

**GENERAL ASSEMBLY OF NORTH CAROLINA  
THIRD EXTRA SESSION 2018**

**SESSION LAW 2018-136  
SENATE BILL 3**

AN ACT TO ENACT THE 2018 HURRICANE FLORENCE DISASTER RECOVERY ACT.

The General Assembly of North Carolina enacts:

**PART I. TITLE OF ACT**

**SECTION 1.1.** This act shall be known as "2018 Hurricane Florence Disaster Recovery Act."

**SECTION 1.2.** The appropriations and allocations made in this act are for maximum amounts necessary to implement this act. Savings shall be effected where the total amounts appropriated or allocated are not required to implement this act.

**PART II. HURRICANE FLORENCE DISASTER RECOVERY APPROPRIATION AND AVAILABILITY**

**SECTION 2.1.(a)** There is appropriated from the Hurricane Florence Disaster Recovery Fund the sum of three hundred ninety-eight million four hundred thirty thousand four hundred seventy-seven dollars (\$398,430,477) for the 2018-2019 fiscal year.

**SECTION 2.1.(b)** The availability for Hurricane Florence disaster recovery activities in this act are set out below:

	<b>FY 2018-19</b>
Beginning Unreserved Fund Balance	\$ 0
Transfer from Savings Reserve, S.L. 2018-134	\$ 56,500,000
Transfer from Savings Reserve	\$ 700,000,000
Transfer from Education Lottery Reserve per G.S. 166A-19.40(c)	\$ 25,000,000
Transfer from Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund	\$ 2,000,000
Transfer of S.L. 2016-124 funds	\$ 930,477
Transfer from Highway Fund	\$ <u>65,000,000</u>
<b>Total Hurricane Florence Disaster Recovery Activities Availability</b>	<b>\$ 849,430,477</b>
<b>Less Appropriations in S.L. 2018-134</b>	<b>\$ 56,500,000</b>
<b>Less Additional FY 2018-19 Appropriations</b>	<b>\$ <u>398,430,477</u></b>
<b>Unappropriated Balance Remaining</b>	<b>\$ 394,500,000</b>

**SECTION 2.1.(c)** The State Controller shall establish a Hurricane Florence Disaster Recovery Reserve in the State General Fund to maintain funds reserved for disaster recovery in this act. The State Controller shall transfer funds to the Hurricane Florence Disaster Recovery Fund only as needed to meet the appropriations set out in this act or other related acts of the General Assembly and only upon request by the Director of the Budget. Funds shall remain in the Reserve until funds are needed to comply with the allocations as set forth in this act. Funds



reserved in the Reserve do not constitute an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

**SECTION 2.1.(d)** Effective October 2, 2018, Section 3.1(a) of S.L. 2018-134 reads as rewritten:

**"SECTION 3.1.(a)** The Hurricane Florence Disaster Recovery Fund is established. The purpose of the Fund is to provide necessary and appropriate relief and assistance from the effects of Hurricane Florence, consistent with the provisions of this ~~act~~ act and with subsequent legislation addressing the effects of Hurricane Florence. The Fund shall be maintained as a special fund and administered by the Office of State Budget and Management or by another State agency, as determined by the Governor, to carry out the provisions of this and subsequent acts necessitated as a result of Hurricane Florence. All State and federal funds appropriated or reallocated for Hurricane Florence relief and recovery efforts shall be budgeted and accounted for in the Fund established in this section."

**SECTION 2.2.** The State Controller shall transfer the sum of seven hundred million dollars (\$700,000,000) for the 2018-2019 fiscal year from the Savings Reserve in the General Fund to the Hurricane Florence Disaster Recovery Reserve.

**SECTION 2.3.** The Office of State Budget and Management shall transfer the sum of twenty-five million dollars (\$25,000,000) for the 2018-2019 fiscal year from the Education Lottery Reserve to the Hurricane Florence Disaster Recovery Reserve. The transfer authorized by this section and allocated in this act ratifies the prior budgetary action taken by the Governor and shall not be construed to duplicate that transfer of lottery funds.

**SECTION 2.4.** Notwithstanding G.S. 143-215.73F, the Department of Environmental Quality shall transfer the sum of two million dollars (\$2,000,000) for the 2018-2019 fiscal year from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund to the Office of State Budget and Management to be credited to the Hurricane Florence Disaster Recovery Reserve.

**SECTION 2.5.** Of the funds allocated to the Department of Insurance, Office of the State Fire Marshal, by subdivision (11) of Section 4.1 of S.L. 2016-124 for grants to volunteer fire departments, the sum of nine hundred thirty thousand four hundred seventy-seven dollars (\$930,477) is transferred to the Hurricane Florence Disaster Recovery Reserve.

**SECTION 2.6.** Notwithstanding any provision of law to the contrary, the Department of Transportation shall transfer from the Highway Fund the sum of sixty-five million dollars (\$65,000,000) for the 2018-2019 fiscal year to the Office of State Budget and Management to be credited to the Hurricane Florence Disaster Recovery Reserve.

### **PART III. SCOPE OF ACT**

**SECTION 3.** Unless otherwise provided, Section 2.1(a) of this act applies to the North Carolina counties designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.

