

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

**SESSION LAW 2020-81
SENATE BILL 212**

AN ACT TO FUND VARIOUS CAPITAL AND REPAIRS AND RENOVATIONS PROJECTS FOR STATE AGENCIES AND THE UNIVERSITY OF NORTH CAROLINA; TO ENACT VARIOUS STATUTORY CHANGES RELATING TO FUNDING, COMMENCING, AND ADMINISTERING CAPITAL PROJECTS FROM THE STATE CAPITAL AND INFRASTRUCTURE FUND; TO ESTABLISH PILOT PROGRAMS AND A SATELLITE-BASED BROADBAND GRANT PROGRAM WITHIN THE DEPARTMENT OF INFORMATION TECHNOLOGY; TO STREAMLINE LEASES AND LEASE RENEWALS FOR BROADBAND INFRASTRUCTURE; TO MAKE APPROPRIATIONS TO THE DEPARTMENT OF INFORMATION TECHNOLOGY; AND TO CREATE A STATUTORY DEFINITION FOR "YEAR-ROUND SCHOOL."

The General Assembly of North Carolina enacts:

SECTION 1.(a) There is transferred from the General Fund to the State Capital and Infrastructure Fund the sum of one hundred four million dollars (\$104,000,000) in nonrecurring funds for the 2020-2021 fiscal year.

SECTION 1.(b) The following agency capital improvement projects have been assigned a project code for reference to allocations in this act and for intended project support by the General Assembly for future fiscal years:

Agency Capital Improvement Project	Project Code
Office of State Budget and Management– Freedom Park Project Repairs and Renovations	OSBM20-1 R&R20-1
The University of North Carolina University of North Carolina at Chapel Hill– Business School Nursing School Renovation	UNC/CH20-1 UNC/CH20-2
North Carolina State University– STEM Building	UNC/NCS20-1
Fayetteville State University– Dormitory Demolition and Removal	UNC/FSU20-1
University of North Carolina at Asheville– Woods Residence Hall Occupancy Requirements	UNC/AVL20-1

SECTION 1.(c) There is appropriated from the State Capital and Infrastructure Fund to the Office of State Budget and Management the sum of one hundred four million dollars



(\$104,000,000) in nonrecurring funds for the 2020-2021 fiscal year to be allocated for the following project codes, as defined in subsection (b) of this section:

Capital Improvements–

State Capital and Infrastructure Fund	Total Project Authorization	2020-2021 FY
OSBM20-1	\$1,500,000	\$1,500,000
R&R20-1	–	\$85,250,000
UNC/CH20-1	\$150,000,000	\$7,000,000
UNC/CH20-2	\$45,000,000	\$2,500,000
UNC/NCS20-1	\$160,000,000	\$7,000,000
UNC/AVL20-1	\$750,000	\$750,000

SECTION 1.(d) For project code OSBM20-1, the Office of State Budget and Management shall provide a grant to the North Carolina Freedom Park, a nonprofit corporation, to build a public sculpture park on land located between the Legislative Building and the Governor's Mansion in downtown Raleigh to commemorate historic and ongoing struggles for freedom in North Carolina and especially the enduring roles of African-Americans in the struggle for freedom in this State. The North Carolina Historical Commission shall review and approve any monuments or sculptures, in accordance with G.S. 100-2, prior to placing them on State property. These funds shall not be expended unless the North Carolina Freedom Park raises the sum of one million seven hundred thousand dollars (\$1,700,000) in non-State funds to match the funds allocated under this section.

SECTION 1.(e) For project code UNC/CH20-1, the University of North Carolina at Chapel Hill is authorized to spend up to one hundred fifty million dollars (\$150,000,000) on the project, but shall commit to providing funding of at least seventy-five million dollars (\$75,000,000) from non-State sources on or before June 30, 2022, as a match for the intended State allocations totaling seventy-five million dollars (\$75,000,000) for the project.

