NORTH CAROLINA GENERAL ASSEMBLY

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS

REPORT TO THE 2016 SESSION of the 2015 GENERAL ASSEMBLY OF NORTH CAROLINA

APRIL, 2016

A LIMITED NUMBER OF COPIES OF THIS REPORT ARE AVAILABLE FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY

ROOM 500
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTH CAROLINA 27603-5925
TELEPHONE: (919) 733-9390

TABLE OF CONTENTS

LETTER OF TRANSMITTAL 5

COMMITTEE PROCEEDINGS 7

FINDING AND RECOMMENDATIONS 8

APPENDICES

APPENDIX A
MEMBERSHIP OF THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS 9

APPENDIX B
COMMITTEE CHARGE/STATUTORY AUTHORITY 10

APPENDIX C
LEGISLATIVE PROPOSALS 12

APPENDIX D
SUPPORTING DOCUMENTATION 17

This page intentionally left blank

TRANSMITTAL LETTER

April 13, 2016

[Back to Top]

TO THE MEMBERS OF THE 2016 REGULAR SESSION
OF THE 2015 GENERAL ASSEMBLY

The JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS, respectfully submits the following report to the 2016 Regular Session of the 2015 General Assembly.

Sen. Kathryn Harrington (Co-Chair)

Rep. Dean Arp (Co-Chair)

This page intentionally left blank

COMMITTEE PROCEEDINGS

[Back to Top]

The Joint Legislative Oversight Committee on Capital Improvements met four times after the 2015 Regular Session. The agenda for all meetings appears in the Supporting Documentation section of this Report. The third meeting considered the Legislative Proposal. The fourth meeting considered the adoption of this Report. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

FINDINGS AND RECOMMENDATIONS

[Back to Top]

The Joint Legislative Oversight Committee on Capital Improvements makes the following findings and recommendations to the 2016 Regular Session of the 2015 General Assembly.

FINDINGS:

The Committee finds that:

1. Increased Legislative oversight of certain leases is necessary. Specifically, leases of real property for over 30 years (including renewals) and leases of real property where State personnel or State functions are relocated and the agency operating the property has insufficient operating funds to offset the relocation and provision of State functions.

2. Estimates of operating and maintenance costs are central to the State capital project planning process.

3. A preliminary six-year capital improvements plan should be required by October 1, 2016. This plan shall be in addition to any other six-year capital improvement plan required by current law.

RECOMMENDATIONS:

The Committee recommends the passage of the Legislative Proposal attached to this Report with the following long title:

AN ACT TO INCREASE LEGISLATIVE OVERSIGHT OF CERTAIN LEASES; TO ENSURE THAT ESTIMATES OF OPERATING AND MAINTENANCE COSTS ARE CENTRAL TO THE STATE CAPITAL PROJECT PLANNING PROCESS; TO REQUIRE A PRELIMINARY SIX YEAR CAPITAL IMPROVEMENTS PLAN; AND TO REQUIRE GREATER OVERSIGHT OF CAPITAL IMPROVEMENT NEEDS CRITERIA; AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS.

COMMITTEE MEMBERSHIP

[Back to Top]

2015-2016

President Pro Tempore of the Senate Appointments:

Sen. Kathryn Harrington (Co-Chair)

Sen. John Barefoot (Advisory Member)
Sen. Harry Brown
Sen. Robert Clark
Sen. Joel Ford
Sen. Richard Gunn
Sen. W. Jackson
Sen. Joyce Krawiec
Sen. Wyatt Tucker

Speaker of the House of Representatives Appointments:

Rep. Dean Arp (Co-Chair)

Rep. Jonathan Hardister (Vice-Chair)
Rep. John Bradford
Rep. Kenneth Goodman
Rep. Darren Jackson
Rep. Linda Johnson
Rep. Jonathan Jordan
Rep. Christopher Malone

COMMITTEE CHARGE/STATUTORY AUTHORITY

[Back to Top]

§ 120-261. Creation and membership of Joint Legislative Oversight Committee on Capital Improvements.

The Joint Legislative Oversight Committee on Capital Improvements is established. The Committee consists of 16 members as follows:

(1) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least two of whom are members of the minority party.

(2) Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom are members of the minority party.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2017 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. (2015-241, s. 31.16(a).)

§ 120-262. Purpose and powers of the Committee.

(a) The Joint Legislative Oversight Committee on Capital Improvements shall have the power to do all of the following:

(1) Examine, on a continuing basis, capital improvements requested by, authorized for, and undertaken by or on behalf of State agencies.

