

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 803
Appropriations/Base Budget Committee Substitute Adopted 6/10/20
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Short Title: Capital Appropriation - Repairs & Renovations.

(Public)

Sponsors:

Referred to:

May 20, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO FUND REPAIRS AND RENOVATIONS PROJECTS FOR STATE AGENCIES
3 AND THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH
4 CAROLINA AND TO ENACT VARIOUS STATUTORY CHANGES RELATING TO
5 FUNDING AND COMMENCING CAPITAL PROJECTS FROM THE STATE CAPITAL
6 AND INFRASTRUCTURE FUND.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** There is transferred from the General Fund to the State Capital and
9 Infrastructure Fund the sum of one hundred nineteen million dollars (\$119,000,000) in
10 nonrecurring funds for the 2020-2021 fiscal year.

11 **SECTION 1.(b)** There is appropriated from the State Capital and Infrastructure Fund
12 to the Office of State Budget and Management the sum of one hundred nineteen million dollars
13 (\$119,000,000) in nonrecurring funds for the 2020-2021 fiscal year to be allocated for repairs
14 and renovations projects pursuant to G.S. 143C-8-13.

15 **SECTION 1.(c)** Notwithstanding G.S. 143C-8-13, or any other provision of law to
16 the contrary, of the funds appropriated in subsection (b) of this section, the Office of State Budget
17 and Management shall allocate the sum of four million dollars (\$4,000,000) in nonrecurring
18 funds in accordance with the following:

- 19 (1) \$2,500,000 to the Department of Natural and Cultural Resources for
20 contextual signage for existing monuments on the State Capitol grounds and
21 additional monuments representing the lives and contributions of African-
22 Americans in the State, as recommended by the North Carolina Historical
23 Commission.
- 24 (2) \$1,500,000 as a directed grant to the North Carolina Freedom Monument
25 Project, Inc., to build a public sculpture park on land located between the
26 Legislative Building and the Governor's Mansion in downtown Raleigh to
27 commemorate historic and ongoing struggles for freedom in North Carolina
28 and especially the enduring roles of African-Americans in the struggle for
29 freedom in this State. These funds shall not be expended unless the North
30 Carolina Freedom Monument Project, Inc., raises the sum of one million
31 seven hundred thousand dollars (\$1,700,000) in non-State funds to match the
32 funds allocated under this subdivision.

33 **SECTION 2.(a)** Of the funds appropriated in Section 1 of this act that remain after
34 the allocations provided in subsection (c) of Section 1 of this act, the following allocations are
35 made to the following agencies for repairs and renovations pursuant to G.S. 143C-8-13:



1 (1) Forty percent (40%) of the amount appropriated in this act from the State
2 Capital and Infrastructure Fund shall be allocated for repairs and renovations
3 at the constituent institutions of The University of North Carolina, as
4 determined by the Board of Governors.

5 (2) Sixty percent (60%) of the amount appropriated in this act from the State
6 Capital and Infrastructure Fund shall be allocated for repairs and renovations
7 for State agencies, excluding The University of North Carolina.

8 The Office of State Budget and Management shall consult with or report to the Joint
9 Legislative Commission on Governmental Operations, as appropriate, in accordance with
10 G.S. 143C-8-13(b). The Board of Governors shall report to the Joint Legislative Commission on
11 Governmental Operations in accordance with G.S. 143C-8-13(b).

12 **SECTION 2.(b)** Funds allocated under this section that may be expended on projects
13 where the recipient intends or expects to receive insurance proceeds or State or federal aid or
14 assistance shall be used only to the extent that funds received from the settlement of a claim for
15 loss or damage covered under the recipient's applicable insurance policy, or other aid or
16 assistance, are insufficient to cover all damages sustained as a result of Hurricane Florence.