SECTION 1.(f) For project code UNC/NCS20-1, North Carolina State University is authorized to spend up to one hundred sixty million dollars (\$160,000,000) on the project, but shall commit to providing funding of at least eighty million dollars (\$80,000,000) from non-State sources on or before June 30, 2022, as a match for the intended State allocations totaling eighty million dollars (\$80,000,000) for the project.

SECTION 1.(g) For project code UNC/AVL20-1, notwithstanding any provision of law to the contrary, the funds allocated for the project shall be used to cover the expenses incurred by UNC-Asheville related to meeting the building requirements imposed by the Department of Insurance upon UNC-Asheville to allow students to occupy the university's newly constructed Woods Residence Hall.

SECTION 2. If funds are deposited pursuant to Section 3.2 of House Bill 1023, 2019 Regular Session, the State Controller shall transfer the sum of thirty-one million five hundred thousand dollars (\$31,500,000) in nonrecurring funds for the 2020-2021 fiscal year from the General Fund to the State Capital and Infrastructure Fund. The funds transferred to the State Capital and Infrastructure Fund are hereby appropriated as nonrecurring funds for the 2020-2021 fiscal year and shall be allocated by the Office of State Budget and Management for the following project codes, as defined in Section 1(b) of this act:

- (1) \$7,000,000 for project code UNC/CH20-1.
- (2) \$2,500,000 for project code UNC/CH20-2.
- (3) \$7,000,000 for project code UNC/NCS20-1.
- (4) \$15,000,000 for project code R&R20-1.

SECTION 3.(a) Of the funds appropriated in this act for project code R&R20-1, the Office of State Budget and Management shall allocate the sum of two million five hundred thousand dollars (\$2,500,000) for project code UNC/FSU20-1.

SECTION 3.(b) Of the funds appropriated in Section 1 of this act, for project code R&R20-1, after the allocation in subsection (a) of this section, the Office of State Budget and Management shall make the following allocations to the following agencies for repairs and renovations pursuant to G.S. 143C-8-13:

- (1) Forty percent (40%) of the amount appropriated in this act from the State Capital and Infrastructure Fund shall be allocated for repairs and renovations at the constituent institutions of The University of North Carolina, as determined by the Board of Governors.
- (2) Sixty percent (60%) of the amount appropriated in this act from the State Capital and Infrastructure Fund shall be allocated for repairs and renovations for State agencies, excluding The University of North Carolina.

The Office of State Budget and Management shall consult with or report to the Joint Legislative Commission on Governmental Operations, as appropriate, in accordance with G.S. 143C-8-13(b). The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations in accordance with G.S. 143C-8-13(b).

SECTION 3.(c) Funds allocated under this section that may be expended on projects where the recipient intends or expects to receive insurance proceeds or State or federal aid or assistance shall be used only to the extent that funds received from the settlement of a claim for loss or damage covered under the recipient's applicable insurance policy, or other aid or assistance, are insufficient to cover all damages sustained as a result of Hurricane Florence.

SECTION 4.(a) G.S. 143C-8-13 reads as rewritten:

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

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

...

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

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

- (1) The project meets all of the following requirements:
 - a. The total project costs do not exceed six hundred thousand dollars (\$600,000).
 - b. The project is one of the types set forth in subdivisions (1) through (13) of subsection (a) of this section, regardless of whether the relevant facilities and related infrastructure are supported from the General Fund or the State Capital and Infrastructure Fund.
- (2) The constituent institution reports on projects undertaken pursuant to this subsection to the Board of Governors of The University of North Carolina and

the Fiscal Research Division on a quarterly basis. The report shall include all of the following information for each project:

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

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

SECTION 4.(b) G.S. 143C-8-7 reads as rewritten:

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

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

(b) Notwithstanding any other provision of law to the contrary, the Department of Agriculture and Consumer Services is authorized to utilize the types of funds described in subsection (a) of this section to build equipment structures that meet the description contained in G.S. 143-138(b4)(1)c. on an as-needed basis, provided that the total project cost does not exceed one hundred twenty-five thousand dollars (\$125,000)."

