

Article 14.

North Carolina Highway Trust Fund.

§ 136-175. Definitions.

The following definitions apply in this Article:

- (1) Repealed by Session Laws 2013-183, s. 4.7, effective July 1, 2013.
- (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. (1989, c. 692, s. 1.1; 2004-124, s. 30.21(a); 2013-183, s. 4.7.)

§ 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 - (4) Repealed by Session Laws 2001-424, s. 27.1.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- (a1) Repealed by Session Laws 2013-183, s. 4.8(b), effective July 1, 2013.
- (a2) Repealed by Session Laws 2002-126, s. 26.4(b), effective July 1, 2002.
- (a3) through (a5) Repealed by Session Laws 2013-183, s. 4.8(b), effective July 1, 2013.

(b) Except as otherwise provided in this section, 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, 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 specified in G.S. 136-189.11.

The Department must administer funds allocated under 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) Repealed by Session Laws 2013-183, s. 4.8(b), effective July 1, 2013.

(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of 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. 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 formula in G.S. 136-189.11.

(b3) Funds appropriated to the North Carolina State Ports Authority from the Highway Trust Fund may only be used (i) to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the State Ports Authority and (ii) for capital projects. An appropriation to the State Ports Authority from the Highway Trust Fund constitutes an agreement by the State to pay the funds appropriated to the State Ports Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the appropriation of funds to the State Ports Authority, the enactment of this subsection, and the issuance of bonds or notes by the State Ports 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 an appropriation made to the State Ports Authority at any time to decrease or eliminate the amount annually appropriated to the State Ports Authority. Funds appropriated to the State Ports Authority for the purposes described in this subsection are not subject to the formula set forth in G.S. 136-189.11.

(c) Repealed by Session Laws 2013-183, s. 4.8(b), effective July 1, 2013.

(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) Subject to G.S. 136-189.11, funds may be used for fixed guideway projects, including providing matching funds for federal grants for fixed guideway projects. (1989, c. 692, s. 1.1; c. 770, ss. 68.2, 74.6; 1989 (Reg. Sess., 1990), c. 1024, s. 46(a), (b); 1991, c. 193, s. 9; c. 280, s. 1; c. 689, s. 62; 1995, c. 390, s. 27; 1995 (Reg. Sess., 1996), c. 590, s. 6; 1996, 2nd Ex. Sess., c. 18, s. 19.4(a); 1998-212, s. 27.2; 1999-237, s. 27.1; 2000-140, s. 31; 2001-424, ss. 27.1, 27.23(d), 27.23(e), 27.23(f); 2002-126, ss. 26.4(a), 26.4(b), 26.9(b); 2002-133, s. 3; 2002-159, s. 41.5; 2003-284, ss. 29.4, 29.22; 2003-383, ss. 1, 2, 3; 2004-124, ss. 30.3(a), (b), 30.21(b); 2006-203, s. 78; 2007-323, s. 27.17; 2008-107, ss. 25.1, 25.5(b), (d), (f), 25.15; 2009-56, s. 1; 2010-31, s. 28.7(c), (g), (k); 2011-145, s. 28.32(c), (d); 2011-391, s. 55; 2012-142, s. 24.19(b); 2013-183, s. 4.8; 2017-57, s. 34.27(a).)

§§ 136-177 through 136-180: Repealed by Session Laws 2013-183, s. 4.9, effective July 1, 2013.

§ 136-180.1: Repealed by Session Laws 2002-126, s. 26.10(b), effective July 1, 2002.

§ 136-181: Repealed by Session Laws 2013-183, s. 3.2, effective July 1, 2013.

§ 136-182: Repealed by Session Laws 2013-183, s. 2.9, effective July 1, 2013.

§ 136-183: Repealed by Session Laws 2001-424, s. 27.1.

§§ 136-184, 136-185: Repealed by Session Laws 2013-183, s. 4.9, effective July 1, 2013.

§ 136-186. Use of credit reserve; Advance Right-of-Way Acquisition Account.

(a) Definitions. – For purposes of this section, the following definitions apply:

- (1) Credit reserve in the Highway Trust Fund. – Consists of all of the following:
 - a. The unreserved credit balance in the Highway Trust Fund on the last day of the fiscal year to the extent the balances exceed the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year.
 - b. The unencumbered and unexpended balances on the last day of the fiscal year for the Central and program administration.
 - c. The remaining balance for (i) any open project that has been inactive for two or more years after construction of the project has been completed or (ii) any project that is not obligated during the first two fiscal years in which funds are appropriated.
- (2) Protective purchase. – Occurs when there is an imminent threat of development of property located within a planned transportation project area established by the Department and the development could affect the Department's ability to construct the project by significantly increasing future right-of-way costs, relocations, and disruption of persons and businesses in the planned transportation project area.
- (3) Undue hardship. – Occurs when a planned transportation project area established by the Department causes a property owner remaining on a property located within the planned transportation project area to experience a hardship based on health, safety, or financial reasons beyond what is experienced by other property owners within the planned transportation project area and the property owner is unable to sell the property at fair market value within a time period that is typical for properties not impacted by the planned project.

(b) Establishment of Account. – There is established within the Highway Trust Fund an Advance Right-of-Way Acquisition Account. The Account shall be under the control and direction of the Department of Transportation. The Account shall consist of both of the following:

- (1) The credit reserve in the Highway Trust Fund on the last day of the fiscal year to the extent the balance in the Account does not exceed twenty-five million dollars (\$25,000,000).

(2) Any State or federal funds appropriated, allocated, or otherwise transferred to the Account.

(c) Uses. – The funds in the Account shall be used only to advance funds to a project for the acquisition of right-of-way prior to the project being programmed in the State Transportation Improvement Program. Funds advanced pursuant to this subsection may be used for the cost of the right-of-way and any costs incurred in acquiring the right-of-way. Funds shall not be advanced to a project pursuant to this subsection unless the project meets all of the following requirements:

- (1) The right-of-way must be identified as a future right-of-way in (i) a corridor protection map adopted pursuant to Article 2E of this Chapter, (ii) the most recently adopted State Transportation Improvement Program, or (iii) both a corridor protection map adopted pursuant to Article 2E of this Chapter and the most recently adopted State Transportation Improvement Program.
- (2) The Department determines it is in the best interest of the public to acquire the right-of-way (i) as a protective purchase or (ii) to remove an undue hardship.
- (3) For Turnpike projects only, a Record of Decision or a Finding of No Significant Impact must have been issued.

(d) Fees and Interest. – Except for Turnpike projects, the Department shall not charge fees or interest on funds advanced pursuant to subsection (c) of this section. For Turnpike projects, the Department shall condition the advancement of funds pursuant to subsection (c) of this section on the establishment of any security and the payment of any fees and interest rates the Department may deem necessary.

(e) Repayment. – Funds advanced pursuant to subsection (c) of this section, including any fees or interest, shall be repaid in the first year the project utilizing the acquired right-of-way is programmed for right-of-way in the State Transportation Improvement Program.

(f) Remaining Credit Reserve. – The Director of the Budget shall allocate any portion of the credit reserve in the Highway Trust Fund not used in accordance with subdivision (1) of subsection (b) of this section to the Strategic Transportation Investments fund in the Highway Trust Fund. The funds shall be used only to accelerate the completion of projects with sections included in the most recently adopted State Transportation Improvement Program. The use of the funds described in this subsection shall be subject to the requirements of Article 14B of this Chapter. To the extent the funds described in this subsection are not already appropriated, they are hereby appropriated to be used for the purpose set forth in this subsection. (2017-57, s. 34.6(a).)