

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

FILED SENATE
Mar 25, 2025
S.B. 519
PRINCIPAL CLERK

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SENATE BILL DRS15230-MWf-27A

Short Title: Transportation for the Future Act.

(Public)

Sponsors: Senators Meyer and Murdock (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO MODERNIZE NORTH CAROLINA TRANSPORTATION SPENDING TO PUT
TAXPAYER DOLLARS TO EFFECTIVE USE AND TO GIVE OUR COMMUNITIES
THE TOOLS THEY NEED TO CREATE SAFE AND SUSTAINABLE MULTIMODAL
TRANSPORTATION SYSTEMS FOR THE FUTURE.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as the "Transportation for the Future Act."

SECTION 2. G.S. 136-189.10 reads as rewritten:

"§ 136-189.10. Definitions.

The following definitions apply in this Article:

...

(2) Division needs projects. – Includes only the following:

...

e. Public transportation service not included in subdivision (3) or (4) of this section. This sub-subdivision includes bus rapid transit, commuter rail, intercity rail, and light rail. ~~Nothing in this sub-subdivision shall be construed as authorizing total State funding in excess of the maximum established in sub-subdivision g. of subdivision (3) of this section for commuter rail and light rail projects.~~

...

g. ~~Federally funded independent bicycle~~ Bicycle and pedestrian improvements.

...

(3) Regional impact projects. – Includes only the following:

...

f. ~~Rail lines that span two or more counties not included in subdivision (4) of this section. This sub-subdivision does not include short line railroads.~~ Rail lines.

g. ~~Public transportation service that spans two or more counties and that serves more than one municipality. Programmed funds pursuant to this sub-subdivision shall not exceed ten percent (10%) of any distribution region allocation.~~ service. This sub-subdivision includes bus rapid transit, commuter rail, intercity rail, and light rail. ~~Total State funding for a commuter rail or light rail project shall not exceed the lesser of ten percent (10%) of the distribution region allocation or ten percent (10%) of the estimated total project costs used during the prioritization~~



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scoring process. The State shall not be responsible or liable for any project costs in excess of the maximum established under this sub-subdivision. Any agreement entered into by the State to fund a commuter rail or light rail project shall include language setting out the limitations set forth in this sub-subdivision.

- h. Bicycle and pedestrian improvements.
(4) Statewide strategic mobility projects. – Includes only the following:

- i. Public transportation service that spans two or more counties or that serves more than one municipality. This sub-subdivision includes bus rapid transit, commuter rail, intercity rail, and light rail.
j. Bicycle and pedestrian improvements that span two or more counties or that serve more than one municipality."

SECTION 3. G.S. 136-189.11 reads as rewritten:

"§ 136-189.11. Transportation Investment Strategy Formula.

...

- (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.
- (1a) Federal Carbon Reduction Program formula funds appropriated to the State.
- (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 October 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 (23 U.S.C. § 505) and Metropolitan Planning funds (23 U.S.C. §§ 104 and 134).
- (10) Federal Lands Access Program funds received by the State pursuant to 23 U.S.C. § 204.
- (11) Funds advanced pursuant to G.S. 136-186.
- (12) Funds appropriated to the North Carolina State Ports Authority for the purposes described in G.S. 136-176(b3).
- (13) Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects.

~~(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.~~

...

(d) Transportation Investment Strategy Formula. – Funds subject to the Formula shall be distributed as follows: with at least twenty percent (20%) of the funds distributed to non-highway projects:

(1) Statewide Strategic Mobility Projects. – ~~Forty percent (40%)~~ Thirty percent (30%) 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-Infrastructure condition.
- ~~8. Lane width.~~
- ~~9. Shoulder width.~~
10. Accessibility and connectivity to employment centers, essential services, tourist destinations, or military installations.
11. Vehicle miles traveled.
12. Environmental quality.

...

