

§ 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 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 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 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. 136-44.8 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 Highway Division for maintenance and improvement of secondary roads, to be allocated in accordance with G.S. 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the construction, maintenance, and improvement of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.6.

(f) If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is greater than the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year, the excess shall be used in accordance with this subsection. The Director of the Budget shall allocate the excess to a reserve (i) for access and public roads or (ii) for other urgent road construction or road maintenance needs. The use of this reserve shall be subject to the following:

- (1) Restrictions on use. – No more than five million dollars (\$5,000,000) from this reserve may be spent on a single project. Funds from this reserve being used for an "other urgent road construction or road maintenance need" project cannot be used for nontransportation administrative costs, nontransportation information technology costs, or any economic development purpose.
- (2) Approval. – The Department of Transportation shall submit for approval to the Director of the Budget all expenditures from the reserve established under this subsection.
- (3) Reporting. – At least five days, not including State holidays or weekend days, prior to submitting an expenditure request to the Director of the Budget under subdivision (2) of this subsection, the Department of Transportation shall submit a report on the expenditure request to the Fiscal Research Division and to the members of the House Appropriations Subcommittee on Transportation

and the Senate Appropriations Committee on Department of Transportation. Such report shall be certified by the chief financial officer of the Department of Transportation and shall include (i) a project description, (ii) whether the project is for access and public roads or for other urgent needs, (iii) a justification of the project, (iv) the total project cost, (v) the amount of funding for the project coming from the reserve, and (vi) other funding sources for the project.

- (4) Carryforward. – If on the last day of the fiscal year the balance in the reserve established by this subsection is greater than five million dollars (\$5,000,000), then the Director of the Budget shall transfer the amount in excess of that sum to the Reserve for General Maintenance in the Highway Fund.
- (f1) The credit reserve for the Highway Fund consists of the following:
 - (1) The unreserved credit balance in the Highway 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.
 - (2) The unallotted and unencumbered balances on the last day of the fiscal year for the following:
 - a. Funds appropriated from the Highway Fund for the multimodal programs of the Department, consisting of funds for bicycle and pedestrian, railroad, aviation, and public transportation programs, excluding funds deposited in the Freight Rail & Rail Crossing Safety Improvement Fund.
 - b. Funds appropriated from the Highway Fund for the construction programs of the Department, consisting of funds for secondary construction, access and public service roads, spot safety improvement, small urban construction, and economic development programs.
 - (3) The unencumbered and unexpended balances on the last day of the fiscal year for the following:
 - a. Central and program administration.
 - b. Transfers to other State agencies or departments not used or returned.
 - (4) 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.

(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 and secondary road systems are made, based upon the same proportion as is appropriated to each system. (1973, c. 507, s. 3; 1977, c. 464, s. 7.1; 1981, c. 859, s. 84; 1983, c. 717, ss. 46, 47; 1987, c. 830, s. 113(b); 1989, c. 799, s. 12(a); 1991 (Reg. Sess., 1992), c. 907, s. 2; c. 1044, s. 35; 1997-443, s. 32.5; 2005-276, s. 28.1; 2005-382, s. 1; 2009-266, s. 19; 2011-145, s. 28.35(b); 2012-142, s. 24.6; 2013-125, s. 1; 2013-183, s. 2.2(a), (b); 2014-100, s. 34.19(a); 2016-94, s. 35.24(d); 2018-97, s. 7.1(a); 2021-180, s. 41.15(c).)