten percent (10%) of any one year's allocation until the debt is repaid,
- (2) The cost of relocating municipally owned waterlines and other municipally owned utilities on a State highway project which is the responsibility of the municipality,
- (3) For any other work performed for the municipality by the Department of Transportation or its contractor by agreement between the Department of Transportation and the municipality, and
- (4) For any other work performed that was made necessary by the construction, reconstruction or paving of a highway on the State highway system for which the municipality is legally responsible."

SECTION 3.4. G.S. 136-41.4 reads as rewritten:

"§ 136-41.4. **Municipal use of allocated funds; election.**

(a) A municipality that qualifies for an allocation of funds pursuant to G.S. 136-41.1 shall have the ~~option~~ following options:

- (1) ~~to accept~~ Accept all or a portion of funds allocated to the municipality, under that section, for the repair, maintenance, construction, reconstruction, widening, or improving of the municipality's streets, municipality for use as authorized by G.S. 136-41.3(a).
- (2) Use some or all of its allocation to match federal funds administered by the Department for independent bicycle and pedestrian improvement projects within the municipality's limits, or within the area of any metropolitan planning organization or rural transportation planning organization.
- (3) ~~or the municipality may elect~~ Elect to have some or all of the allocation reprogrammed for any Transportation Improvement Project currently on the approved project list within the municipality's limits or within the area of any metropolitan planning organization or rural transportation planning organization.

(b) If a municipality chooses to have its allocation reprogrammed, the ~~minimum~~ amount that may be reprogrammed is an amount equal to that amount necessary to complete one full phase of the project selected by the municipality or an amount that, when added to the amount already programmed for the Transportation Improvement Project selected, would permit the completion of at least one full phase of the project. The restriction set forth in this subsection shall not apply to any bicycle or pedestrian projects."

SECTION 3.5. DOT Municipal Lane Mile Study. – The Department of Transportation shall collect lane mile data from each municipality eligible to receive funds under this section no later than December 1, 2013. The Department shall report to the Joint Legislative Transportation Oversight Committee no later than March 1, 2014, on at least three options to shift the distribution formula to include lane mile data. The report shall include advantages and disadvantages, fiscal impacts to each municipality, and any other technical considerations in making such a change. The Joint Legislative Transportation Oversight Committee and the Fiscal Research Division shall include in its recommendations to the 2014 Session of the 2013 General Assembly a new distribution formula, if the Committee finds that a new formula is beneficial and practical.

CONFORMING CHANGES

SECTION 4.1. G.S. 105-187.9 reads as rewritten:

"§ 105-187.9. **Disposition of tax proceeds.**

...
(b) ~~(Repealed effective July 1, 2013) General Fund Transfer.~~ — In each fiscal year, the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one fourth of the amount at the end of each quarter in the fiscal year or by

transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

- (1) The sum of twenty six million dollars (\$26,000,000).
- (2) In addition to the amount transferred under subdivision (1) of this subsection, the sum of one million seven hundred thousand dollars (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in the 2002-2003 fiscal year to the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available.

(e) ~~(Effective July 1, 2013) Mobility Fund Transfer.~~ In each fiscal year, the State Treasurer shall transfer fifty eight million dollars (\$58,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

SECTION 4.2. G.S. 136-18 reads as rewritten:

"§ 136-18. Powers of Department of Transportation.

The said Department of Transportation is vested with the following powers:

- ...
- (12a) The Department of Transportation shall have such powers as are necessary to establish, administer, and receive federal funds for a transportation infrastructure banking program as authorized by the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, as amended, and the National Highway System Designation Act of 1995, Pub. L. 104-59, as amended. The Department of Transportation is authorized to apply for, receive, administer, and comply with all conditions and requirements related to federal financial assistance necessary to fund the infrastructure banking program. The infrastructure banking program established by the Department of Transportation may utilize federal and available State funds for the purpose of providing loans or other financial assistance to governmental units, including toll authorities, to finance the costs of transportation projects authorized by the above federal aid acts. Such loans or other financial assistance shall be subject to repayment and conditioned upon the establishment of such security and the payment of such fees and interest rates as the Department of Transportation may deem necessary. The Department of Transportation is authorized to apply a municipality's share of funds allocated under G.S. 136-41.1 or G.S. 136-44.20 as necessary to ensure repayment of funds advanced under the infrastructure banking program. The Department of Transportation shall establish jointly, with the State Treasurer, a separate infrastructure banking account with necessary fiscal controls and accounting procedures. Funds credited to this account shall not revert, and interest and other investment income shall accrue to the account and may be used to provide loans and other financial assistance as provided under this subdivision. The Department of Transportation may establish such rules and policies as are necessary to establish and administer the infrastructure banking program. The infrastructure banking program authorized under this subdivision shall not modify the regional distribution formula for the distribution of funds established by ~~G.S. 136-17.2A~~ G.S. 136-189.11. Governmental units may apply for loans and execute debt instruments payable to the State in order to obtain loans or other financial assistance provided for in this subdivision. The Department of Transportation shall require that applicants shall pledge as security for such obligations revenues derived from operation of the benefited facilities or systems, other sources of revenue, or their faith and credit, or any combination thereof. The faith and credit of such governmental units shall

