

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

S

2

**SENATE BILL 5
Second Edition Engrossed 2/20/19**

Short Title: Building North Carolina's Future. (Public)

Sponsors: Senators Brown, Harrington, Krawiec (Primary Sponsors); J. Alexander, T. Alexander, Ballard, Bishop, Burgin, Daniel, J. Davis, Edwards, Ford, Gunn, B. Jackson, Johnson, McInnis, Newton, Rabon, Sanderson, Smith, and Steinburg.

Referred to: Rules and Operations of the Senate

January 31, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW STATE AND LOCAL EDUCATIONAL INSTITUTIONS ACCESS TO
3 FUNDING FROM THE STATE CAPITAL AND INFRASTRUCTURE FUND TO
4 ADDRESS CRITICAL CAPITAL FUNDING NEEDS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The General Assembly is committed to supporting public education.
7 Recognizing the current critical need for capital funding, it is the intent of the General Assembly
8 to expand access to the State Capital and Infrastructure Fund and provide supplemental funding
9 for local school administrative units and community colleges to address capital needs, including
10 repair and renovation projects and school safety enhancements.

11 **SECTION 2.(a)** G.S. 143C-4-3.1 reads as rewritten:

12 "**§ 143C-4-3.1. State Capital and Infrastructure Fund.**

13 (a) Legislative Intent. – The General Assembly recognizes the need to establish and
14 maintain a sufficient funding source to address the ongoing capital and infrastructure needs of
15 the State. The General Assembly further recognizes the need to protect the State's substantial
16 improvements in existing public facilities while providing a stable funding source to pay for new
17 facilities to meet the needs of a growing population. The General Assembly intends to annually
18 appropriate one-third of funds available in the State Capital and Infrastructure Fund each to State
19 agencies, institutions of higher education, and local school administrative units through the
20 2027-2028 fiscal year.

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

- 28 (1) One-fourth of any unreserved fund balance, as determined on a cash basis,
29 remaining in the General Fund at the end of each fiscal year.
30 (2) Four and one-half percent (~~4%~~)(4.5%) of the net State tax revenues that are
31 deposited in the General Fund during the fiscal year.
32 (3) All monies appropriated by the General Assembly for the purposes of capital
33 improvements, as defined in G.S. 143C-1-1(d).
34 (4) All interest and investment earnings received on monies in the Fund.



1 (5) Any other funds, as directed by the General Assembly.

2 (c) Funding Requirements. – Each Current Operations Appropriations Act enacted by the
3 General Assembly shall include (i) a transfer to the Fund of four and one-half percent ~~(4%)~~(4.5%)
4 of each fiscal year's estimated net State tax revenues that are deposited in the General Fund and
5 (ii) one-fourth of the General Fund unreserved fund balance, as determined on a cash basis, at
6 the end of each fiscal year.

7 (d) Transfer of Funds to the Fund. – Each fiscal year, the Office of State Controller shall
8 transfer to the Fund the estimated amounts required pursuant to subsection (c) of this section.
9 Each fiscal year, the Office of State Controller shall transfer to the Fund one-fourth of the General
10 Fund unreserved fund balance, as determined on a cash basis, at the end of the fiscal year.

11 (e) Use of Funds. – Monies in the Fund shall first be used to meet the debt service
12 obligations of the State. In addition to meeting the State's debt service obligations, monies in the
13 Fund may be used for the following purposes:

14 (1) New State and The University of North Carolina capital projects governed
15 pursuant to Article 8 of Chapter 143C of the General Statutes, ~~Statutes,~~ new
16 capital projects for community colleges under the jurisdiction of the State
17 Board of Community Colleges, and new capital projects for local school
18 administrative units.

19 (2) Repair and renovation of existing capital assets, as provided in
20 G.S. 143C-8-13.

21 (e1) Administration of Local School Funds. – Funds appropriated for local school
22 administrative units for capital projects pursuant to this section and for repairs and renovations
23 pursuant to G.S. 143C-8-13 shall be administered by the Department of Public Instruction. Upon
24 application, the Department shall distribute funds appropriated from the Fund for capital projects
25 and repairs and renovations projects. In distributing the funds for capital projects and repairs and
26 renovations projects, the Department shall give priority to applicants that demonstrate the
27 greatest need. Applicants for capital projects that have not received a grant from the Needs-Based
28 Public School Capital Fund in the previous five years shall receive a higher priority.