### **PART IV. FUNDING OF DISASTER RELIEF/REIMBURSEMENT**

#### **ALLOCATIONS OF FUNDS FOR DISASTER RELIEF**

**SECTION 4.1.** The funds appropriated in Section 2.1(a) of this act in the Hurricane Florence Disaster Recovery Fund created in S.L. 2018-134 shall be allocated as provided in the Committee Report described in Section 6.1 of this act and as follows:

Department of Agriculture and Consumer Services	\$	70,000,000
Community Colleges System Office	\$	18,500,000
Department of Environmental Quality	\$	4,000,000
Department of Health and Human Services	\$	12,000,000

Housing Finance Agency	\$	10,000,000
Department of Insurance	\$	930,477
Department of Public Instruction	\$	60,000,000
Department of Public Safety	\$	100,000,000
Office of State Budget and Management	\$	25,000,000
Department of Transportation	\$	65,000,000
University of North Carolina – Board of Governors	\$	33,000,000

**REIMBURSEMENT FOR FUNDS PROVIDED UNDER THIS ACT**

**SECTION 4.2.(a)** A recipient of State funds under this act shall use best efforts and take all reasonable steps to obtain alternative funds that cover the losses or needs for which the State funds are provided, including funds from insurance policies in effect and available federal aid. State funds paid under this act are declared to be excess over funds received by a recipient from the settlement of a claim for loss or damage covered under the recipient's applicable insurance policy in effect. Further, each institution of higher education and non-State entity that receives State funds under this act shall also seek private donations to help cover the losses or needs for which these State funds are provided.

**SECTION 4.2.(b)** If a recipient obtains alternative funds pursuant to subsection (a) of this section, the recipient shall remit the funds to the State agency from which the State funds were received. A recipient is not required to remit any amount in excess of the State funds provided to the recipient under this act. The State agency shall transfer these funds to the Hurricane Florence Disaster Recovery Fund. The funds shall further be transferred to the applicable fund or reserve from which the funds were originally transferred to the Fund, except that the first twenty-five million dollars (\$25,000,000) deposited under this subsection as reimbursement for funds expended for repair and renovation of facilities damaged by Hurricane Florence for local school administrative units, lab schools, and any eligible Innovative School District shall be transferred to the Education Lottery Reserve Fund. Funds deposited into the Fund under this subsection are receipts that do not constitute an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

**SECTION 4.2.(c)** Any contract or other instrument entered into by a recipient for receipt of funds under this act shall include the requirements set forth in subsections (a) and (b) of this section.

**SECTION 4.2.(d)** For purposes of this section, the term "recipient" means a local political subdivision of the State, a State agency, a State department, an institution of higher education as defined in Section 5.3(a) of this act, a public school unit as defined in Section 5.1 of this act, or a non-State entity.

**ADDITIONAL LIMITATIONS ON USE OF FUNDS**

**SECTION 4.3.(a)** The Governor shall ensure that funds appropriated in this act are expended in a manner that does not adversely affect any person's or entity's eligibility for federal funds that are made available, or that are anticipated to be made available, as a result of Hurricane Florence. The Governor shall also, to the extent practicable, avoid using State funds to cover costs that will be, or likely will be, covered by federal funds.

**SECTION 4.3.(b)** The Governor may not use the funds described in this act to make reallocations under G.S. 166A-19.40(c). Nothing in this act shall be construed to prohibit the Governor from exercising the Governor's authority under this statute with respect to funds other than those described in this act.

**PART V. IMPLEMENTATION OF ACT**

**AVERAGE DAILY MEMBERSHIP DETERMINATION**

**SECTION 5.1.** Notwithstanding any other provision of law, in allocating funds for the 2018-2019 fiscal year, the State Board of Education shall adjust the allotted average daily membership (ADM) of public school units for the 2018-2019 school year in a manner that will assist units impacted by Hurricane Florence as follows: Allotment adjustments for ADM decreases shall be based on the highest of the first four months' ADM for public school units located in counties designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.

Consistent with the Allotment Adjustments for ADM Growth provisions of the NC Public Schools Allotment Policy Manual applicable for the 2018-2019 school year, local school administrative units are encouraged to apply for additional funding to address needs related to extraordinary ADM growth due to an influx of displaced students as a result of Hurricane Florence.

If the State Board of Education does not have sufficient resources in the ADM Contingency Reserve line item to make allotment adjustments in accordance with this section, the State Board of Education may use funds appropriated to State Aid for Public Schools for this purpose.

For the purposes of this section, "public school unit" is defined as a local school administrative unit, regional school, innovative school, laboratory school, charter school, or residential school for the deaf or the blind.

#### **CAPITAL RECOVERY FUNDS – PUBLIC SCHOOL FACILITIES**

**SECTION 5.2.** The funds allocated to the Department of Public Instruction in this act shall not be subject to approval by the State Board of Education.

#### **EMERGENCY SCHOLARSHIP GRANTS FOR POSTSECONDARY STUDENTS**

**SECTION 5.3.(a)** Program Established; Purpose. – There is established the Hurricane Florence Emergency Grant Program for Postsecondary Students (Program) to provide emergency scholarship grants in an amount up to one thousand two hundred fifty dollars (\$1,250) per student to eligible postsecondary students who have suffered financial hardship due to the damage and destruction from Hurricane Florence. An emergency scholarship grant shall be used to mitigate the impact of Hurricane Florence on a student so that his or her postsecondary education in a North Carolina institution of higher education continues uninterrupted. These funds may be used to cover any expenses that support a student's continued enrollment, including costs related to transportation, textbooks, tuition, fees, and living expenses.