17 **SECTION 3.(a)** G.S. 143C-8-13 reads as rewritten:

18 "**§ 143C-8-13. Repairs and Renovations.**

19 (a) Use of Funds. – ~~Funds~~ Except as otherwise provided for in this section, funds for
20 repairs and renovations shall be available for expenditure only upon an act of appropriation by
21 the General Assembly. Funds appropriated for repairs and renovations shall be used only for
22 State facilities and related infrastructure that are supported from the General Fund or the State
23 Capital and Infrastructure Fund and for Department of Information Technology facilities and
24 related infrastructure. Funds appropriated for repairs and renovations projects shall not be used
25 for new construction or the expansion of the building area (sq. ft.) of an existing facility unless
26 required in order to comply with federal or State codes or standards. Allowable projects include
27 any of the following:

28 ...

29 (c) In making campus allocations of funds allocated to the Board of Governors of The
30 University of North Carolina for the purposes described in subsection (a) of this section, the
31 Board of Governors shall negatively weight the availability of non-State resources and
32 carryforward funds available for repairs and renovations and shall include information about the
33 manner in which this subsection was complied with in any report submitted pursuant to this
34 section."

35 **SECTION 3.(b)** G.S. 143C-8-7 reads as rewritten:

36 "**§ 143C-8-7. When a State agency may begin a capital improvement project.**

37 (a) No State agency may expend funds for the construction or renovation of any capital
38 improvement project except as needed to comply with this Article or otherwise authorized by the
39 General Assembly. Funds that become available by gifts, excess patient receipts above those
40 budgeted at the University of North Carolina Hospitals at Chapel Hill, federal or private grants,
41 receipts becoming a part of special funds by act of the General Assembly, or any other funds
42 available to a State agency or institution may be utilized for advanced planning through the
43 working drawing phase of capital improvement projects, upon approval of the Director of the
44 Budget.

45 (b) Notwithstanding any other provision of law to the contrary, the Department of
46 Agriculture and Consumer Services is authorized to utilize the types of funds described in
47 subsection (a) of this section to build equipment structures that meet the description contained in
48 G.S. 143-138(b4)(1)c. on an as-needed basis, provided that the total project cost does not exceed
49 one hundred twenty-five thousand dollars (\$125,000)."

50 **SECTION 3.(c)** Article 8 of Chapter 143C of the General Statutes is amended by
51 adding a new section to read:

1 **"§ 143C-8-7.1. Procedures for disbursement of capital funds.**

2 (a) Appropriations made by an act of the General Assembly for capital improvements are
3 for constructing, repairing, or renovating State buildings, utilities, and other capital facilities; for
4 acquiring sites for them where necessary; for acquiring buildings and land for State government
5 purposes and other purposes as set forth in G.S. 143C-4-3.1; and shall be disbursed for the
6 purposes provided by that act. Expenditure of funds shall not be made by any State department,
7 institution, or agency until an allotment has been issued by the Governor as Director of the
8 Budget, which shall not be unreasonably withheld. The allotment shall be issued upon
9 compliance with the provisions of this Chapter. Prior to the award of construction contracts for
10 projects to be financed in whole or in part with self-liquidating appropriations, the Director of
11 the Budget shall approve the elements of the method of financing of those projects, including the
12 source of funds, interest rate, and liquidation period. Provided, however, that if the Director of
13 the Budget approves the method of financing a project, the Director shall report that action to the
14 Joint Legislative Commission on Governmental Operations at its next meeting.

15 (b) Where direct capital improvement appropriations include the purpose of furnishing
16 fixed and movable equipment for any project, those funds for equipment shall not be subject to
17 transfer into construction accounts except as authorized by the Director of the Budget. The
18 expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and
19 approved by the Director of the Budget prior to commitment of funds.