not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use under this subdivision. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments to the State without any public bidding therefor. The Local Government Commission shall review and approve proposed loans to applicants pursuant to this subdivision under the provisions of Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as those provisions are applicable. Loans authorized by this subdivision shall be outstanding debt for the purpose of Article 10, Chapter 159 of the General Statutes.

...."

SECTION 4.3. G.S. 136-17.2A is repealed.

SECTION 4.4. G.S. 136-44.50(a) reads as rewritten:

"(a) A transportation corridor official map may be adopted or amended by any of the following:

- (1) The governing board of any local government for any thoroughfare included as part of a comprehensive plan for streets and highways adopted pursuant to G.S. 136-66.2 or for any proposed public transportation corridor included in the adopted long-range transportation plan.
- (2) The Board of Transportation, or the governing board of any county, for any portion of the existing or proposed State highway system or for any public transportation corridor, to include rail, that is in the Transportation Improvement Program.
- (3) Regional public transportation authorities created pursuant to Article 26 of Chapter 160A of the General Statutes or regional transportation authorities created pursuant to Article 27 of Chapter 160A of the General Statutes for any portion of the existing or proposed State highway system, or for any proposed public transportation corridor, or adjacent station or parking lot, included in the adopted long-range transportation plan.
- (4) The North Carolina Turnpike Authority for any project being studied pursuant to G.S. 136-89.183.
- (5) The Wilmington Urban Area Metropolitan Planning Organization for ~~any project that is within its urbanized boundary and identified in G.S. 136-179.~~ Department projects R-3300 and U-4751.

Before a city adopts a transportation corridor official map that extends beyond the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, or adopts an amendment to a transportation corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city shall obtain approval from the Board of County Commissioners."

SECTION 4.5. G.S. 136-66.3 reads as rewritten:

"§ 136-66.3. Local government participation in improvements to the State transportation system.

...
(c1) ~~No TIP Disadvantage for Participation.~~—If a county or municipality participates in a State transportation system improvement project, as authorized by this section, or by G.S. 136-51 and G.S. 136-98, the Department shall ensure that the local government's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(c2) ~~Distribution of State Funds Made Available by County or Municipal Participation.~~— Any State or federal funds allocated to a project that are made available by county or municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall ~~remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.~~ be subject to G.S. 136-189.11.

(c3) ~~Limitation on Agreements.~~—The Department shall not enter into any agreement with a county or municipality to provide additional total funding for highway construction in

~~the county or municipality in exchange for county or municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~

...
(e1) Reimbursement Procedure. – Upon request of the county or municipality, the Department of Transportation shall allow the local government a period of not less than three years from the date construction of ~~the projects~~ a project undertaken under subsection (e) of this section is initiated to reimburse the Department their agreed upon share of the costs necessary for the project. The Department of Transportation shall not charge a local government any interest during the initial three years.
...."

SECTION 4.6. G.S. 136-89.192 reads as rewritten:

"§ 136-89.192. Equity distribution Applicability of formula.

Only those funds applied to a Turnpike Project from the State Highway Fund, State Highway Trust Fund, or federal-aid funds that might otherwise be used for other roadway projects within the State, and are otherwise already subject to the ~~distribution~~ formula under ~~G.S. 136-17.2A, G.S. 136-189.11~~ shall be included in the ~~distribution~~ formula.

Other revenue from the sale of the Authority's bonds or notes, project loans, or toll collections shall not be included in the ~~distribution~~ formula."