For the purposes of this section, an "institution of higher education" is defined as a constituent institution of The University of North Carolina, a community college under the jurisdiction of the State Board of Community Colleges, or an eligible private postsecondary institution, as defined in G.S. 116-280(3).

**SECTION 5.3.(b)** Applications; Eligibility. – By November 1, 2018, each institution of higher education that is eligible for an allocation of funds pursuant to this section shall begin accepting applications from eligible postsecondary students. An application for an emergency scholarship grant must demonstrate that the student is an eligible postsecondary student by including documentation that the student meets the following criteria:

- (1) The student is enrolled in the institution of higher education at the time of application.
- (2) The student has a financial need related to the impact of Hurricane Florence.
- (3) The student meets at least one of the following criteria:
  - a. The institution of higher education in which the student was enrolled as of September 10, 2018, is located in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.

- b. The student resided, as of September 10, 2018, temporarily or permanently, in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.

**SECTION 5.3.(c) Award of Grants.** – Within the funds available to an institution of higher education in accordance with this section, an institution shall award an emergency scholarship grant to an eligible postsecondary student within two weeks of the receipt of the application, or as soon as otherwise practicable, in an amount of up to one thousand two hundred fifty dollars (\$1,250) based on the information provided in the student's application. An institution of higher education may establish priority in the award of emergency scholarship grants to eligible postsecondary students based on the funds available and the pool of applicants, including giving priority to students who have demonstrated the greatest financial need. If no priority in the award of funds is established, the emergency scholarship grants shall be awarded in the order in which applications are received. If the institution of higher education has unexpended funds remaining after the award of the initial emergency scholarship grants, the institution may increase the award to an eligible postsecondary student who previously received funds or solicit additional applications from eligible postsecondary students, provided that the award to an individual student does not exceed one thousand two hundred fifty dollars (\$1,250) for each academic semester in which funds are awarded.

**SECTION 5.3.(d) Reimbursement for Losses Covered by Other Funds.** – An eligible postsecondary student who receives an emergency scholarship grant under the Program shall use best efforts and take all reasonable steps to obtain alternative funds that cover the losses or needs for which the emergency scholarship grant funds are provided, including funds from insurance policies in effect and available federal aid. If the student obtains alternative funds, the student shall remit the amount of the emergency scholarship grant covered by the alternative funds to the institution of higher education. A student is not required to remit any amount in excess of the funds provided to the student.

**SECTION 5.3.(e) Funds for UNC Constituent Institutions.** – Of the funds allocated to the Board of Governors of The University of North Carolina from the Hurricane Florence Disaster Recovery Fund for the 2018-2019 fiscal year, the sum of two million dollars (\$2,000,000) in nonrecurring funds shall be allocated by the Board of Governors to constituent institutions of The University of North Carolina for the purpose of providing emergency scholarship grants to eligible postsecondary students in accordance with the Program. The Board of Governors shall prioritize the allocation of funds based on the impact of Hurricane Florence on enrolled students to the following constituent institutions:

- (1) A constituent institution located in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.
- (2) A constituent institution that is not located a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence but has an eligible postsecondary student enrolled at the institution who (i) resides, temporarily or permanently, in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence or (ii) has transferred to the institution due to the damage and destruction caused by Hurricane Florence.

Constituent institutions allocated funds under this subsection shall have discretion to establish criteria for the eligibility of postsecondary students in addition to the criteria required by this section. However, the Board of Governors shall not establish additional eligibility requirements for the administration of the Program to those set forth in this section.

**SECTION 5.3.(f)** Funds for Community Colleges. – Of the funds allocated to the Community Colleges System Office from the Hurricane Florence Disaster Recovery Fund for the 2018-2019 fiscal year, the sum of five million dollars (\$5,000,000) in nonrecurring funds shall be allocated by the State Board of Community Colleges to community colleges for the purpose of providing emergency scholarship grants to eligible postsecondary students in accordance with the Program. The State Board of Community Colleges shall prioritize the allocation of funds based on the impacts of Hurricane Florence on enrolled students to the following community colleges:

- (1) A community college located in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.
- (2) A community college that is not located in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence but has an eligible postsecondary student enrolled at the community college who (i) resides, temporarily or permanently, in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence or (ii) has transferred to the community college due to the damage and destruction caused by Hurricane Florence.

Community colleges allocated funds under this subsection shall have discretion to establish criteria for the eligibility of postsecondary students in addition to the criteria required by this section. However, the State Board of Community Colleges shall not establish additional eligibility requirements for the administration of the Program to those set forth in this section.

**SECTION 5.3.(g)** Funds for Private Postsecondary Institutions. – Of the funds allocated to the Board of Governors of The University of North Carolina from the Hurricane Florence Disaster Recovery Fund for the 2018-2019 fiscal year, in addition to the two million dollars (\$2,000,000) allocated to constituent institutions pursuant to subsection (e) of this section, the sum of one million dollars (\$1,000,000) in nonrecurring funds shall be allocated to the State Education Assistance Authority (Authority) to provide funds to eligible private postsecondary institutions as defined in G.S. 116-280(3) for the purpose of providing emergency scholarship grants to eligible postsecondary students in accordance with the Program. The Authority shall prioritize the allocation of funds based on the impact of Hurricane Florence on enrolled students to the following eligible private postsecondary institutions:

- (1) A private postsecondary institution with a campus located in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.
- (2) A campus of a private postsecondary institution that is not located in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence but has an eligible postsecondary student enrolled at the private postsecondary institution who (i) resides, temporarily or permanently, in a county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence or (ii) has transferred to the private postsecondary institution due to the damage and destruction caused by Hurricane Florence.