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

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

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

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

(c) Capital improvement projects authorized by an act of the General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in that act. Capital improvement projects authorized by an act of the General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved

cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment. Amounts contracted for projects authorized by the General Assembly cannot exceed the total project cost authorization.

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

SECTION 4.(d) G.S. 143C-8-12(a) reads as rewritten:

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

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

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

SECTION 4.(e) G.S. 143C-3-3(b) reads as rewritten:

"(b) University of North Carolina System Request. – Notwithstanding the requirement in G.S. 116-11 that the Board of Governors prepare a unified budget request for all of the constituent institutions of The University of North Carolina, budget requests of the University shall be subject to all of the following:

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

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

SECTION 4.(f) G.S. 143C-4-3.1 reads as rewritten:

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

...

(b) Creation and Source of Funds. – There is established in the General Fund the State Capital and Infrastructure Fund, hereinafter referred to as the "Fund." The Fund shall be maintained as a special fund and administered by the Office of State Budget and Management to carry out the provisions of this section. With the exception of debt service obligations, appropriations from the Fund may be administered by other State agencies as deemed necessary

by the Office of State Budget and Management. Interest accruing from the monies in the Fund shall be credited to the Fund. The Fund shall consist of the following sources of funding:

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

...

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

- (1) New State and The University of North Carolina capital projects governed pursuant to Article 8 of Chapter 143C of the General Statutes.
- (2) Repair and renovation of existing capital assets, as provided in G.S. 143C-8-13.
- (3) Broadband infrastructure projects funded through appropriations to the Growing Rural Economies with Access to Technology Fund established in G.S. 143B-1373(b).
- (4) Projects and grants identified in the Current Operations Appropriations Act or that have been authorized and funded by an act of the General Assembly.

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

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

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

- (1) If the project for which funds have been appropriated is for one of the constituent institutions of The University of North Carolina, then unencumbered funds may be allocated from another project for a constituent institution of The University of North Carolina for which funds have been appropriated.
- (2) If the project for which funds have been appropriated is for a State agency that is not The University of North Carolina, then unencumbered funds may be allocated from another project for a State agency for which funds have been appropriated.
- (3) The amount disbursed will not exceed amounts appropriated from the State Capital and Infrastructure Fund.
- (4) The amount disbursed on any project cannot exceed the amount authorized for that project.
- (5) The amount reallocated cannot be used to expand the scope of the project.
- (6) A project shall not begin until the fiscal year authorized by the General Assembly."

SECTION 4.(g) G.S. 143-341(3)b1. reads as rewritten:

"b1. To certify that a statement of needs pursuant to G.S. 143C-3-3, other than for a project of The University of North Carolina for which advance planning has not been completed, is feasible. For purposes of

this sub-subdivision, "feasible" means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed with the amount of funds requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-subdivision shall not apply to requests for appropriations ~~of less than one hundred thousand dollars (\$100,000)~~ below the formal project limit, as set by the State Building Commission."

SECTION 4.(h) G.S. 116-30.3 reads as rewritten:

"§ 116-30.3. Reversions.

(a) Of the General Fund current operations appropriations credit balance remaining at the end of each fiscal year in each of the budget codes listed in this subsection, any amount of the General Fund appropriation for that budget code for that fiscal year (i) may be carried forward to the next fiscal year in that budget code, (ii) is appropriated in that budget code, and (iii) may be used for ~~any of the purposes~~ purpose set out in subsection (f) of this section. However, the amount carried forward in each budget code under this subsection shall not exceed ~~two and one-half~~ five percent (2.5%) (5.0%) of the General Fund appropriation in that budget code. The Director of the Budget, under the authority set forth in G.S. 143C-6-2, shall establish the General Fund current operations credit balance remaining in each budget code.

The budget codes that may carry forward a General Fund current operations appropriations credit balance remaining at the end of each fiscal year pursuant to this section are the budget codes for each of the following:

- (1) Each special responsibility constituent institution.
- (2) The Area Health Education Centers of the University of North Carolina at Chapel Hill.
- (3) University of North Carolina System Office Budget Code 16010.