SECTION 4.7. G.S. 136-175 reads as rewritten:

"§ 136-175. Definitions.

The following definitions apply in this Article:

- (1) ~~Intrastate System. The network of major, multilane arterial highways composed of those routes, segments, or corridors listed in G.S. 136-178, and any other route added by the Department of Transportation under G.S. 136-178.~~
- (2) Transportation Improvement Program. The schedule of major transportation improvement projects required by G.S. 143B-350(f)(4).
- (3) Trust Fund. The North Carolina Highway Trust Fund."

SECTION 4.8. G.S. 136-176 reads as rewritten:

"§ 136-176. Creation, revenue sources, and purpose of North Carolina Highway Trust Fund.

(a) A special account, designated the North Carolina Highway Trust Fund, is created within the State treasury. The Trust Fund consists of the following revenue:

- (1) Motor fuel, alternative fuel, and road tax revenue deposited in the Fund under G.S. 105-449.125, 105-449.134, and 105-449.43, respectively.
- (2) Motor vehicle use tax deposited in the Fund under G.S. 105-187.9.
- (3) Revenue from the certificate of title fee and other fees payable under G.S. 20-85.
- (4) Repealed by Session Laws 2001-424, s. 27.1.
- (5) Interest and income earned by the Fund.

(a1) ~~The Department shall use two hundred twenty million dollars (\$220,000,000) in fiscal year 2001-2002, two hundred twelve million dollars (\$212,000,000) in fiscal year 2002-2003, and two hundred fifty five million dollars (\$255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:~~

- (1) ~~For primary route pavement preservation. One hundred seventy million dollars (\$170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars (\$150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for:~~
 - a. ~~Highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation; or~~
 - b. ~~Highway improvements that further economic development in the State and that are individually approved by the Board of Transportation.~~
- (2) ~~For preliminary engineering costs not included in the current year Transportation Improvement Program. Fifteen million dollars~~

~~(\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004. If any funds allocated by this subdivision, in the cash balance of the Highway Trust Fund, remain unspent on June 30, 2008, the Department may transfer within the Department up to twenty nine million dollars (\$29,000,000) of available funds to contract for freight transportation system improvements for the Global TransPark.~~

- ~~(3) For computerized traffic signal systems and signal optimization projects.— Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.~~
- ~~(4) For public transportation twenty million dollars (\$20,000,000) in fiscal year 2001-2002, twenty five million dollars (\$25,000,000) in fiscal year 2002-2003, and seventy five million dollars (\$75,000,000) in fiscal year 2003-2004.~~
- ~~(5) For small urban construction projects.— Seven million dollars (\$7,000,000) in fiscal year 2002-2003.~~

~~Funds authorized for use by the Department pursuant to this subsection shall remain available to the Department until expended.~~

~~(a2) Repealed by Session Laws 2002-126, s. 26.4(b), effective July 1, 2002.~~

~~(a3) The Department may obligate three hundred million dollars (\$300,000,000) in fiscal year 2003-2004 and four hundred million dollars (\$400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:~~

- ~~(1) Six hundred thirty million dollars (\$630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.~~
- ~~(2) Seventy million dollars (\$70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds.~~

~~Funds authorized for obligation and use by the Department pursuant to this subsection shall remain available to the Department until expended.~~

~~(a4) Project selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3) of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A. No funds shall be expended pursuant to subsection (a3)(1) of this section on any project that does not meet Department of Transportation standards for road design, materials, construction, and traffic flow.~~

~~(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section.~~

~~(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed four and eight tenths percent (4.8%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section sum, in the amount appropriated by law,~~

may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as follows:specified in G.S. 136-189.11.

- ~~(1) Sixty one and ninety five hundredths percent (61.95%) to plan, design, and construct projects on segments or corridors of the Intrastate System as described in G.S. 136-178 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.~~
- ~~(2) Twenty five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.~~
- ~~(3) Six and one half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.~~
- ~~(4) Six and one half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.~~

The Department must administer funds allocated under ~~subdivisions (1), (2), and (4) of this subsection~~this section in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due.

