A BILL TO BE ENTITLED
AN ACT TO APPROPRIATE FUNDS FROM THE CORONAVIRUS RELIEF FUND TO BE
USED TO OFFSET GENERAL FUND APPROPRIATIONS ACROSS STATE
GOVERNMENT FOR ALLOWABLE EXPENDITURES.

The General Assembly of North Carolina enacts:

SECTION 1. Findings. – The General Assembly finds the following:

(1) The United States Department of the Treasury (Treasury) has developed the
Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal
Governments (Guidance) to instruct the State as to how to expend funds
provided to the State from the Coronavirus Relief Fund (Fund) created in the

(2) The Guidance provides that "funding can be used to meet payroll expenses for
public safety, public health, health care, human services, and similar
employees whose services are substantially dedicated to mitigating or
responding to the COVID-19 public health emergency."

(3) In determining what type of employee qualifies under the allowance set forth
in subdivision (2) of this section, the Guidance provides that "as a matter of
administrative convenience in light of the emergency nature of this program,
a State … may presume that payroll costs for public health and public safety
employees are payments for services substantially dedicated to mitigating or
responding to the COVID-19 public health emergency."

(4) There are a multitude of State employees that presumably qualify under the
presumption set forth in subdivision (3) of this section, including public health
doctors and nurses, epidemiologists, law enforcement officers, juvenile justice
officers, probation/parole officers, and correctional officers.

(5) Several reasons as to why correctional officers are presumed to qualify as
"public safety employees" for purposes of the presumption set forth in
subdivision (3) of this section are as follows:

a. To ensure a consistent level of competency and professionalism
among law enforcement officials, the Criminal Justice Standards
Division of the North Carolina Criminal Justice Training and
Standards Commission administers the mandatory certification and
training programs. The Commission certifies all public safety
employees as a condition of employment, including (i) correctional
officers, (ii) probation/parole officers, (iii) juvenile justice officers,
and (iv) law enforcement officers.
b. As of June 8, 2020, the Division of Adult Correction and Juvenile Justice in the Department of Public Safety has performed 1,946 COVID-19 tests on prison inmates.

c. Of the tests performed, 691 (or 35.5%) have found positive results for COVID-19.

d. Current testing has found confirmed positive COVID-19 cases in 14 of the 55 Adult Correction facilities in the State.

e. The Johnston Correctional Institution was temporarily closed due to a COVID-19 outbreak.

f. There have been five confirmed COVID-19-related deaths in Adult Correction facilities in the State.

g. The Superior Court of North Carolina has ordered the Division of Adult Correction and Juvenile Justice to present a plan to test all prison inmates in the State by June 22, 2020.

h. The 1,946 completed tests represent 6.1% of the 31,906 inmates currently housed in North Carolina Adult Correction facilities.

i. Two correctional institutions tested 100% of all inmates housed there.

(6) In addition to the allowance set forth in subdivision (2) of this section, the Guidance provides a non-exhaustive list of eligible expenditures for which Fund payments may be used, including "[a]ny other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria."

(7) The Guidance further provides that the term "necessary" is to be interpreted "broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments."

(8) The General Assembly is tasked by the State Constitution with appropriating all funds, including payments received from the Fund, and using its "reasonable judgment" to appropriate the funds, in a manner that is consistent with the authorizing federal legislation and Guidance provided by the Treasury, to remedy or otherwise mitigate the devastating effects on the State economy caused by the COVID-19 public health emergency.

SECTION 2. Transfer. – The State Controller shall transfer the sum of six hundred forty-five million four hundred thousand dollars ($645,400,000) from the Coronavirus Relief Reserve established in Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund established in Section 2.2 of that same act.

SECTION 3. Appropriation. – There is appropriated from the Coronavirus Relief Fund to the Office of State Budget and Management (OSBM) the sum of six hundred forty-five million four hundred thousand dollars ($645,400,000) in nonrecurring funds for the 2020-2021 fiscal year to be used to offset General Fund appropriations across State government for allowable expenditures of funds from the Coronavirus Relief Fund.

SECTION 4. Creation of Reserve. – There is created in the General Fund a Statewide Reserve for Appropriations (Reserve) (Budget Code: 190XX). The Reserve shall have a beginning negative appropriation balance of six hundred forty-five million four hundred thousand dollars ($645,400,000). By December 30, 2020, the Reserve shall have a balance of zero dollars ($0.00).

SECTION 5. Limitation on Use of Funds; Transfer to Reserve. – Funds appropriated to OSBM in Section 3 of this act shall not be used to increase total requirements of a State agency or department. As allowable expenditures are identified in accordance with Section 3 of this act, OSBM shall reduce the net General Fund appropriation in the relevant State agency or department and transfer that appropriation to the Reserve created in Section 4 of this act.
SECTION 6. Requirements. – The requirements and limitations set forth in Part I of S.L. 2020-4 shall apply to the funds appropriated by this act. OSBM shall include the funds transferred and appropriated under this act in the report required under Section 1.7 of S.L. 2020-4.

SECTION 7. Effective Date. – This act becomes effective July 1, 2020.