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

31 (g) Restrictions for Class Size Noncompliance. – Notwithstanding any other provision of
32 law to the contrary, funds appropriated from the Fund and allocated to a local school
33 administrative unit that is not in compliance with the class size requirements in G.S. 115C-301
34 shall be used solely for capital expenditures needed to obtain compliance with the class size
35 requirements.

36 (h) Funding of Projects. – To maximize the utility of available State funds, the General
37 Assembly shall appropriate monies from the Fund for specific projects in an amount sufficient
38 to fund that project for the fiscal year in which funds are appropriated. It is the intent of the
39 General Assembly to provide future funding for capital projects receiving an appropriation from
40 the Fund until those projects have been completed. Monies provided to local governments from
41 the Fund shall not be used to retire existing debt service."

42 **SECTION 2.(b)** G.S. 143C-8-13 reads as rewritten:

43 **"§ 143C-8-13. Repairs and Renovations.**

44 (a) Use of Funds. – Funds for repairs and renovations shall be available for expenditure
45 only upon an act of appropriation by the General Assembly. Funds appropriated for repairs and
46 renovations shall be used only for (i) State facilities and related infrastructure that are supported
47 from the General ~~Fund~~ Fund, (ii) and for Department of Information Technology facilities and
48 related infrastructure, (iii) community colleges under the jurisdiction of the State
49 Board of Community Colleges, and (iv) local school administrative units. Funds appropriated for
50 repairs and renovations projects shall not be used for new construction or the expansion of the

1 building area (sq. ft.) of an existing facility unless required in order to comply with federal or
 2 State codes or standards. Allowable projects include any of the following:

- 3 (1) Roof repairs and replacements.
- 4 (2) Structural repairs.
- 5 (3) Repairs and renovations to meet federal and State standards.
- 6 (4) Repairs to or installation of new electrical, plumbing, and heating, ventilating,
 7 and air-conditioning systems.
- 8 (5) Improvements to meet the requirements of the Americans with Disabilities
 9 Act, 42 U.S.C. § 12101, et seq., as amended.
- 10 (6) Improvements to meet fire safety needs.
- 11 (7) Improvements to existing facilities for energy efficiency.
- 12 (8) Improvements to remove asbestos, lead paint, and other contaminants,
 13 including the removal and replacement of underground storage tanks.
- 14 (9) Improvements and renovations to improve use of existing space.
- 15 (10) Historical restoration.
- 16 (11) Improvements to roads, walks, drives, and utilities infrastructure.
- 17 (12) Drainage and landscape improvements.
- 18 (13) Building demolition.
- 19 (14) School safety enhancements.

20 (b) Allocation and Reallocation of Funds for Particular Projects. – Any funds that are
 21 allocated to the Board of Governors of The University of North Carolina or to the Office of State
 22 Budget and Management may be allocated or reallocated by those agencies for repairs and
 23 renovations projects so long as all of the following conditions are satisfied:

- 24 (1) Any project that receives an allocation or reallocation satisfies the
 25 requirements of subsection (a) of this section.
- 26 (2) If the allocation or reallocation of funds from one project to another under this
 27 section is two million five hundred thousand dollars (\$2,500,000) or more for
 28 a particular project, the Office of State Budget and Management or the Board
 29 of Governors, as appropriate, consults with the Joint Legislative Commission
 30 on Governmental Operations prior to the expenditure or reallocation.
- 31 (3) If the allocation or reallocation of funds from one project to another under this
 32 section is less than two million five hundred thousand dollars (\$2,500,000) for
 33 a particular project, the allocation or reallocation of funds is reported to the
 34 Joint Legislative Commission on Governmental Operations within 60 days of
 35 the expenditure or reallocation."