~~(b1) The Secretary may authorize the transfer of funds allocated under subdivisions (1) through (4) of subsection (b) of this section to other projects that are ready to be let and were to be funded from allocations to those subdivisions. The Secretary shall ensure that any funds transferred pursuant to this subsection are repaid promptly and in any event in no more than four years. The Secretary shall certify, prior to making any transfer pursuant to this subsection, that the transfer will not affect the delivery schedule of Highway Trust Fund projects in the current Transportation Improvement Program. No transfers shall be allowed that do not conform to the applicable provisions of the equity formula for distribution of funds, G.S. 136-17.2A. If the Secretary authorizes a transfer pursuant to this subsection, the Secretary shall report that decision to the next regularly scheduled meetings of the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, and to the Fiscal Research Division.~~

~~(b2) (Effective July 1, 2013) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of one hundred twelve million dollars (\$112,000,000).~~forty-nine million dollars (\$49,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, and twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, ~~twenty eight million dollars (\$28,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid Currituck Bridge, and thirty five million dollars (\$35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway.~~Monroe Connector/Bypass. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to

finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the equity—formula in ~~G.S. 136-17.2A~~. G.S. 136-189.11.

~~(c) If funds are received under 23 U.S.C. Chapter 1, Federal Aid Highways, for a project for which funds in the Trust Fund may be used, the amount of federal funds received plus the amount of any funds from the Highway Fund that were used to match the federal funds may be transferred by the Secretary of Transportation from the Trust Fund to the Highway Fund and used for projects in the Transportation Improvement Program.~~

(d) A contract may be let for projects funded from the Trust Fund in anticipation of revenues pursuant to the cash-flow provisions of G.S. 143C-6-11 only for the two bienniums following the year in which the contract is let.

(e) **(Effective July 1, 2013)** ~~Subject to G.S. 136-17.2A and other funding distribution formulas, funds allocated under subdivisions (1), (3), and (4) of subsection (b) of this section may also G.S. 136-189.11, funds may~~ be used for fixed guideway projects, including providing matching funds for federal grants for fixed guideway projects."

SECTION 4.9. The following statutes are repealed:

- (1) G.S. 136-177.
- (2) G.S. 136-177.1.
- (3) G.S. 136-178.
- (4) G.S. 136-179.
- (5) G.S. 136-180.
- (6) G.S. 136-184.
- (7) G.S. 136-185.
- (8) G.S. 136-187.
- (9) G.S. 136-188.
- (10) G.S. 136-189.

TURNPIKE AUTHORITY CHANGES

SECTION 5.1. G.S. 136-89.183(a)(2) reads as rewritten:

"§ 136-89.183. Powers of the Authority.

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

- ...
- (2) To study, plan, develop, and undertake preliminary design work on up to ~~eight~~ nine Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain the following projects:
 - a. ~~Triangle Expressway, including segments also known as N.C. 540, Triangle Parkway, and the Western Wake Freeway in Wake and Durham Counties, and Southeast Extension in Wake and Johnston Counties, except that no portion of the Southeast Extension shall be located north of an existing protected corridor established by the Department of Transportation circa 1995, except in the area of Interstate 40 East.~~ Counties. The described segments constitute three projects.
 - b. ~~Gaston East West Connector, also known as the Garden Parkway.~~
 - c. ~~Monroe Connector/Bypass.~~
 - d. ~~Cape Fear Skyway.~~

- e. ~~A bridge of more than two miles in length going from the mainland to a peninsula bordering the State of Virginia, pursuant to G.S. 136-89.183A.~~

~~Any other project proposed by the Authority in addition to the projects listed in this subdivision must be approved by the General Assembly prior to construction. This subdivision requires prior consultation with the Joint Legislative Commission on Governmental Operations pursuant to G.S. 120-76.1 no less than 180 days prior to initiating the process required by Article 7 of Chapter 159 of the General Statutes.~~

~~A- With the exception of the four projects set forth in sub-subdivisions a. and c. of this subdivision, the Turnpike Project-projects selected for construction by the Turnpike Authority-Authority, prior to the letting of a contract for the project, shall meet the following conditions: (i) two of the projects must be ranked in the top 35 based on total score on the Department-produced list entitled "Mobility Fund Project Scores" dated June 6, 2012, and, in addition, may be subject to G.S. 136-18(39a); (ii) of the projects not ranked as provided in (i), one may be subject to G.S. 136-18(39a); (iii) the projects shall be included in any applicable locally adopted comprehensive transportation plans and plans; (iv) the projects shall be shown in the current State Transportation Improvement Plan prior to the letting of a contract for the Turnpike Project-Program; and (v) toll projects must be approved by all affected Metropolitan Planning Organizations and Rural Transportation Planning Organizations for tolling."~~

SECTION 5.2. G.S. 136-18 reads as rewritten:

"§ 136-18. Powers of Department of Transportation.