Each budget code in subdivisions (1) through (3) of this subsection may retain a carryforward amount of up to two and one-half percent (2.5%). One-half of any amounts carried forward exceeding two and one-half percent (2.5%) shall be distributed to The University of North Carolina System Office, to be disbursed to the constituent institutions at the discretion of the Board of Governors, with the remaining amount being retained in that budget code.

...

(f) Funds carried forward pursuant to subsection (a) of this section ~~may~~ shall be used for ~~one-time expenditures, provided, however, that the expenditures~~ projects that are eligible to receive funds under G.S. 143C-8-13(a). Expenditures authorized by this subsection shall not impose additional financial obligations on the State and shall not be used to support positions."

SECTION 5. The Information Technology Innovation Center, established pursuant to G.S. 143B-1350(j), shall create a cybersecurity pilot program to establish and utilize public-private partnerships to provide cybersecurity support services from participating vendors to eligible counties. The Center shall receive proposals from vendors that demonstrate the capability to provide comprehensive cybersecurity support services to counties designated as development tier one or tier two areas, pursuant to G.S. 143B-437.08. The Center shall establish agreements with participating vendors that describe the funds or professional services to be offered in the cybersecurity pilot program described by this section. Participating vendors selected by the Center shall meet all of the following requirements:

- (1) Demonstrated compliance with the security guidelines outlined in the National Institute of Standards and Technology Special Publication 800-171.
- (2) Services offered must be complete and include all hardware, software, licenses, support, maintenance, training, and labor, as applicable.

- (3) Services must account for evolving technology and security threats.
- (4) Adequate ability for review and oversight of services by the Department of Information Technology.
- (5) Services must be as integrated as possible and must identify accountability and responsibility measures for incident response.
- (6) Projects and services shall be integrated with existing State cybersecurity infrastructure and shall share all resulting data with the State.

The Center shall develop criteria for eligible counties to demonstrate need and capacity to participate in the cybersecurity pilot program by March 31, 2021, and annually thereafter, the Center shall submit a report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the cybersecurity pilot program, including the terms of partnerships initiated, eligible counties participating, and any results from partnerships.

SECTION 6.(a) The Department of Information Technology (Department) shall establish a program and project management improvement pilot program that incorporates the provisions contained in this section. The State Chief Information Officer shall do all of the following:

- (1) Adopt mandatory agency-wide standards, policies, and guidelines for program and project management.
- (2) Oversee program and project management for the standards, policies, and guidelines established pursuant to subdivision (1) of this subsection.
- (3) Issue regulations and establish mandatory standards and policies for the Department, in accordance with nationally accredited standards for program and project management planning and execution.
- (4) Collaborate and engage with private and nonprofit entities in furtherance of the standards, policies, and guidelines established pursuant to this subsection.
- (5) Conduct periodic reviews of the Department to identify and address programs and projects identified as high-risk.
- (6) Conduct annual reviews of Department programs and projects in coordination with the Department's Project Management Improvement Director designated pursuant to this section.
- (7) Establish and periodically update a five-year strategic plan for program and project management for the Department.

SECTION 6.(b) The Deputy Chief Information Officer shall designate a Program Management Improvement Director who shall report directly to the Deputy CIO. The Program Management Improvement Director shall be responsible for all of the following:

- (1) Implementation of mandatory program management policies established by the Department pursuant to this section.
- (2) Development of a written strategy for enhancing the role of program managers within the Department which shall include all of the following:
 - a. Enhanced training and educational opportunities for program managers.
 - b. Mentoring of current and future program managers by experienced agency personnel within the Department.
 - c. Establishing improved career paths and career opportunities for program managers.
 - d. Providing incentives for the recruitment and retention of highly qualified individuals to serve as program managers.
 - e. Developing resources and support, including establishing relevant competencies encompassed with program and project management within the private sector for program managers.