20 (c) Capital improvement projects authorized by an act of the General Assembly shall be
21 completed, including fixed and movable equipment and furnishings, within the limits of the
22 amounts of the direct or self-liquidating appropriations provided, except as otherwise provided
23 in that act. Capital improvement projects authorized by an act of the General Assembly for the
24 design phase only shall be designed within the scope of the project as defined by the approved
25 cost estimate filed with the Director of the Budget, including costs associated with site
26 preparation, demolition, and movable and fixed equipment. Amounts contracted for projects
27 authorized by the General Assembly cannot exceed the total project cost authorization.

28 (d) Disbursement of funds from the State Capital and Infrastructure Fund for projects
29 authorized by an act of the General Assembly shall be made as needed to initiate or advance a
30 capital project. Funds authorized for any particular project shall remain in the State Capital and
31 Infrastructure Fund until such time as disbursement is necessary to satisfy a financial obligation
32 for that project."

33 **SECTION 3.(d)** G.S. 143C-8-12(a) reads as rewritten:

34 "(a) University Projects. – Notwithstanding any other provision of this Chapter, the Board
35 of Governors of The University of North Carolina may approve any of the following:

- 36 (1) Expenditures to plan a capital improvement project of The University of North
37 Carolina, the planning for which is to be funded entirely with non-General
38 Fund money.
39 (2) Expenditures for a capital improvement project of The University of North
40 Carolina that is to be funded and operated entirely with non-General Fund
41 money.
42 (3) A change in the scope of any previously approved capital improvement project
43 of The University of North Carolina provided that both the project and change
44 in scope are funded entirely with non-General Fund money.

45 Nothing in this subsection shall be construed to prohibit expenditures for planning for a
46 project that has been authorized by an act of the General Assembly and funded with an allocation
47 from the State Capital and Infrastructure Fund."

48 **SECTION 3.(e)** G.S. 143C-3-3(b) reads as rewritten:

49 "(b) University of North Carolina System Request. – Notwithstanding the requirement in
50 G.S. 116-11 that the Board of Governors prepare a unified budget request for all of the constituent

1 institutions of The University of North Carolina, budget requests of the University shall be
2 subject to all of the following:

- 3 (1) Repairs and renovations requests, capital fund requests, and information
4 technology requests shall comply with subsections (c), (d), and (e) of this
5 section.
- 6 (2) The University of North Carolina shall not make a capital funds request
7 proposing to construct a new facility, expand the building area (square feet)
8 of an existing facility, or rehabilitate an existing facility to accommodate new
9 or expanded uses unless the University has completed advanced planning
10 through schematic design of the project with funds other than General Fund
11 appropriations. For purposes of this subdivision, "funds other than General
12 Fund appropriations" includes funds carried forward from one fiscal year to
13 another pursuant to G.S. 116-30.3 and G.S. 116-30.3B.

14 Nothing in this subsection shall be construed to prohibit expenditures for planning for a
15 project that has been authorized by an act of the General Assembly and funded with an allocation
16 from the State Capital and Infrastructure Fund."

17 **SECTION 3.(f)** G.S. 143C-4-3.1 reads as rewritten:

18 **"§ 143C-4-3.1. State Capital and Infrastructure Fund.**

19 ...

20 (b) Creation and Source of Funds. – There is established in the General Fund the State
21 Capital and Infrastructure Fund, hereinafter referred to as the "Fund." The Fund shall be
22 maintained as a special fund and administered by the Office of State Budget and Management to
23 carry out the provisions of this section. With the exception of debt service obligations,
24 appropriations from the Fund may be administered by other State agencies as deemed necessary
25 by the Office of State Budget and Management. Interest accruing from the monies in the Fund
26 shall be credited to the Fund. The Fund shall consist of the following sources of funding:

- 27 (1) One-fourth of any unreserved fund balance, as determined on a cash basis,
28 remaining in the General Fund at the end of each fiscal year.
- 29 (2) Four percent (4%) of the net State tax revenues that are deposited in the
30 General Fund during the fiscal year.
- 31 (3) All monies appropriated by the General Assembly for the purposes of General
32 Fund capital improvements, as defined in G.S. 143C-1-1(d).
- 33 (4) All interest and investment earnings received on monies in the Fund.
- 34 (5) Any other funds, as directed by the General Assembly.