Private postsecondary institutions allocated funds under this subsection shall have discretion to establish criteria for the eligibility of postsecondary students in addition to the criteria required by this section. However, the Authority shall not establish additional eligibility requirements for the administration of the Program to those set forth in this section. A private postsecondary institution receiving funds pursuant to this subsection shall report to the Authority

on the implementation of the Program, including the information required for the report under subsection (h) of this section.

**SECTION 5.3.(h)** Reporting Requirements. – By April 1, 2019, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, and the Authority shall report to the chairs of the House of Representatives Committee on Appropriations and the Senate Appropriations/Base Budget Committee, the Joint Legislative Education Oversight Committee, Office of Recovery and Resiliency in the Department of Public Safety, and to the Fiscal Research Division of the General Assembly on the implementation of the Program at the institutions of higher education that received funds pursuant to this section, including the number and type of institutions of higher education that were allocated funds, the amount of funds allocated to each institution, the number of emergency scholarship grants awarded to students and the amount of those grants, the use of emergency scholarship grant funds by eligible postsecondary students, any funds reimbursed to institutions due to coverage of losses by alternative funds, and any remaining funds available for awards in subsequent semesters.

### **BEHAVIORAL HEALTH SERVICES**

**SECTION 5.4.(a)** The following definitions apply in this section:

- (1) DMH/DD/SAS. – The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services within the Department of Health and Human Services.
- (2) Federally declared disaster area. – Any county designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.
- (3) LME/MCO. – As defined in G.S. 122C-3.
- (4) Qualifying LME/MCO. – An LME/MCO with a catchment area that includes at least one federally declared disaster area.

**SECTION 5.4.(b)** It is the intent of the General Assembly to support individuals and families experiencing distress as a result of Hurricane Florence by meeting the increased demand for behavioral health services in the counties most impacted by Hurricane Florence. To that end, funds allocated in this act from the Hurricane Florence Disaster Recovery Fund to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to increase single-stream funding, shall be allocated by DMH/DD/SAS among LME/MCOs with a catchment area that includes at least one federally declared disaster area. DMH/DD/SAS shall determine the basis for allocating these funds among qualifying LME/MCOs. Qualifying LME/MCOs shall not use these allocated funds for any purpose other than to fund mental health, developmental disabilities, and substance use disorder services that are (i) for individuals residing in a federally declared disaster area who have been determined by the LME/MCO to be in need of these services as a result of Hurricane Florence, and (ii) not reimbursable under the Medicaid program. Each qualifying LME/MCO shall offer at least the same level of single-stream service utilization required by Section 11F.2(b) of S.L. 2017-57, as amended, increased proportionately by the amount of single-stream funding allocated to the LME/MCO pursuant to this section.

**SECTION 5.4.(c)** Pursuant to its authority under G.S. 108A-54(e), the Department of Health and Human Services shall manage, within the Medicaid budget, any increased demand for behavioral health services reimbursable under the Medicaid program for individuals residing in a federally declared disaster area.

### **ASSISTANCE FOR UNAFFILIATED COMMUNITY HOSPITALS**

**SECTION 5.5.(a)** It is the intent of the General Assembly to assist unaffiliated community hospitals, especially those serving rural areas, in covering the increase in nursing and other staffing expenses related to Hurricane Florence. To that end, funds allocated in this act

from the Hurricane Florence Disaster Recovery Fund to the Department of Health and Human Services, Division of Central Management and Support, Office of Rural Health, shall be allocated to the North Carolina Hospital Foundation (NCHF), a nonprofit corporation. NCHF shall use these funds to award grants, on a basis determined by NCHF, to unaffiliated community hospitals located in counties designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence, with priority consideration given to unaffiliated community hospitals serving rural areas. Grant recipients shall not use these funds for any purpose other than to (i) offset the cost of increased nursing and other staffing expenses related to Hurricane Florence, and, after this purpose is fulfilled, (ii) assist the community hospital with other relief related to Hurricane Florence. Grant recipients are prohibited from using these funds to supplant existing funds for community recovery related to Hurricane Florence. Notwithstanding Section 3.1(c) of S.L. 2018-134, any funds allocated pursuant to this section that have not been expended or encumbered as of June 30, 2019, shall revert to the Hurricane Florence Disaster Recovery Fund.

**SECTION 5.5.(b)** By July 15, 2019, each unaffiliated community hospital receiving grant funding from NCHF pursuant to subsection (a) of this section shall submit to the Office of Rural Health and the Office of Recovery and Resiliency in the Department of Public Safety a written report of all expenses funded by State appropriations. By December 1, 2019, the Office of Rural Health shall submit a written report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the use of the funds allocated pursuant to subsection (a) of this section.

#### **EXTEND 90-DAY TRANSITION PERIOD IN CERTAIN COUNTIES/CHILD CARE SUBSIDY**

**SECTION 5.6.(a)** Notwithstanding any other provision of law or rule to the contrary, the Department of Health and Human Services, Division of Child Development and Early Education, shall extend the transition period from 90 days to 120 days for a child care subsidy recipient who is otherwise eligible for child care subsidy and resides in an area damaged or impacted by Hurricane Florence if the recipient is (i) temporarily absent from employment, training, or an educational program with arrangements to continue the same employment, training, or educational program, (ii) unemployed but seeking employment, or (iii) no longer attending a training or educational program but is seeking employment or to resume attendance at a training or educational program.