- f. Developing means of collecting and disseminating best practices and lessons learned to enhance program management throughout the Department.
- g. Create common templates and tools to support improved data gathering and analysis for program management and oversight purposes.

SECTION 6.(c) No later than 270 days after the effective date of this act, the Deputy Chief Information Officer shall issue regulations in accordance with this section. The regulations shall contain at least all of the following:

- (1) Identification of key skills and competencies needed for a program and project manager in the Department.
- (2) Establishment of a new job series for program and project management within the Department.
- (3) Establishment of a new career path for program and project managers within the Department.
- (4) Requirements for certification of program and project managers within the Department by domestic third-party certification bodies specializing in certifications for project managers, program managers, and portfolio managers.

SECTION 6.(d) On or before July 1, 2021, the Department of Information Technology shall submit a report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the pilot program outlined in this section. At a minimum, the report shall contain the following:

- (1) A list of the policies, guidelines, and regulations issued under the pilot program.
- (2) The contents of the five-year strategic plan for program and project management.
- (3) A summary of the written strategy for project managers in the Department.
- (4) Evidence of any improvement in project management in the Department, including a summary of personnel training and certifications, resulting from the pilot program.
- (5) Any programmatic or legislative recommendations.

SECTION 7.(a) Part 6 of Article 15 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-1374. Satellite-Based Broadband Grant Program.

(a) The following definitions apply in this section:

- (1) Broadband service. – Internet access service, regardless of the technology or medium used to provide the service, with transmission speeds that are equal to or greater than the requirements for the minimum performance tier and with latency equal to or lesser than the requirements for low latency, as both metrics are provided by the Federal Communications Commission in Paragraph 39 of the report and order adopted January 30, 2020, and released February 7, 2020.
- (2) Grantee. – A satellite-based provider that has been awarded a grant pursuant to this section.
- (3) Office. – The Broadband Infrastructure Office in the Department of Information Technology.
- (4) Project area. – An area identified by a grantee and defined in a grant agreement entered into pursuant to this section that contains unserved households. A project area may also cover areas that have broadband service.
- (5) Satellite-based provider. – A broadband service provider that provides Internet access directly to consumers via satellite technology.

(6) Unserved household. – A household located in this State that does not have access to broadband service from a wireline or wireless service provider. A household that is included in an area where a grant from the Growing Rural Economies with Access to Technology (GREAT) program pursuant to G.S. 143B-1373 has been awarded is not eligible for a grant under this section.

(b) The Satellite-Based Broadband Grant Fund is created as a special revenue fund in the Department of Information Technology. Monies in the Fund do not revert but remain available to the Department for the purposes provided in this section. State funds appropriated to this Fund shall be considered an information technology project within the meaning of G.S. 143C-1-2.

(c) Applications for grants will be submitted at times designated by and on forms prescribed by the Secretary. Notwithstanding any other provision of law, if the Secretary deems some of the information in an application to contain proprietary information, the Secretary may provide that such information is not a public record, as that term is defined in G.S. 132-1, subject to public records or other laws requiring the disclosure of such information and have that portion of the application redacted. An application shall include, at a minimum, the following information:

- (1) The identity of the applicant.
- (2) An illustration or description of the project area to be served and the estimated number of unserved households in that area that will gain access to broadband service at the conclusion of deployment.
- (3) The proposed construction and deployment time line.
- (4) A description of the services to be provided, including the proposed upstream and downstream broadband speeds to be delivered, latency metrics, and any applicable data caps. Any applicant proposing a data cap below 150 Gigabytes of usage per month shall also provide justification to the satisfaction of the Office that the proposed cap is in the public interest and consistent with industry standards.
- (5) A plan to mitigate barriers to adoption by households.
- (6) The proposed advertised speed to be marketed to end users in the project area.
- (7) The proposed cost to be charged to an unserved household in the project area for subscribing to the broadband service.
- (8) Any other information or supplementary documentation requested by the Office.