35 ...

36 (e) Use of Funds. – Monies in the Fund shall first be used to meet the debt service
37 obligations ~~of the State, supported by the General Fund.~~ In addition to meeting the State's debt
38 service obligations, obligations supported by the General Fund, monies in the Fund may be used
39 for the following purposes:

- 40 (1) New State and The University of North Carolina capital projects governed
41 pursuant to Article 8 of Chapter 143C of the General Statutes.
- 42 (2) Repair and renovation of existing capital assets, as provided in
43 G.S. 143C-8-13.
- 44 (3) Broadband infrastructure projects funded through appropriations to the
45 Growing Rural Economies with Access to Technology Fund established in
46 G.S. 143B-1373(b).
- 47 (4) Projects and grants identified in the Current Operations Appropriations Act or
48 that have been authorized and funded by an act of the General Assembly.

49 (f) Funds Available Only Upon Appropriation. – Funds reserved to the Fund shall be
50 available for expenditure only upon an act of appropriation by the General Assembly.

1 (g) Unexpended Funds. – Funds appropriated for a project that are unspent and
2 unencumbered upon completion of the project shall revert to the Fund.

3 (h) In each fiscal year, the Office of State Budget and Management may reallocate
4 appropriations from the State Capital and Infrastructure Fund between projects to meet cash flow
5 requirements for a project, provided that the following criteria are met:

6 (1) If the project for which funds have been appropriated is for one of the
7 constituent institutions of The University of North Carolina, then
8 unencumbered funds may be allocated from another project for a constituent
9 institution of The University of North Carolina for which funds have been
10 appropriated.

11 (2) If the project for which funds have been appropriated is for a State agency that
12 is not The University of North Carolina, then unencumbered funds may be
13 allocated from another project for a State agency for which funds have been
14 appropriated.

15 (3) The amount disbursed will not exceed amounts appropriated from the State
16 Capital and Infrastructure Fund.

17 (4) The amount disbursed on any project cannot exceed the amount authorized
18 for that project.

19 (5) The amount reallocated cannot be used to expand the scope of the project.

20 (6) A project shall not begin until the fiscal year authorized by the General
21 Assembly."

22 **SECTION 3.(g)** G.S. 143-341(3)b1. reads as rewritten:

23 "b1. To certify that a statement of needs pursuant to G.S. 143C-3-3, other
24 than for a project of The University of North Carolina for which
25 advance planning has not been completed, is feasible. For purposes of
26 this sub-subdivision, "feasible" means that the proposed project is
27 sufficiently defined in overall scope; building program; site
28 development; detailed design, construction, and equipment budgets;
29 and comprehensive project scheduling so as to reasonably ensure that
30 it may be completed with the amount of funds requested. At the
31 discretion of the General Assembly, advanced planning funds may be
32 appropriated in support of this certification. This sub-subdivision shall
33 not apply to requests for appropriations ~~of less than one hundred~~
34 ~~thousand dollars (\$100,000).~~below the formal project limit, as set by
35 the State Building Commission."

36 **SECTION 4.(a)** The provisions of the State Budget Act, Chapter 143C of the
37 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in
38 this act by reference.

39 **SECTION 4.(b)** Departmental receipts, as defined in G.S. 143C-1-1, are
40 appropriated for the 2020-2021 fiscal year up to the amounts needed to implement the provisions
41 in this act for the 2020-2021 fiscal year.

42 **SECTION 4.(c)** Except where expressly repealed or amended by this act, the
43 provisions of any other legislation enacted during the 2019 Regular Session of the General
44 Assembly expressly appropriating funds to an agency, a department, or an institution covered
45 under this act shall remain in effect.

46 **SECTION 5.** Sections 1 and 2 of this act become effective July 1, 2020. The
47 remainder of this act is effective when it becomes law.