**SECTION 5.6.(b)** This Section applies only (i) in the counties designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence and (ii) for the 2018-2019 fiscal year.

#### **CREATION OF OFFICE OF RECOVERY AND RESILIENCY/GRANTS**

**SECTION 5.7.(a)** The Office of Recovery and Resiliency (Office) is created in the Department of Public Safety. The Office shall execute multi-year recovery and resiliency projects and administer funds provided by the Community Development Block Grant Disaster Recovery program. The Secretary may reassign up to 15 existing positions of the Division of Emergency Management to the Office. In addition, the Secretary may create up to 30 new three-year time-limited positions. The reassigned positions assigned to the Office shall retain the employment status of the positions at the time of the reassignment after implementation of this act is completed. The three-year time-limited positions created in this section shall be temporary positions and are exempt from the provision of the State Human Resources Act, Chapter 126 of the General Statutes, except Articles 6 and 7 of that Chapter. The Office will provide general disaster recovery coordination and public information; citizen outreach and application case management; audit, finance, compliance, and reporting on disaster recovery funds; and program



and construction management services. The Office shall also contract for services from vendors specializing in housing, construction, and project management services.

**SECTION 5.7.(b)** The Office shall develop and administer a grant program for financially distressed local governments to assist with recovery capacity. The grants shall cover the salaries, benefits, and operating costs for up to two three-year positions and may also be used to purchase one vehicle per community as necessitated by the individual circumstances of each community. The Office shall also, in consultation with the Local Government Commission, develop and administer a one-time emergency fund for local governments in disaster-affected areas that need immediate cash flow assistance. These funds shall be used to meet local government debt service obligations, to meet payroll obligations for local governments, and to meet vendor payments where nonpayment would result in negative financial outcome.

## **OFFICE OF RECOVERY AND RESILIENCY REPORTS**

**SECTION 5.8.(a)** Beginning January 1, 2019, the Office of Recovery and Resiliency (Office) shall provide quarterly reports to the Director of the Budget, the standing Appropriations Committees of the Senate and the House of Representatives, and the Fiscal Research Division on the use of State disaster recovery and assistance funds expended from the Hurricane Florence Recovery Fund. The reports shall summarize oversight activities and the results achieved as well as all of the following:

- (1) Expenditures by program and by source of funds.
- (2) Expenditures required to receive federal grants.
- (3) Federal funding provided to the State to refund certain federally related spending.
- (4) Actual and projected State spending data including time lines and milestones.
- (5) State spending data classified by disaster phase to include preparedness, response, mitigation, and recovery.
- (6) Total State spending data by agency and by program.
- (7) Total State spending by program and county, where practicable.
- (8) Location and job responsibilities of all time-limited State positions created under this act or paid for with federal funds received as a result of Hurricane Florence.

**SECTION 5.8.(b)** In addition to the quarterly reports required under subsection (a) of this section and beginning January 1, 2020, the Office shall provide annual reports that compile the information contained in the quarterly reports. The annual reports shall be submitted to the entities required under subsection (a) of this section.

## **NATIONAL GUARD MEMBERS/REEMPLOYMENT**

**SECTION 5.9.** G.S. 127A-202(a) reads as rewritten:

"(a) Release From State Duty. – Upon an employee's release from state duty, the employee's previous employer shall reemploy the employee in the employee's previous position within five days of the employee's release from state duty. If the employee's state duty lasted 30 days or less, the employee shall make written application to the employee's previous employer for reemployment no later than the first regularly scheduled work period ~~which that begins eight hours~~ 24 hours after the employee has safely traveled from the place of state service to the employee's residence. If the employee's state duty lasted more than 30 days, the employee shall make written application to the employee's previous employer for reemployment within 14 days of the employee's release from state duty. If the employee is still qualified for the employee's previous employment, the employee shall be restored to the employee's previous position or to a position of like seniority, status, and salary, unless the employer's circumstances ~~now at that time~~ make the restoration unreasonable. If the employee is no longer qualified for the employee's previous employment, the employee shall be placed in another ~~position,~~ position for which the

employee is ~~qualified~~, qualified and ~~which that~~ will give the employee appropriate seniority, status, and salary, unless the employer's circumstances ~~now~~ at that time make the placement unreasonable."

#### **NORTH CAROLINA NATIONAL GUARD/OVERPAYMENT OF FUNDS**

**SECTION 5.10.** Notwithstanding G.S. 143-64.80, the Office of State Controller shall waive any outstanding debt arising from, or as a result of, any State active duty performed by North Carolina National Guard Service members in response to Hurricane Matthew in 2016 due to overpayment of state active duty salary. The Department of Public Safety shall reimburse those North Carolina National Guard Service members who have already reimbursed the State for such overpayments.