The said Department of Transportation is vested with the following powers:

- ...
(39a) a. ~~The Department of Transportation or Turnpike Authority, as applicable, may enter into a partnership agreement up to three agreements with a private entity as provided under subdivision (39) of this section for which the provisions of this section apply. The pilot project allowed under this subdivision must be one that is a candidate for funding under the Mobility Fund, that is planned for construction through a public-private partnership, and for which a Request for Qualifications has been issued by the Department no later than June 30, 2012.~~
- b. A private entity or its contractors must provide performance and payment security in the form and in the amount determined by the Department of Transportation. The form of the performance and payment security may consist of bonds, letters of credit, parent guaranties, or other instruments acceptable to the Department of Transportation.
- c. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement entered into under this subdivision may allow the private entity to assign, transfer, sell, hypothecate, and otherwise convey some or all of its right, title, and interest in and to such agreement, and any rights and remedies thereunder, to a lender, bondholder, or any other party. However, in no event shall any such assignment create additional debt or debt-like obligations of the State of North Carolina, the Department, or any other agency, authority, commission, or similar subdivision of the State to any lender, bondholder, entity purchasing a participation in the right to receive the payment, trustee, trust, or any other party providing financing or funding of projects described in this section. The foregoing shall not preclude the Department from making any payments due and owing pursuant to an agreement entered into under this section.
- d. ~~The Department of Transportation may fix, revise, charge, and collect tolls and fees to the same extent allowed under Article 6H of Chapter 136 of the General Statutes. Statutes shall apply to the~~

Department of Transportation and to projects undertaken by the Department of Transportation under subdivision (39) of this section. The Department may assign its authority under that Article to fix, revise, charge, retain, enforce, and collect tolls and fees to the private entity.

e. Any contract under this subdivision or under Article 6H of this Chapter for the development, construction, maintenance, or operation of a project shall provide for revenue sharing, if applicable, between the private party and the Department, and revenues derived from such project may be used as set forth in G.S. 136-89.188(a), notwithstanding the provisions of G.S. 136-89.188(d). Excess toll revenues from a Turnpike project shall be used for the funding or financing of transportation projects within the corridor where the Turnpike Project is located. For purposes of this subdivision, the term "excess toll revenues" means those toll revenues derived from a Turnpike Project that are not otherwise used or allocated to the Authority or a private entity pursuant to this subdivision, notwithstanding the provisions of G.S. 136-89.188(d). For purposes of this subdivision, the term "corridor" means (i) the right-of-way limits of the Turnpike Project and any facilities related to the Turnpike Project or any facility or improvement necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of a Turnpike Project; (ii) the right-of-way limits of any subsequent improvements, additions, or extension to the Turnpike Project and facilities related to the Turnpike projects, including any improvements necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of those subsequent improvements, additions, or extensions to the Turnpike Project; and (iii) roads used for ingress or egress to the toll facility or roads that intersect with the toll facility, whether by ramps or separated grade facility, and located within one mile in any direction.

f. Agreements entered into under this subdivision shall comply with the following additional provisions:

1. The Department shall solicit proposals for agreements.
2. Agreement shall be limited to no more than 50 years from the date of the beginning of operations on the toll facility.
3. Notwithstanding the provisions of G.S. 136-89.183(a)(5), all initial tolls or fees to be charged by a private entity shall be reviewed by the Turnpike Authority Board. Prior to setting toll rates, either a set rate or a minimum and maximum rate set by the private entity, the private entity shall hold a public hearing on the toll rates, including an explanation of the toll setting methodology, in accordance with guidelines for the hearing developed by the Department. After tolls go into effect, the private entity shall report to the Turnpike Authority Board 30 days prior to any increase in toll rates or change in the toll setting methodology by the private entity from the previous toll rates or toll setting methodology last reported to the Turnpike Authority Board.
4. Financial advisors and attorneys retained by the Department on contract to work on projects pursuant to this subsection shall be subject to State law governing conflicts of interest.
5. 60 days prior to the signing of a concession agreement subject to this subdivision, the Department shall report to the Joint Legislative Transportation Oversight Committee on the following for the presumptive concessionaire:
 - I. Project description.
 - II. Number of years that tolls will be in place.