(d) The Office shall determine eligibility for a grant pursuant to this section based upon the information provided in the application of a satellite-based provider, and any other information or supplementary documentation requested by the Office, and shall award grants to applicants that will provide access to the greatest number of unserved households. Applications of satellite-based providers that propose the provision of broadband service to the greatest number of unserved households situated in census tracts that have been identified as significantly unserved by the Office shall be given priority. The maximum aggregate amount of total liability for all grants awarded under this section is four million dollars (\$4,000,000). The maximum amount of total annual liability for grants awarded in any single calendar year under this section is two million five hundred thousand dollars (\$2,500,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during a single calendar year, could cause the State's potential total annual liability for grants awarded in a single calendar year to exceed the applicable amount. The amount of award per household for each grant year shall be equal to the product of two hundred fifty dollars (\$250.00) multiplied by a fraction, the numerator of which is the total number of full months all unserved households subscribed to and received broadband service from the grantee in the grant year and the denominator of which is 12. No broadband service to an unserved household beyond 24 months of service may be included in the calculation of an award.

Eligibility for a grant award is dependent upon the household maintaining broadband service with the grantee for at least eighty-three percent (83%) of the year in which the grantee seeks an award. No single subscription or full-year equivalent subscription may be used to calculate a grant award for more than the three-year term identified in the agreement. The total grant award for a single unserved household under this section shall not exceed five hundred dollars (\$500.00). A grantee shall submit documentation to the Office annually that will provide information sufficient for the Office to verify eligibility of subscriptions, including that the household was unserved. Payment of grant funds is subject to documentation showing eligibility of subscriptions.

(e) The Office shall require a grantee to enter into an agreement. The agreement shall contain at least all of the following:

- (1) A detailed description of the anticipated area where the grantee will deploy broadband service.
- (2) The current number of unserved households situated within the anticipated area.
- (3) The total number of unserved households the grantee anticipates subscribing to its broadband service.
- (4) A method for the grantee to report annually to the Office the number of households subscribing to broadband service offered by the grantee and for documenting that those households were previously unserved households.
- (5) A plan for the grantee to address barriers to adoption by households situated within the project area.
- (6) A provision that requires the grantee to maintain its service for the area, or another area approved by the Office, for at least five years.
- (7) A provision establishing the conditions under which the grant agreement may be terminated and under which grant funds may be recaptured by the Office.
- (8) A provision stating that unless the agreement is terminated pursuant to its terms, the agreement is binding and constitutes a continuing contractual obligation of the State and the grantee.
- (9) A provision that establishes any allowed variation in the terms of the agreement that will not subject the grantee to grant reduction, amendment, or termination of the agreement.
- (10) A provision describing the manner in which the amount of the grant will be measured and administered to ensure compliance with the agreement and this section.
- (11) A provision stating that any recapture of a grant and any reduction in the amount of the grant or the term of the agreement must, at a minimum, be proportional to the failure to comply measured relative to the condition or criterion with respect to which the failure occurred.
- (12) A provision describing the methodology the Office will use to verify subscriptions and the types of information required to be submitted by the grantee.
- (13) A provision prohibiting a grantee from receiving a payment or other benefit under the agreement at any time when the grantee has received a notice of an overdue tax debt, as defined in G.S. 105-243.1, and the overdue tax debt has not been satisfied or otherwise resolved.
- (14) A provision stating that any disputes over interpretation of the agreement shall be submitted to binding arbitration.
- (15) A provision encouraging the business to contract with small businesses headquartered in the State for goods and services.
- (16) A provision encouraging the business to hire North Carolina residents.

(17) A provision encouraging the business to use the North Carolina State Ports.

(18) Any other provision the Office deems necessary.

An agreement entered into pursuant to this section is a binding obligation of the State and is not subject to State funds being appropriated by the General Assembly.