(2) Have oversight over implementation of the six-year capital improvements plan developed pursuant to G.S. 143C-8-5.

(3) Make recommendations to the General Assembly on ways to improve the planning, financing, design, construction, and maintenance of State capital improvements.

(4) Make reports and recommendations to the General Assembly regarding which capital improvements requested by State agencies should be authorized and how they should be funded.

(5) Examine any other topic the Committee believes to be related to its purpose.

(b) As used in this section, the term "capital improvement" shall have the same meaning as in G.S. 143C-1-1. (2015-241, s. 31.16(a).)

§ 120-263. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on Capital Improvements. The Committee shall meet upon the call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

(d) The cochairs of the Committee may call upon other knowledgeable persons or experts to assist the Committee in its work. (2015-241, s. 31.16(a).)

LEGISLATIVE PROPOSALS

[Back to Top]

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H **D**

HOUSE BILL DRH10462-MDz-122A* (02/23)

Short Title:	Enhance Oversight of Certain Capital Projects.	(Public)
Sponsors:	Representative Arp.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO INCREASE LEGISLATIVE OVERSIGHT OF CERTAIN LEASES; TO ENSURE THAT ESTIMATES OF OPERATING AND MAINTENANCE COSTS ARE CENTRAL TO THE STATE CAPITAL PROJECT PLANNING PROCESS; TO REQUIRE A PRELIMINARY SIX-YEAR CAPITAL IMPROVEMENTS PLAN; AND TO REQUIRE GREATER OVERSIGHT OF CAPITAL IMPROVEMENT NEEDS CRITERIA; AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS.

The General Assembly of North Carolina enacts:

PART I. INCREASE LEGISLATIVE OVERSIGHT OF CERTAIN LEASES

SECTION 1.(a) G.S. 146-25 reads as rewritten:

"**§ 146-25. Leases and rentals.**

(a) General Procedure. – If, after investigation, the Department of Administration determines that it is in the best interest of the State that land be leased or rented for the use of the State or of any State agency, the Department shall proceed to negotiate with the owners for the lease or rental of such property. All lease and rental agreements entered into by the Department shall be promptly submitted to the Governor and Council of State for approval or disapproval.

(b) Leases Exceeding 30-Year Terms. – The Department of Administration shall not enter into a lease of real property for a period of more than 30 years, or a renewal of a lease of real property if the renewal would make the total term of the lease exceed 30 years, unless specifically authorized to do so by the General Assembly. The Department of Administration shall report to the Joint Legislative Commission on Governmental

Operations at least 30 days prior to entering or renewing such a lease and shall include a copy of the legislation authorizing the lease or lease renewal in the report."

SECTION 1.(b) G.S. 146-29 reads as rewritten:

"**§ 146-29. Procedure for sale, lease, or rental.**

(a) General Procedure. – If, after investigation, the Department of Administration determines that it is in the best interest of the State that land be sold, leased, or rented, the Department shall proceed with its sale, lease, or rental, as the case may be, in accordance with rules adopted by the Governor and approved by the Council of State. If an agreement of sale, lease, or rental is reached, the proposed transaction shall then be submitted to the Governor and Council of State for their approval or disapproval. Every conveyance in fee of land owned by the State or by any State agency shall be made and executed in the manner prescribed in G.S. 146-74 through 146-78.

(b) Limitations on Certain Leases. – The Department of Administration shall not enter into a lease or lease renewal of the following types unless specifically authorized to do so by the General Assembly:

(1) A lease of real property for a period of more than 30 years, or a renewal of a lease of real property if the renewal would make the total term of the lease exceed 30 years.

(2) A lease of real property, or a renewal of a lease of real property, for any term if both of the following conditions are satisfied:

a. State personnel or State functions would need to be relocated as a result of the lease or renewal.

b. The agency to which the property is currently allocated possesses insufficient operating funds to cover the cost of both the relocation and the ongoing provision of State functions affected by the relocation.

(c) Reporting Required. – The Department of Administration shall report to the Joint Legislative Commission on Governmental Operations at least 30 days prior to entering or renewing any lease described in subdivision (b)(1) of this section or any lease or renewal that will require the relocation of State personnel or State functions. The report shall include all of the following:

(1) If the lease or lease renewal will require State personnel or State functions to be relocated, a statement of the legislation authorizing the lease or lease renewal or a detailed statement of the operating funds that will be used to cover the cost of both the relocation and the ongoing provision of State functions affected by the relocation, as applicable.