#### **HURRICANE FLORENCE AGRICULTURAL DISASTER PROGRAM OF 2018**

**SECTION 5.11.(a)** The General Assembly finds that:

- (1) The historic flood and other impacts of Hurricane Florence in September of 2018 caused unprecedented damage to the State and its people, with particular devastating statewide impacts on North Carolina farmers and the State's agriculture industry.
- (2) The State has over 50,000 farms across over 8 million acres, which generates 87 billion dollars of economic impact annually and represents the State's number one industry, making it a vital component to a healthy state economy.
- (3) The total loss of crops as a result of the flooding is estimated at over a billion dollars and the estimated federal crop insurance payments will only cover a percentage of the total crop loss.
- (4) The federal crop insurance program as authorized in the 2014 Farm Bill is an inadequate method of indemnification as compared to traditional forms of insurance and is not sufficient to aid farmers with substantial losses due to catastrophic events of nature.
- (5) The State has a significant public interest to prevent the economic collapse of many of the State's farms, which could cause a severe disruption in the State's economy and food supply chain.
- (6) The most effective program for administration of financial assistance is two-fold. The first category shall be based on information available from the Farm Service Agency ("FSA") within the United States Department of Agriculture ("USDA"). The second category, for producers who do not participate in FSA programs, shall be based on verifiable documentation from producers.

**SECTION 5.11.(b)** For purposes of this section, the following definitions apply:

- (1) Agricultural commodity. – Apples, barley, corn, cotton, dry peas, flax, forage, freezing and canning peas, grain sorghum, grapes, hay, industrial hemp, native grass, nursery crops, nuts, oats, peanuts, potatoes, rye, soybeans, sunflowers, sweet corn, tobacco, tomatoes, wheat, specialty crops and other fruits and vegetables, and aquacultural species propagated or reared in a controlled or selected environment. An agricultural commodity does not include stored grain.
- (2) Department. – The Department of Agriculture and Consumer Services.
- (3) Fund. – The Hurricane Florence Agricultural Disaster Fund.
- (4) Livestock. – Cattle, sheep, swine, goats, farmed cervids, and bison. Livestock shall include horses, mules, or other equines only if they are used for production of agricultural commodities.

- (5) Person. – Any individual, trust, estate, partnership, receiver, association, company, limited liability company, corporation, or other entity or group.
- (6) Poultry. – Chickens, quail, or turkeys.
- (7) State. – The State of North Carolina.
- (8) USDA. – The United States Department of Agriculture.

**SECTION 5.11.(c)** The Hurricane Florence Disaster Fund is established as a special fund in the Department of Agriculture and Consumer Services. The Fund consists of allocations directed by the General Assembly and contributions and grants from public or private sources. The Fund shall be used for a financial assistance program that provides assistance to farmers affected by Hurricane Florence. The Department may not use funds for administrative purposes. Earnings on the contributions and grants deposited in the Fund shall be credited to the Fund. The Fund shall expire upon the complete expenditure of funds allocated for the purposes specified herein.

**SECTION 5.11.(d)** To be eligible for financial assistance for losses of agricultural commodities, a person must satisfy all of the following criteria:

- (1) The person experienced a verifiable loss of agricultural commodities as a result of Hurricane Florence, and the person's farm is located in a North Carolina county that is or becomes any of the following:
  - a. Designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence.
  - b. Included in either a Secretarial Disaster Declaration for Hurricane Florence issued by the United States Secretary of Agriculture or the Presidential Federal Emergency Management Agency Declaration for Hurricane Florence.
- (2) The agricultural commodity was planted on or before September 13, 2018, or, for aquaculture commodities, the commodities were being raised on or before September 13, 2018.

**SECTION 5.11.(e)** A person seeking financial assistance for losses of agricultural commodities shall submit to the Department a Form 578 on file with the USDA Farm Service Agency or a form provided by the Department for reporting acreage or plantings of crops not typically reported on Form 578, along with any other documentation deemed appropriate by the Department, on or before December 10, 2018. For nursery crops, fruit-bearing trees and bushes, and specialty crops where the survival level is not immediately known, the Department may extend this deadline to May 1, 2019, upon written request by the person received on or before December 10, 2018, and upon approval by the Department. A person receiving assistance under this program must provide a signed affidavit, under penalty of perjury, certifying that each fact of the loss presented by the person is accurate.

**SECTION 5.11.(f)** To be eligible for financial assistance for losses of livestock or poultry, a person must first qualify for and receive payment through the USDA Livestock Indemnity Program and be a participant in a livestock or poultry indemnity program administered by the USDA Farm Service Agency.

**SECTION 5.11.(g)** A person seeking financial assistance for losses of livestock or poultry shall submit documentation of loss and indemnity received from the USDA Livestock Indemnity Program, along with any other documentation deemed appropriate by the Department, to the Department on or before December 10, 2018. The Department may extend this deadline to March 1, 2019, upon written request by the person received on or before December 10, 2018, and upon approval by the Department. A person receiving assistance under this program must provide a signed affidavit, under penalty of perjury, certifying that each fact of the loss presented by the person is accurate.

**SECTION 5.11.(h)** The Department shall administer the financial assistance program authorized by this section in accordance with the following criteria:

- (1) In determining the payment calculation for agricultural commodities, the Department shall use a formula based on acreage, county loss estimates, and USDA National Agricultural Statistics Service averages, and any other measure the Department deems appropriate. Funds shall be distributed based on county averages for yields and State averages for price. Calculations shall be based on county or State averages in price, whichever the Department determines is appropriate.
- (2) The payment calculation for livestock and poultry shall be based on twelve and one-half percent (12.5%) of the total loss reported to the USDA Livestock Indemnity Program.
- (3) The Department shall gather all claim information, except from those applicants granted a deadline extension, no later than December 10, 2018. The Department shall, as closely as possible, estimate the amount of the appropriation needed to be held in reserve for payments related to losses of livestock, poultry, nursery, bush, tree, and specialty crops for which losses will not be fully known or calculated. The Department shall set aside funds as it deems appropriate based on the estimated percentage of these losses.
- (4) Payments made under this program shall be made to the person who filed the Form 578 or Department form for claims related to agricultural commodity losses, or the person who received payment from the USDA Livestock Indemnity Program for claims related to livestock or poultry losses.