(f) If the grantee fails to meet or comply with any condition or requirement set forth in an agreement, the Office shall reduce the amount of the grant or the term of the agreement, may terminate the agreement, or both. The reduction in the amount or the term must, at a minimum, be proportional to the failure to comply measured relative to the condition with respect to which the failure occurred. If the Office finds that the grantee has manipulated or attempted to manipulate data with the purpose of increasing the amount of a grant, the Office shall immediately terminate the agreement and take action to recapture any grant funds disbursed in any year in which the Office finds the grantee manipulated or attempted to manipulate data with the purpose of increasing the amount of a grant.

(g) The grantee shall certify and provide to the Office evidence consistent with a Federal Communications Commission attestation that the proposed minimum upstream and minimum downstream broadband speeds and latency metrics identified in the application guidelines are and will be available throughout the project area during the term of the agreement prior to any end user connections. A grantee may receive an annual disbursement of a grant only after the Office has certified that the grantee has met the terms and conditions of the agreement, including documentation of eligible subscriptions by unserved households. A grantee shall annually submit a certification of compliance with the agreement to the Office. The Office shall require the grantee to provide any necessary evidence of compliance to verify that the terms of the agreement have been met.

(h) Notwithstanding any other provision of law, grants made pursuant to this section shall be budgeted and funded on a cash flow basis. The Department shall disburse funds in an amount sufficient to satisfy grant obligations to be paid during the fiscal year. It is the intent of the General Assembly to appropriate funds annually to the Satellite-Based Broadband Grant Program established in this section in amounts sufficient to meet the anticipated cash requirements for each fiscal year.

(i) The Office shall require that a grantee offer the proposed advertised minimum download and minimum upload speeds and subscription cost identified in the application for the duration of the five-year service agreement. At least annually, a grantee shall provide to the Office evidence consistent with a Federal Communications Commission attestation that the grantee is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement. For the duration of the agreement, a grantee shall disclose any changes to data caps for the project area that differ from the data caps listed in the grant application to the Office.

(j) A grantee shall submit to the Office an annual report for the duration of the agreement. The report shall include a summary of, and level of attainment for, the items contained in the grant agreement and shall also include (i) the number of households that have broadband access as a result of the project, (ii) the percentage of end users in the project area who have access to broadband service that actually subscribe to the broadband service, and (iii) the average monthly subscription cost for broadband service in the project area.

(k) The Department of Information Technology shall submit an annual report to the Joint Legislative Oversight Committee for Information Technology and the Fiscal Research Division on or before September 1. The report shall contain at least all of the following:

- (1) The number of grant projects applied for and the number of grant agreements entered into.
- (2) A time line for each grant agreement and the number of households expected to benefit from each agreement.
- (3) The total amount of investment for each agreement.

- (4) A summary of areas receiving grants that are now being provided broadband service and the advertised broadband speeds and subscription prices for those areas.
- (5) Any breaches of agreements, and any grant fund forfeitures or reductions.
- (6) Any recommendations for the grant program, including better data sources and methods for improving outcomes and accountability."

SECTION 7.(b) Notwithstanding G.S. 143B-1374(d), as enacted in this act, the maximum amount of total annual liability for grants awarded for the 2020 calendar year is one million dollars (\$1,000,000).

SECTION 8.(a) G.S. 146-29.2 reads as rewritten:

"§ 146-29.2. Lease or interest in real property for communication purposes.

...

(b1) The State shall allow the collocation, installation, and operation of equipment by a broadband provider on any existing structure owned by the State and shall lease real property, or grant an easement or license with an interest in real property, for the purposes of construction and placement of broadband infrastructure on State land. A disposition entered into pursuant to this subsection is voidable by the Governor and Council of State for specific reasons or causes that shall be cited. A determination for a disposition under this subsection shall be made subject to the following:

- (1) For new requests, the Department of Administration shall prepare and finalize the lease agreement within four months of the receipt of the lease application by the controlling agency. An agency controlling the subject property shall coordinate with the Department in preparing the complete application package for the lease request. If, after four months have elapsed since the controlling agency received the lease application, the lease agreement has not been finalized, the Department shall enter into a lease agreement with the applicant according to the terms submitted in the application.
- (2) For renewals, the Department of Administration shall prepare and finalize the lease agreement within two months of receiving the application. If the Department is unable to finalize the renewed lease at least two months prior to the termination of the current lease, then the terms of the current lease shall continue until the lease is finalized.
- (3) The Department of Administration shall coordinate with the Department of Information Technology to develop a streamlined lease development process using state-of-the-art technology, including video conferencing, to facilitate and expedite process completion. All State agencies shall cooperate with and participate in the streamlined lease development process to ensure that finalized lease agreement is prepared and finalized within the time frames required under this subsection.

...."

SECTION 8.(b) This section becomes effective July 1, 2020, and applies to applications for new leases and lease renewals submitted on or after that date.

SECTION 8.(c) This section expires January 1, 2025.

SECTION 9.(a) Notwithstanding any other provision of law to the contrary, the appropriation in Fund Code 14660-1990 for transfer to the IT Reserve Fund (Budget Code: 24667) is reduced by twelve million two hundred fifty thousand dollars (\$12,250,000) in nonrecurring funds for the 2020-2021 fiscal year and the appropriation to Enterprise Security and Risk Management Office (Fund Code: 14660-1720) is increased by twelve million two hundred fifty thousand dollars (\$12,250,000) in nonrecurring funds for the 2020-2021 fiscal year.

SECTION 9.(b) Of the funds available in the Enterprise Security and Risk Management Office (Fund Code: 14660-1720), the following sums are appropriated to the Department of Information Technology to be allocated for the following purposes:

- (1) \$2,500,000 in nonrecurring funds for the 2020-2021 fiscal year for the cybersecurity pilot program described in Section 5 of this act.
- (2) \$3,250,000 in nonrecurring funds for the 2020-2021 fiscal year to be allocated to Gaston College to use to found the Carolina Cyber Network. Gaston College may use up to two hundred fifty thousand dollars (\$250,000) of the funds allocated in this subdivision for administration costs associated with the Network.
- (3) The sum of five million five hundred thousand dollars (\$5,500,000) in nonrecurring funds for the 2020-2021 fiscal year to be used to enhance Statewide cybersecurity.
- (4) The sum of one million dollars (\$1,000,000) to the Satellite-Based Broadband Grant Fund, established in Section 7 of this act.

SECTION 10.(a) G.S. 115C-84.2 is amended by adding a new subsection to read:

"(f) Definitions. – The following definitions shall apply in this section:

- (1) Reserved.
- (2) Reserved.
- (3) Reserved.
- (4) Reserved.
- (5) Year-round school. – A school with a single- or multi-track instructional calendar to provide instructional days throughout the entire school calendar year, beginning July 1 and ending June 30, by utilizing at least one of the following plans:
 - a. A plan dividing students into four groups and requiring each group to be in school for assigned and staggered quarters each school calendar year.
 - b. A plan providing students be scheduled to attend 45 instructional days followed by 15 days of vacation, repeated throughout the school calendar year.
 - c. A plan dividing the school calendar year into five nine-week sessions of classes and requiring each student to attend four assigned and staggered sessions out of the five nine-week sessions to complete the student's instructional year."

SECTION 10.(b) This section is effective when it becomes law and applies beginning with the 2021-2022 school year.

SECTION 11.(a) The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

SECTION 11.(b) Departmental receipts, as defined in G.S. 143C-1-1, are appropriated for the 2020-2021 fiscal year up to the amounts needed to implement the provisions in this act for the 2020-2021 fiscal year.

SECTION 11.(c) Except where expressly repealed or amended by this act, the provisions of any other legislation enacted during the 2019 Regular Session of the General Assembly expressly appropriating funds to an agency, a department, or an institution covered under this act shall remain in effect.

SECTION 12. Sections 1, 2, and 3 of this act become effective July 1, 2020. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of June, 2020.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 5:36 p.m. this 1st day of July, 2020