(2) If the lease or lease renewal will have a term of more than 30 years, a statement of the legislation authorizing the lease or lease renewal."

SECTION 1.(c) G.S. 146-29.1 is amended by adding a new subsection to read:

"(h) Any lease or rental entered into pursuant to this section shall be subject to the requirements and limitations of G.S. 146-29."

SECTION 1.(d) G.S. 146-29.2 is amended by adding a new subsection to read:

"(g) Any lease or rental entered into pursuant to this section shall be subject to the requirements and limitations of G.S. 146-29."

SECTION 1.(e) G.S. 146-32 reads as rewritten:

"§ 146-32. Exemptions as to leases, etc.

(a) The Governor, acting with the approval of the Council of State, may adopt rules and regulations:

(1) Exempting from any or all of the requirements of this Subchapter such classes of lease, rental, easement, and right-of-way transactions as he deems advisable; and

(2) Authorizing any State agency to enter into and/or approve those classes of transactions exempted by such rules and regulations from the requirements of this Chapter.

(3) No rule or regulation adopted under this section may exempt from the provisions of G.S. 146-25.1 any class of lease or rental which has a duration of more than 21 days, unless the class of lease or rental:

a. Is a lease or rental necessitated by a fire, flood, or other disaster that forces the agency seeking the new lease or rental to cease use of real property;

b. Is a lease or rental necessitated because an agency had intended to move to new or renovated real property that was not completed when planned, but a lease or rental exempted under this subparagraph may not be for a period of more than six months; or

c. Is a lease or rental which requires a unique location or a location that adjoins or is in close proximity to an existing rental location.

(b) No rule or regulation adopted pursuant to subsection (a) of this section may exempt any lease from the provisions of G.S. 146-25(b) or 146-29(b) or (c)."

PART II. ENSURE THAT ESTIMATES OF OPERATING AND MAINTENANCE COSTS ARE CENTRAL TO THE STATE CAPITAL PROJECT PLANNING PROCESS

SECTION 2.(a) G.S. 143C-8-4 reads as rewritten:

"§ 143C-8-4. Agency capital improvement needs estimates.

...

(c) Real Property and New Construction or Facility Rehabilitation Needs Estimate. – The second part of the capital improvement needs estimates shall include only proposals for real property acquisition and projects involving construction of new facilities or rehabilitation of existing facilities to accommodate uses for which the existing facilities were not originally designed. Each project included in this part shall be justified by reference to the needs evaluation criteria established by the Office of State Budget and Management pursuant to ~~G.S. 143C-8-3.~~G.S. 143C-8-3 and shall include the information required by G.S. 143C-3-3(d)(5).

For capital projects of The University of North Carolina and its constituent institutions, the Office of State Budget and Management shall utilize the needs evaluation information approved by the Board of Governors of The University of North Carolina

developed pursuant to ~~G.S. 116-11(9).~~G.S. 116-11(9) and shall include the information required by G.S. 143C-3-3(d)(5)."

SECTION 2.(b) G.S. 143C-8-5 reads as rewritten:

"**§ 143C-8-5. Six-year capital improvements plan.**

...

(c) Real Property Acquisition, New Construction, or Facility Rehabilitations. – The second part of the capital improvement plan shall set forth an integrated schedule for real property acquisition, new construction, or rehabilitation of existing facilities that, in the judgment of the Director of the Budget, should be initiated within each year of the six-year planning period. The plan shall contain for each project (i) estimates of real property acquisition, and construction or rehabilitation ~~costs~~costs, (ii) a means of financing the ~~project, and~~project, (iii) an estimated schedule for the completion of the ~~project.~~project, and (iv) an estimate of maintenance and operating costs, including personnel, for the project, covering the first five years of operation. Where the means of financing would involve direct or indirect debt service obligations, a schedule of those obligations shall be presented."

SECTION 2.(c) G.S. 143C-8-6 reads as rewritten:

"**§ 143C-8-6. Recommendations for capital improvements set forth in the Recommended State Budget.**

...

(e) Other Capital Projects in the Budget Support Document. – The Budget Support Document shall contain for each capital project recommended in accordance with subsection (d) of this section: (i) a detailed project description and justification, (ii) a detailed estimate of acquisition, planning, design, site development, construction, contingency and other related costs, (iii) an estimated schedule of cash flow requirements over the life of the project, (iv) an estimated schedule for the completion of the project, ~~(v) an estimate of maintenance and operating costs, including personnel, for the project, covering the first five years of operation, (vi)~~(v) an estimate of revenues, if any, likely to be derived from the project, covering the first five years of operation, and ~~(vii)~~(vi) an explanation of the means of financing.