**SECTION 5.11.(i)** The Department may audit the financial and other records of each recipient of funds in order to ensure that the funds are used in accordance with the requirements of this program. The Department may require any documentation or proof it considers necessary to efficiently administer this program, including the ownership structure of each entity and the social security numbers of each owner. In order to verify losses, the Department may require the submission of dated, signed, and continuous records. These records may include, but are not limited to, commercial receipts, settlement sheets, warehouse ledger sheets, pick records, load summaries, contemporaneous measurements, truck scale tickets, contemporaneous diaries, appraisals, ledgers of income, income statements of deposit slips, cash register tape, invoices for custom harvesting, u-pick records, and insurance documents.

**SECTION 5.11.(j)** Awarded funds shall be used for agricultural production expenses and recovery of losses due to the impacts of Hurricane Florence. The Department shall develop guidelines and procedures to ensure that funds are expended for the purposes allowed by this section, and may require any documentation it determines necessary to verify the appropriate use of financial assistance awards including receipts. All distributed funds are subject to federal and State income tax.

**SECTION 5.11.(k)** If the Department determines that a person who received financial assistance provided inaccurate information, then the person shall refund the entire amount of the financial assistance. If the person does not refund the appropriate amount, the North Carolina Department of Revenue shall collect the money from the person pursuant to G.S. 105-242.

**SECTION 5.11.(l)** This section expires January 1, 2024.

## **COASTAL DEBRIS CLEANUP**

**SECTION 5.12.** Funds allocated in this act to the Department of Environmental Quality for coastal debris cleanup will be used to provide a grant to the North Carolina Coastal Federation to contract with third parties to remove and properly dispose of marine debris deposited in and adjacent to the waters of the State by Hurricane Florence. The Federation shall

not use any of the funds allocated to it by this section for administrative or overhead costs. The Federation shall report on the use of the funds to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Office of Recovery and Resiliency in the Department of Public Safety, and the Fiscal Research Division on or before April 1, 2019.

### **LIVING SHORELINES PERMIT REVISIONS**

**SECTION 5.13.** The Coastal Resources Commission shall adopt temporary rules pursuant to G.S. 150B-21.1 to revise the Commission's general permit for the construction of riprap sills for wetland enhancement in estuarine and public trust waters (15A NCAC 07H .2700) (the Living Shorelines General Permit) in order to make the general permit consistent with the United States Army Corps of Engineers Wilmington District regional general permit for living shorelines. The temporary rules adopted by the Commission shall not include any changes to the Living Shorelines General Permit that would delay or otherwise alter general permits issued by the Commission for other types of coastal erosion control structures, including bulkheads and other hardened structures.

### **FERRY FEES WAIVER/SECRETARY OF TRANSPORTATION**

**SECTION 5.14.** G.S. 136-82 is amended by adding a new subsection to read:

"(b2) Emergency Suspension of Tolling. – The Secretary of Transportation may suspend the collection of tolls for any ferry route serving an emergency area, as declared pursuant to G.S. 166A-19.20 or G.S. 166A-19.22, for the duration of the state of emergency."

### **DOT REPORTING REQUIREMENTS**

**SECTION 5.15.** The Department of Transportation shall report within 30 days of the end of each calendar quarter to the Office of Recovery and Resiliency in the Department of Public Safety on the use of the funds allocated from the Hurricane Florence Disaster Recovery Fund and all matching funds received from the federal government. The report shall contain all of the following information itemized by DOT Highway Division and county:

- (1) Project scope and ranking by priority; total cost; amount spent (federal and state); project status including percentage complete and timeline; the responsible entity, including names of private contractors; and any issues encountered with overall project management and delivery.
- (2) The cash balance of the fund, the amount of funds expended, encumbered, and unencumbered.

### **CONSTRUCTION FEE MORATORIUM**

**SECTION 5.16.(a)** Notwithstanding any other provision of law, for any single commercial or residential project, the Department of Insurance, counties, and cities shall not impose any fee associated with a permit, inspection, or certificate of occupancy required by law for construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of a manufactured home, building, dwelling, or structure damaged as a direct result of Hurricane Florence.

**SECTION 5.16.(b)** The moratorium provided in subsection (a) of this section applies in North Carolina counties designated under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Florence. A person is allowed a refund of any fee assessed and collected that is subject to the moratorium imposed by this section. The Department of Insurance, counties, and cities shall post a notice of the availability of a refund on their Web sites.

**SECTION 5.16.(c)** This section is effective when it becomes law and applies to applications for issuance of a permit dated on or after September 13, 2018. This section expires December 31, 2018.

## **EXCEPTION TO CONFIDENTIALITY OF TAX INFORMATION**

**SECTION 5.17.(a)** G.S. 105-259(b) is amended by adding a new subdivision to read:

"(55) To provide data drawn from an individual taxpayer's tax information to the Office of Recovery and Resiliency for the purpose of facilitating such a taxpayer's application for any means-tested federal or state disaster relief following a federal major disaster declaration; provided, however, that no federal tax information may be disclosed under this subpart unless such a disclosure is permitted by section 6103 of the Code."