- III. Name and location of firms and parent companies, if applicable, including firm responsibility and stake, and assessment of audited financial statements.
- IV. Analysis of firm selection criteria.
- V. Name of any firm or individual under contract to provide counsel or financial analysis to the Department or Authority. The Department shall disclose payments to these contractors related to completing the agreement under this subdivision.
- VI. Demonstrated ability of the project team to deliver the project, by evidence of the project team's prior experience in delivering a project on schedule and budget, and disclosure of any unfavorable outcomes on prior projects.
- VII. Detailed description of method of finance, including sources of funds, State contribution amounts, including schedule of availability payments and terms of debt payments.
- VIII. Information on assignment of risk shared or assigned to State and private partner.
- IX. Information on the feasibility of finance as obtained in traffic and revenue studies.
- 6. The Turnpike Authority annual report under G.S. 136-89.193 shall include reporting on all revenue collections associated with projects subject to this subdivision under the Turnpike Authority.
- 7. The Department shall develop standards for entering into comprehensive agreements with private entities under the authority of this subdivision and report those standards to the Joint Legislative Transportation Oversight Committee on or before October 1, 2013.

...
 (43) For the purposes of financing an agreement under subdivision (39a) of this section, the Department of Transportation may act as a conduit issuer for private activity bonds to the extent the bonds do not constitute a debt obligation of the State. The issuance of private activity bonds under this subdivision and any related actions shall be governed by The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, with G.S. 159-88 satisfied by adherence to the requirements of ~~subdivisions (39) and subdivision (39a)~~ of this section."

SECTION 5.3. G.S. 136-89.183(a)(5) reads as rewritten:

"§ 136-89.183. Powers of the Authority.

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

- (5) To fix, revise, charge, retain, enforce, and collect tolls and fees for the use of the Turnpike Projects. Prior to the effective date of any toll or fee for use of a Turnpike Facility, the Authority shall submit a description of the proposed toll or fee to the Board of Transportation, the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations for review.

...

SECTION 5.4. G.S. 136-89.188 reads as rewritten:

"§ 136-89.188. Use of revenues.

(a) Revenues derived from Turnpike Projects authorized under this Article shall be used only for the following:

- (1) Authority administration costs; costs.

- (2) Turnpike Project development, right-of-way acquisition, design, construction, operation, and maintenance; maintenance, reconstruction, rehabilitation, and replacement.
- (3) ~~debt~~ Debt service on the Authority's revenue bonds or related purposes such as the establishment of debt service reserve ~~funds~~-funds.
- (4) Debt service, debt service reserve funds, and other financing costs related to any of the following:
 - a. A financing undertaken by a private entity under a partnership agreement with the entity for a Turnpike Project.
 - b. Private activity bonds issued under law related to a Turnpike Project.
 - c. Any federal or State loan, line of credit, or loan guarantee relating to a Turnpike Project.
- (5) A return on investment of any private entity under a partnership agreement with the entity for a Turnpike Project.
- (6) Any other uses granted to a private entity under a partnership agreement with the entity for a Turnpike Project.

(b) The Authority may use up to one hundred percent (100%) of the revenue derived from a Turnpike Project for debt service on the Authority's revenue bonds or for a combination of debt service and operation and maintenance expenses of the Turnpike Projects.

(c) The Authority shall use not more than five percent (5%) of total revenue derived from all Turnpike Projects for Authority administration costs.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, toll revenues generated from a converted segment of the State highway system previously planned for operation as a nontoll facility shall only be used for the funding or financing of the right of way acquisition, construction, expansion, operations, maintenance, and Authority administration costs associated with the converted segment or a contiguous toll facility."

SECTION 5.5. Part 1 of Article 6H of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-89.199. Designation of high-occupancy toll and managed lanes.

Notwithstanding any other provision of this Article, the Authority may designate one or more lanes of any highway, or portion thereof, within the State, including lanes that may previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy toll (HOT) or other type of managed lanes; provided, however, that such designation shall not reduce the number of existing general purpose lanes. In making such designations, the Authority shall specify the high-occupancy requirement or other conditions for use of such lanes, which may include restricting vehicle types, access controls, or the payment of tolls for vehicles that do not meet the high-occupancy requirements or conditions for use."