36 **SECTION 3.(a)** Notwithstanding G.S. 143C-5-2, there is appropriated from the
 37 State Capital and Infrastructure Fund for the 2019-2020 fiscal year the following amounts for
 38 capital improvements:

39 Department of Natural and Cultural Resources	
40 NC Zoo - Asia/Australia project	\$17,500,000
41 Museum of History Expansion	\$108,500,000
42	
43 Western Carolina University	
44 Steam Plant Replacement	\$16,000,000
45	
46 Elizabeth City State University	
47 Library Building	\$32,000,000

48 **SECTION 3.(b)** Notwithstanding G.S. 143C-5-2 and G.S. 143-8-13(a), there is
 49 appropriated from the State Capital and Infrastructure Fund to the Community Colleges System
 50 Office for the 2019-2020 fiscal year the following amount for a repair and renovation project:

51 Workforce Training Equipment	\$10,000,000
---------------------------------	--------------

1 **SECTION 4.** G.S. 18C-164 reads as rewritten:

2 "**§ 18C-164. Transfer of net revenues.**

3 (a) The funds remaining in the North Carolina State Lottery Fund after receipt of all
4 revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes
5 and expenses, excluding balance sheet adjustments or prior-period expense adjustments
6 necessary to implement changes in accounting methods or accounting standards, shall be
7 considered to be the net revenues of the North Carolina State Lottery Fund. The net revenues of
8 the North Carolina State Lottery Fund shall be transferred at least four times a year to the
9 Education Lottery Fund, which shall be created in the State treasury.

10 (b) Repealed by Session Laws 2017-57, s. 5.3(c), effective July 1, 2017.

11 (b1) Net revenues credited to the Education Lottery Fund shall be appropriated in an
12 amount equal to the amount appropriated from the Education Lottery Fund in the Current
13 Operations and Capital Improvements Appropriations Act of 2017.

14 **(b2)** Of the net revenues credited to the Education Lottery Fund, there is appropriated to
15 the Public School Building Capital Fund the sum of one hundred million dollars (\$100,000,000)
16 each fiscal year.

17 ~~(b2)(b3)~~ The Office of State Budget and Management shall transfer any net revenues
18 remaining in the Education Lottery Fund after the appropriations made pursuant to ~~subsection~~
19 subsections (b1) and (b2) of this section to the Education Lottery Reserve Fund, a special revenue
20 fund, necessary to maintain a minimum balance in an amount equal to five percent (5%) of net
21 revenue credited to the Education Lottery Fund from the State Lottery Fund during the previous
22 fiscal year.

23 ~~(b3)(b4)~~ Any net revenues remaining after appropriation pursuant to ~~subsection~~
24 subsections (b1) and (b2) of this section and transfer pursuant to subsection ~~(b2)(b3)~~ of this
25 section are hereby appropriated to the Needs-Based Public School Capital Fund.

26 ~~(b4)(b5)~~ Notwithstanding subsection ~~(b2)(b3)~~ of this section, the minimum balance of the
27 Education Lottery Reserve Fund may be less than the amount equal to five percent (5%) of net
28 revenue credited to the Education Lottery Fund from the State Lottery Fund during the previous
29 fiscal year if funds are necessary to meet the amount of net revenues appropriated pursuant to
30 ~~subsection~~ subsections (b1) and (b2) of this section.

31 (c) The General Assembly shall appropriate the remaining net revenue of the Education
32 Lottery Fund annually in the Current Operations Appropriations Act for education-related
33 purposes, based upon estimates of lottery net revenue to the Education Lottery Fund provided by
34 the Office of State Budget and Management and the Fiscal Research Division of the Legislative
35 Services Commission. A security interest shall not be granted in funds appropriated pursuant to
36 this subsection.

37 (d) Repealed by Session Laws 2013-360, s. 6.11(c), effective June 30, 2013.

38 (e) If the actual net revenues are less than the ~~appropriation~~ appropriations provided in
39 ~~subsection~~ subsections (b1) and (b2) of this section for that given year, then the Governor may
40 transfer from the Education Lottery Reserve Fund an amount sufficient to equal the ~~appropriation~~
41 appropriations provided by ~~subsection~~ subsections (b1) and (b2) of this section.

42 (f) Repealed by Session Laws 2017-57, s. 5.3(c), effective July 1, 2017."

43 **SECTION 5.** This act becomes effective July 1, 2019.