**SECTION 5.17.(b)** The Department of Revenue and the Office of Recovery and Resiliency shall, within a reasonable time following the effective date of this act but not later than June 30, 2019, enter into a confidential information sharing agreement settling data transfer protocols, required security measures, audit mechanisms, and other issues necessary to develop and implement the information exchange provided in subsection (a) of this section.

## **EXPAND ELIGIBILITY FOR DISASTER HOUSING ASSISTANCE**

**SECTION 5.18.** Notwithstanding G.S. 122E-6(a) and (b) and the provisions of G.S. 122E-6 relating to income limitations of individuals and families, funds allocated in this act to the North Carolina Housing Finance Agency for eligible projects under Chapter 122E of the General Statutes in counties impacted by Hurricane Matthew or Hurricane Florence may be used to assist individuals and families with household incomes that equal, but do not exceed, one hundred percent (100%) of the local area's median income, adjusted for family size, pursuant to the most recent available data from the United States Department of Housing and Urban Development.

## **AUDIT OF HURRICANE FLORENCE DISASTER RECOVERY FUND**

**SECTION 5.19.** The State Auditor shall conduct a preliminary financial and performance audit of the Hurricane Florence Disaster Recovery Fund created in Section 3.1 of S.L. 2018-134 (Fund) no later than March 1, 2019. The State Auditor shall conduct additional periodic financial and performance audits of the Fund and a final financial and performance audit as requested by the Director of the Budget and the General Assembly.

## **DEPARTMENT OF INSURANCE REPORTING**

**SECTION 5.20.** The Department of Insurance shall report to the Office of Recovery and Resiliency in the Department of Public Safety and the Fiscal Research Division on the funds allocated to it by this act for grants to volunteer fire departments. The report shall include the number of applications received, the number of grantees denied funding, and the amounts awarded to each grantee. The Department shall report within 30 days of the end of each calendar quarter until all funds allocated to the Department have been expended or have reverted.

## **INVOLVEMENT OF HISTORICALLY UNDERUTILIZED BUSINESSES**

**SECTION 5.21.** It is the intent of the General Assembly that, during this time of rebuilding and relief efforts, each State agency should strive to acquire goods and services from historically underutilized business vendors, whether directly as principal contractors or indirectly as subcontractors or otherwise.

## **LEGISLATIVE REVIEW OF FEDERAL FUNDING AND REMAINING UNMET NEEDS**

**SECTION 5.22.** It is the intent of the General Assembly to review in 2018 and 2019 the funds appropriated by Congress for disaster relief and to consider actions needed to address

any remaining unmet needs. It is also the intent of the General Assembly to review the adequacy of the measures funded by Section 2.1 of this act at that time.

## **PROHIBITION ON USE OF STATE FUNDS TO CONSTRUCT CERTAIN RESIDENCES**

**SECTION 5.23.(a)** No State funds appropriated in this act may be expended for the construction of any new residence within the 100-year floodplain unless the construction is in an area regulated by a unit of local government pursuant to a floodplain management ordinance and the construction complies with the ordinance. For purposes of this act, the term "100-year floodplain" means any area subject to inundation by the one percent (1%) annual chance flood event, as indicated on the most recent Flood Insurance Rate Map prepared by the Federal Emergency Management Agency under the National Flood Insurance Program.

**SECTION 5.23.(b)** Homeowners in the 100-year floodplain who receive homeowner's housing assistance pursuant to this act shall have in effect federal flood insurance, if available, as a precondition to receipt of State homeowner's housing assistance for losses resulting from future flooding.

**SECTION 5.23.(c)** Funds loaned to small and mid-sized businesses shall be used only for eligible purposes under the Small Business Administration (SBA) disaster loan assistance program, as described in the federal disaster declarations designated by the SBA as NC 14911 and NC 14912. Payments for economic losses shall be limited to documented business expenses necessary for the continued operation of the business.

## **SUBROGATION BY STATE OF RIGHT TO INSURANCE COVERAGE FOR DAMAGED HOMES PURCHASED OR RELOCATED UNDER THE HAZARD MITIGATION PROGRAM**

**SECTION 5.24.** If a person's home is relocated or purchased with funds from the Hazard Mitigation Grant Program or the State Acquisition and Relocation Fund, the State Emergency Response and Disaster Relief Fund is subrogated to the person's rights under any insurance coverage for the damage to the home, and any monies received from the insurance coverage shall be paid to the State Emergency Response and Disaster Relief Fund. The Division of Emergency Management shall ensure that those potentially affected by this section are notified of, and adhere to, its requirements.

## **PART VI. MISCELLANEOUS PROVISIONS**

### **COMMITTEE REPORT**

**SECTION 6.1.** The document titled N.C. Senate Committee on Appropriations/Base Budget and N.C. House of Representatives Committee on Appropriations Committee Report on Hurricane Florence Disaster Recovery Fund for Senate Bill 3 and House Bill 3 (Committee Report) dated October 15, 2018, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall, therefore, be used to construe this act, and for these purposes shall be considered a part of this act and, as such, shall be printed as a part of the Session Laws. If the Committee Report conflicts with this act, the act prevails.

### **EFFECT OF HEADINGS**

**SECTION 6.2.** The headings to the parts, subparts, and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part or subpart.

### **SEVERABILITY CLAUSE**

**SECTION 6.3.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**PART VII. EFFECTIVE DATE**

**SECTION 7.1.** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of October, 2018.

s/ Michael Lee  
Presiding Officer of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 9:17 a.m. this 16<sup>th</sup> day of October, 2018