SECTION 5.6. Part 2 of Article 6H of Chapter 136 of the General Statutes reads as rewritten:

"Part 2. Collection of Tolls on Turnpike Projects.

...
"§ 136-89.212. Payment of toll required for use of Turnpike project.

(a) A motor vehicle that is driven on a Turnpike project is subject to a toll imposed by the Authority for the use of the project. If the toll is an open road toll, the person who is the registered owner of the motor vehicle is liable for payment of the toll unless the registered owner establishes that the motor vehicle was in the care, custody, and control of another person when it was driven on the Turnpike project.

(b) A person establishes that a motor vehicle was in the care, custody, and control of another person when it was driven on a Turnpike project by submitting to the Authority a sworn affidavit stating one of the following:

- (1) The name and address of the person who had the care, custody, and control of the motor vehicle when it was driven. If the motor vehicle was leased or rented under a long-term lease or rental, as defined in G.S. 105-187.1, the affidavit must be supported by a copy of the lease or rental agreement or other written evidence of the agreement.
- (2) The motor vehicle was stolen. The affidavit must be supported by an insurance or police report concerning the theft or other written evidence of the theft.

- (3) The person transferred the motor vehicle to another person by sale or otherwise before it was driven on the Turnpike project. The affidavit must be supported by insurance information, a copy of the certificate of title, or other evidence of the transfer.

(c) If a person establishes that a motor vehicle was in the care, custody, and control of another person under subsection (b) of this section, the other person shall be liable for the payment of the toll, and the Authority may send a bill to collect and enforce the toll in accordance with this Article; provided, however, that such other person may contest such toll in accordance with this Article.

"§ 136-89.213. Administration of tolls and requirements for open road tolls.

(a) Administration. – The Authority is responsible for collecting tolls on Turnpike projects. In exercising its authority under G.S. 136-89.183 to perform or procure services required by the Authority, the Authority may contract with one or more providers to perform part or all of the collection functions and may enter into agreements to exchange information, including confidential information under subsection (a1) of this section, that identifies motor vehicles and their owners with one or more of the following entities: the Division of Motor Vehicles of the Department of Transportation, another state, another toll operator, ~~or a toll collection-related organization-organization,~~ or a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17). Further, the Authority may assign its authority to fix, revise, charge, retain, enforce, and collect tolls and fees under this Article to a private entity that has entered into a partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17).

...
(b) Open Road Tolls. – If a Turnpike project uses an open road tolling system, the Authority must operate a facility that is in the immediate vicinity of the Turnpike project ~~and that accepts or provide an alternate means to accept~~ cash payment of the toll and must place signs on the Turnpike project that give drivers the following information:

- (1) Notice that the driver is approaching a highway for which a toll is required. Signs providing this information must be placed before the toll is incurred.
- (2) The methods by which the toll may be paid.
- (3) ~~Directions~~ If applicable, directions to the nearby facility that accepts cash payment of the toll.

"§ 136-89.214. Bill for unpaid open road toll.

(a) Bill. – If a motor vehicle travels on a Turnpike project that uses an open road tolling system and a toll for traveling on the project is not paid prior to travel or at the time of travel, the Authority must send a bill by first-class mail to the registered owner of the motor vehicle or the person who had care, custody, and control of the vehicle as established under G.S. 136-89.212(b) for the amount of the unpaid toll. The Authority must send the bill within 90 days after the travel ~~occurs-occurs,~~ or within 90 days of receipt of a sworn affidavit submitted under G.S. 136-89.212(b) identifying the person who had care, custody, and control of the motor vehicle. If a bill is not sent within the required time, the Authority waives collection of the toll. The Authority must establish a billing period for unpaid open road tolls that is no shorter than 15 days. A bill for a billing period must include all unpaid tolls incurred by the same person during the billing period.

(b) Information on Bill. – A bill sent under this section must include all of the following information:

- (1) The name and address of the registered owner of the motor vehicle that traveled on the Turnpike ~~project-project~~ or of the person identified under G.S. 136-89.212(b).
- (2) The date the travel occurred, the approximate time the travel occurred, and each segment of the Turnpike project on which the travel occurred.
- (3) An image of the registration plate of the motor vehicle, if the Authority captured an electronic image of the motor vehicle when it traveled on the Turnpike project.
- (4) The amount of the toll due and an explanation of how payment may be made.
- (5) The date by which the toll must be paid to avoid the imposition of a processing fee under G.S. 136-89.215 and the amount of the processing fee.