(f) All Recommended Capital Projects. – The Director of the Budget shall ensure that recommendations in the Recommended State Budget for repairs and renovations of existing facilities, real property acquisition, new construction, or rehabilitation of existing facilities include all of the following information:

(1) An estimate of maintenance and operating costs, including personnel, for the project, covering the first five years of operation. If no increase in these expenditures is anticipated because the recommended project would replace an existing facility, then the level of expenditures for the previous five years of operation shall be included instead.

(2) A recommended funding source for the operating costs identified pursuant to subdivision (1) of this subsection."

PART III. REQUIRE A PRELIMINARY SIX-YEAR CAPITAL IMPROVEMENTS PLAN

SECTION 3. No later than October 1, 2016, the Director of the Budget shall prepare and transmit to the General Assembly a preliminary six-year capital improvement

plan that complies with the requirements of G.S. 143C-8-5, as amended by Section 2(b) of this act, and G.S. 143C-8-3(b), as enacted by Section 4 of this act. This plan shall be in addition to any other six-year capital improvement plan required by G.S. 143C-8-5.

PART IV. REQUIRE GREATER OVERSIGHT OF CAPITAL IMPROVEMENT NEEDS CRITERIA

SECTION 4. G.S. 143C-8-3 reads as rewritten:

"**§ 143C-8-3. Capital improvement needs criteria.**

(a) Criteria. – The Office of State Budget and Management shall develop a weighted list of factors that may be used to evaluate the need for capital improvement projects. The list shall include all of the following:

(1) Preservation, adequacy and use of existing facilities.
(2) Health and safety considerations.
(3) Operational efficiencies.
(4) Projected demand for governmental services.

(b) Reporting. – The Office of State Budget and Management shall include the following in each six-year capital improvement plan submitted to the General Assembly pursuant to G.S. 143C-8-5:

(1) The list of factors developed pursuant to subsection (a) of this section.
(2) The most recent results of applying the factors developed pursuant to subsection (a) of this section to capital funds requests from State agencies."

PART V. EFFECTIVE DATE

SECTION 5. This act is effective when it becomes law and applies to leases entered into or renewed, and to budgets recommended by the Director of the Budget, on or after that date.

SUPPORTING DOCUMENTATION

[Back to Top]

AGENDA
JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS
Rep. Dean Arp Sen. Kathy Harrington
Wednesday, January 13, 2016
Room 544, Legislative Office Building
1:00 p.m.

1. Welcome and Opening Comments
Rep. Dean Arp, Co-Chair

2. Office of State Budget and Management - Role in Capital Budget Process
Thomas Cheek, Assistant State Budget Officer
Greg Piner, Budget Analyst

3. University of North Carolina General Administration - Role in Capital Budget Process
Will Johnson, Associate Vice President for Finance & Capital Planning

4. Department of Administration - Role in Management of Capital Improvements
Latif Kaid, Interim Director of the State Construction Office

5. University of North Carolina - Allocations from the Repairs and Renovations Reserve
Will Johnson, Associate Vice President for Finance & Capital Planning

6. Committee Discussion

7. Adjournment

AGENDA
JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS
Rep. Dean Arp Sen. Kathy Harrington
Wednesday, February 10, 2016
Room 544, Legislative Office Building
1:00 p.m.

1. Welcome and Opening Comments
Sen. Kathy Harrington, Co-Chair

2. National Association of State Budget Officers – Capital Budgeting in the States
Brian Sigritz, Director of State Fiscal Studies

3. Office of State Budget and Management – Overview of Project Phoenix
John LaPenta, Director of Special Projects

4. Committee Discussion

5. Adjournment

AGENDA
JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS
Rep. Dean Arp Sen. Kathy Harrington
Wednesday, March 9, 2016
Room 544, Legislative Office Building
1:00 p.m.

1. Welcome and Opening Comments
Rep. Dean Arp, Co-Chair

2. Discussion of Bill Draft & Committee Report
Ben Stanley, Bill Drafting Division

3. Committee Discussion

4. Adjournment

AGENDA
JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS
Rep. Dean Arp Sen. Kathy Harrington
Wednesday, April 13, 2016
Room 544, Legislative Office Building
1:00 p.m.

1. **Welcome**

2. **Discussion of Bill Draft and Committee Report**

3. **Adoption of Committee Report**

4. **Adjournment**