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SENATE BILL DRS45414-MQa-141

Short Title: Capital Appropriation - Repairs & Renovations. (Public)

Sponsors: Senators Brown, Harrington, and B. Jackson (Primary Sponsors).

Referred to:

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 a sum sufficient in nonrecurring funding for the 2020-2021 fiscal year.

10 **SECTION 1.(b)** There is appropriated from the State Capital and Infrastructure Fund
11 to the Office of State Budget and Management a sum sufficient in nonrecurring funding for the
12 2020-2021 fiscal year to be allocated for repairs and renovations projects pursuant to
13 G.S. 143C-8-13.

14 **SECTION 2.(a)** Of the funds appropriated in Section 1(b) of this act, the following
15 allocations are made to the following agencies for repairs and renovations pursuant to
16 G.S. 143C-8-13:

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

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

24 The Office of State Budget and Management shall consult with or report to the Joint
25 Legislative Commission on Governmental Operations, as appropriate, in accordance with
26 G.S. 143C-8-13(b). The Board of Governors shall report to the Joint Legislative Commission on
27 Governmental Operations in accordance with G.S. 143C-8-13(b). Notwithstanding
28 G.S. 143C-8-13, of the funds allocated in subdivision (2) of this subsection, a sum sufficient shall
29 be allocated to the Department of Revenue for security improvements at various locations
30 throughout the State.

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

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



1 **"§ 143C-8-13. Repairs and Renovations.**

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

11 ...

12 (c) Notwithstanding any provision of G.S. 143C-8-7 to the contrary, the chancellor of a
13 constituent institution of The University of North Carolina may pay for projects for repairs and
14 renovations with funds available to the constituent institution according to the following:

15 (1) The project meets all of the following requirements:

- 16 a. The total project costs do not exceed one million dollars (\$1,000,000).
17 b. The project is one of the types set forth in subdivisions (1) through
18 (13) of subsection (a) of this section, regardless of whether the relevant
19 facilities and related infrastructure are supported from the General
20 Fund or the State Capital and Infrastructure Fund.

21 (2) The constituent institution reports on projects undertaken pursuant to this
22 subsection to the Board of Governors of The University of North Carolina and
23 the Fiscal Research Division on a quarterly basis. The report shall include all
24 of the following information for each project:

- 25 a. The facility at which the project is being undertaken.
26 b. The nature and scope of the project.
27 c. The source of funds for the project.
28 d. The category of projects set forth in subsection (a) of this section that
29 the project falls within.

30 (3) Any funds from a General Fund appropriation that are contractually obligated
31 for a project pursuant to this subsection shall not revert at the end of the fiscal
32 year but shall remain available to fund the completion of the project.

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

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

40 **"§ 143C-8-7. When a State agency may begin a capital improvement project.**

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

49 (b) Notwithstanding any other provision of law to the contrary, the Department of
50 Agriculture and Consumer Services is authorized to utilize the types of funds described in
51 subsection (a) of this section to build equipment structures that meet the description contained in

1 G.S. 143-138(b4)(1)c. on an as-needed basis, provided that the total project cost does not exceed
2 one hundred twenty-five thousand dollars (\$125,000)."

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

5 **"§ 143C-8-7.1. Procedures for disbursement of capital funds.**

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

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

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

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

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

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

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

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

1 **SECTION 3.(e)** G.S. 143C-3-3(b) reads as rewritten:
2 "(b) University of North Carolina System Request. – Notwithstanding the requirement in
3 G.S. 116-11 that the Board of Governors prepare a unified budget request for all of the constituent
4 institutions of The University of North Carolina, budget requests of the University shall be
5 subject to all of the following:

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

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

20 **SECTION 3.(f)** G.S. 143C-4-3.1 reads as rewritten:
21 **"§ 143C-4-3.1. State Capital and Infrastructure Fund.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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