(2) Regional Impact Projects. – ~~Thirty percent (30%)~~ Forty percent (40%) 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~~ projects 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. Transportation Division Engineer local input scoring shall take into account public comments. The Department shall ensure that the public has a full opportunity to submit public comments, by widely available notice to the public, an adequate time period for input, and public hearings. Board of Transportation input shall be in accordance with G.S. 136-189.11(g)(1) and G.S. 143B-350(g). 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-Infrastructure~~ condition.
 7. ~~Lane width.~~
 8. ~~Shoulder width.~~
 9. Accessibility and connectivity to employment centers, essential services, tourist destinations, or military installations.
 10. Vehicle miles traveled reductions.
 11. Environmental quality.
- (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. Transportation Division Engineer local input scoring shall take into account public comments. The Department shall ensure that the public has a full opportunity to submit public comments, by widely available notice to the public, an adequate time period for input, and public hearings. Board of Transportation input shall be in accordance with G.S. 136-189.11(g)(1) and G.S. 143B-350(g). The criteria utilized for selection of Division Need Projects shall be based ~~fifty percent (50%)~~ thirty percent (30%) on local input and ~~fifty percent (50%)~~ seventy percent (70%) 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-Infrastructure~~ condition.
 7. ~~Lane width.~~
 8. ~~Shoulder width.~~
 9. Accessibility and connectivity to employment centers, essential services, tourist destinations, or military installations.
 10. Vehicle miles traveled reductions.
 11. Environmental quality.
 - 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.
 - 3a. Federal National Electric Vehicle Infrastructure (NEVI) Program formula funds appropriated to the State.
 4. Projects requested from the Department in support of a time-critical job creation opportunity, provided that (i) the Department investment for all projects funded under this sub-sub-subdivision in any five-year period shall not exceed one hundred million dollars (\$100,000,000) in the aggregate, (ii) the amount of funding associated with a project under this sub-sub-subdivision does not exceed the lesser of ten million dollars (\$10,000,000) and the greater of ten thousand dollars (\$10,000) per job created or ten percent (10%) of the amount of private investment associated with the project, (iii) the Department ensures that funding under this sub-sub-subdivision, when combined with any other grants, does not result in the costs of the project to the State outweighing its total benefits and determines that the funding is necessary for completion of the project in this State. Upon the release of a State Transportation Improvement Program, the Department shall submit a report to the Joint Legislative Transportation Oversight Committee detailing the projects funded under this sub-sub-subdivision.
 5. Federal funds for municipal road projects.
- e. ~~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. Transportation Division Engineer local input scoring shall take into account public comments. The Department shall ensure that the public has a full opportunity to submit public comments, by widely available notice to the public, an adequate time period for input, and public hearings. Board of Transportation input shall be in accordance with G.S. 136-189.11(g)(1) and G.S. 143B-350(g).~~

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

4 (d1) ~~Additional Requirement for High Cost Projects. — State funding may not be expended~~
5 ~~for a light rail project until a written agreement is provided to the Department establishing that~~
6 ~~all non-State funding necessary to construct the project has been committed.~~

7 ...
8 (e) Authorized Formula Variance. — The Department may vary from the Formula set forth
9 in this section if it complies with the following:

10 (1) Limitation on variance. — The Department, in obligating funds in accordance
11 with this section, shall ensure that the percentage amount obligated to
12 Statewide Strategic Mobility Projects, Regional Impact Projects, and Division
13 Need Projects does not vary by more than ~~fifteen percent (15%)~~ ten percent
14 (10%) over any five-year period and ~~ten percent (10%)~~ five percent (5%) over
15 any 10-year period from the percentage required to be allocated to each of
16 those categories by this section. Funds obligated among distribution regions
17 or divisions pursuant to this section may vary up to ~~fifteen percent (15%)~~ ten
18 percent (10%) over any five-year period and ~~ten percent (10%)~~ five percent
19 (5%) over any 10-year period.

20 ...
21 (f) Incentives for Local Funding and Highway Tolling. — The Department may revise
22 ~~highway~~ project selection ratings based on local government funding initiatives and capital
23 construction funding directly attributable to highway toll revenue. Projects authorized for
24 construction after November 1, 2013, and contained in the 10-year Department of Transportation
25 work program are eligible for a bonus allocation under this subsection:

26 ...
27 (2) Funds obtained from local government funding participation. — Upon
28 authorization to construct a project with funds obtained by local government
29 funding participation, the Department shall make available for allocation as
30 set forth in subdivision (4) of this section an amount equal to one-half of the
31 local funding commitment for other eligible ~~highway~~ projects that serve the
32 local entity or entities that provided the local funding.

33 (3) Funds obtained through highway tolling. — Upon authorization to construct a
34 project with funding from toll revenue, the Department shall make available
35 for allocation an amount equal to one-half of the project construction cost
36 derived from toll revenue bonds. Upon authorization to construct a toll project
37 in which no project construction cost is derived from toll revenue bonds, the
38 Department shall make available for allocation an amount equal to one-half
39 of the revenue expected from the project over the first 10 years of the project,
40 less operations costs, as set forth in the Investment Grade Traffic and Revenue
41 Study. The amount made available for allocation to other eligible ~~highway~~
42 projects shall not exceed two hundred million dollars (\$200,000,000) of the
43 capital construction funding directly attributable to the highway toll revenues
44 committed in the Investment Grade Traffic and Revenue Study, for a project
45 for which funds have been committed on or before July 1, 2015. The amount
46 made available for allocation to other eligible ~~highway~~ projects shall not
47 exceed one hundred million dollars (\$100,000,000) of the capital construction
48 funding directly attributable to the highway toll revenues committed in the
49 Investment Grade Traffic and Revenue Study, for a project for which funds
50 are committed after July 1, 2015. If the toll project is located in one or more
51 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. Except for tolls removed pursuant to G.S. 136-89.196, if a toll is removed or a toll is not implemented, any funds made available for allocation or allocated under this subdivision shall be withheld by the Department or repaid to the Department, as applicable. Any funds withheld or repaid under this subdivision may be reallocated according to the requirements of this subdivision.~~