- (6) A statement that a vehicle owner who has unpaid tolls is subject to a civil penalty and may not renew the vehicle's registration until the tolls and civil penalties are paid.
- (7) A clear and concise explanation of how to contest liability for the toll.
- (8) If applicable, a copy of the affidavit submitted under G.S. 136-89.212(b) identifying the person with care, custody, and control of the motor vehicle.

"§ 136-89.215. Required action upon receiving bill for open road toll and processing fee for unpaid toll.

(a) Action Required. – A person who receives a bill from the Authority for an unpaid open road toll must take one of the following actions within 30 days of the date of the bill:

- (1) Pay the bill.
- (2) Send a written request to the Authority for a review of the toll.

(b) Fee. – If a person does not take one of the actions required under subsection (a) of this section within the required time, the Authority may add a processing fee to the amount the person owes. The processing fee may not exceed six dollars (\$6.00). A person may not be charged more than forty-eight dollars (\$48.00) in processing fees in a 12-month period.

~~The Authority must set the processing fee at an amount that does not exceed the costs of collecting the unpaid toll, identifying the owner of a motor vehicle that is subject to an unpaid toll and billing the owner for the unpaid toll. The fee is a receipt of the Authority and must be applied to these costs.~~

...."

SECTION 5.7. DOT/Southeast Extension-Triangle Expressway. – The Department of Transportation shall strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project by promptly garnering input from local officials and other stakeholders, accelerating any required State studies, promptly submitting permit applications to the federal government, working closely with the federal government during the permitting process, and taking any other appropriate actions to accelerate the environmental permitting process.

SECTION 5.8. Monitoring. – As part of its oversight of the Department of Transportation, the Joint Legislative Transportation Oversight Committee shall closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

TRANSITION STUDY AND REPORTING REQUIREMENTS

SECTION 6.1. Formula Implementation Report. – The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division no later than August 15, 2013, on the Department's recommended formulas that will be used in the prioritization process to rank highway and nonhighway projects. The Department of Transportation's Prioritization Office shall develop the prioritization processes and formulas for all modes of transportation. The report will include a statement on the process used by the Department to develop the formulas, include a listing of external partners consulted during this process, and include feedback from its 3.0 workgroup partners on the Department's proposed recommendations. The Department shall not finalize the formula without consulting with the Joint Legislative Transportation Oversight Committee. The Joint Legislative Transportation Oversight Committee has 30 days after the report is received to meet and consult on the Department's recommendations. If no meeting occurs within 30 days after the report is received, the consultation requirement will be met. If consultation occurs and a majority of members serving on the Committee request changes to the Department's recommended formulas for highway and nonhighway modes, the Department shall review the requests and provide to the Committee its response to the requested changes no later than October 1, 2013. A final report on the highway and intermodal formulas shall be submitted to the Joint Legislative Transportation Oversight Committee by January 1, 2014.

SECTION 6.2. State Transportation Improvement Program Transition Report. – The Department of Transportation shall submit transition reports to members of the Joint Legislative Transportation Oversight Committee, House of Representatives Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Department of Transportation, and the Fiscal Research Division on March 1, 2014, and November 1, 2014. The reports shall include information on the Department's transition to Strategic Prioritization, overview changes to the State Transportation Improvement Program (STIP) and other internal and external processes that feed into the STIP, and offer statutory and policy recommendations

or items for consideration to the General Assembly that will enhance the prioritization process. The March 1, 2014, report shall also include an analysis of the distribution of tax and fee revenues between the Highway Fund and Highway Trust Fund and an analysis to determine if maintenance, construction, operations, administration, and capital expenditures are properly budgeted within the two funds and existing revenues are most effectively distributed between the two funds.

EFFECTIVE DATE

SECTION 7.1.(a) Except as provided herein, this act becomes effective July 1, 2013.

SECTION 7.1.(b) This act is effective only if the General Assembly appropriates funds in the Current Operations and Capital Improvements Appropriations Act of 2013 to implement this act.

In the General Assembly read three times and ratified this the 19th day of June, 2013.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____m. this _____ day of _____, 2013