- (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.

...."

SECTION 4. G.S. 153A-145.1 is repealed.

SECTION 5. G.S. 160A-204 is repealed.

SECTION 6. G.S. 160D-804 reads as rewritten:

"§ 160D-804. Contents and requirements of regulation.

(a) Purposes. – A subdivision regulation may provide for the orderly growth and development of the local government; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned ~~streets and highways~~ streets, highways, sidewalks, bicycle lanes, bus stops, transit infrastructure, and other transportation facilities and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

...

(c) Transportation and Utilities. –

- (1) The regulation may provide for the dedication of rights-of-way or easements for ~~street~~ transportation and utility purposes, including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.
- (2) A regulation adopted by a city may provide that in lieu of required ~~street~~ transportation facility construction, a developer be required to provide funds for city use for the construction of ~~roads~~ transportation facilities to serve the occupants, residents, or invitees of the subdivision or development, and these funds may be used for ~~roads~~ transportation facilities which serve more than one subdivision or development within the area. All funds received by the city

pursuant to this subdivision shall be used only for development of ~~roads,~~
transportation facilities, including design, land acquisition, and construction.
However, a city may undertake these activities in conjunction with the
Department of Transportation under an agreement between the city and the
Department of Transportation. The term "transportation facilities" includes
streets, sidewalks, bicycle lanes, bus stops, transit infrastructure, and other
facilities designed to assist the movement of people or goods from one place
to another.

- (3) A regulation adopted by a county may provide that in lieu of required ~~street~~
transportation facility construction, a developer may provide funds to a county
to be used for the development of ~~roads-transportation facilities~~ to serve the
occupants, residents, or invitees of the subdivision or development. All funds
received by the county under this subdivision shall be transferred to a city to
be used solely for the development of ~~roads-transportation facilities~~, including
design, land acquisition, and construction. Any city receiving funds from a
county under this subdivision is authorized to expend the funds outside its
corporate limits for the purposes specified in the agreement between the
municipality and the county.
- (4) Any formula adopted by a local government to determine the amount of funds
the developer is to pay in lieu of required ~~street-transportation facility~~
construction shall be based on the trips generated from the subdivision or
development. The regulation may require a combination of partial payment of
funds and partial dedication of constructed ~~streets-transportation facilities~~
when the governing board determines that a combination is in the best
interests of the citizens of the area to be served.

...."

SECTION 7. G.S. 105-511.2 reads as rewritten:

"§ 105-511.2. Local election on adoption of sales and use tax.

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

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

~~"[] FOR — [] AGAINST~~

~~One-quarter percent (1/4%) local sales and use taxes, in addition to the current local sales and
use taxes, to be used only for public transportation systems."~~

SECTION 8. G.S. 160D-702(a) reads as rewritten:

"(a) A local government may adopt zoning regulations. Except as provided in subsections
(b) and (c) of this section, a zoning regulation may regulate and restrict the height, number of
stories, and size of buildings and other structures; the percentage of lots that may be occupied;
the size of yards, courts, and other open spaces; the density of population; the location and use
of buildings, structures, and land. A local government may regulate development, including
floating homes, over estuarine waters and over lands covered by navigable waters owned by the
State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable
development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.
Where appropriate, a zoning regulation may include requirements that ~~street-transportation~~
facility and utility rights-of-way be dedicated to the public, that provision be made of recreational

space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1."

SECTION 9. G.S. 160D-705(c) reads as rewritten:

"(c) Special Use Permits. – The regulations may provide that the board of adjustment, planning board, or governing board hear and decide special use permits in accordance with principles, conditions, safeguards, and procedures specified in the regulations. Reasonable and appropriate conditions and safeguards may be imposed upon these permits. Where appropriate, such conditions may include requirements that ~~street~~-transportation facility and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

The regulations may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification. The regulation may require that special use permits be recorded with the register of deeds."

SECTION 10. This act is effective when it becomes law.