

Chapter 143C.

State Budget Act.

Article 1.

General Provisions.

§ 143C-1-1. Purpose and definitions.

(a) Title of Chapter. – This Chapter is the "State Budget Act" and may be cited by that name.

(b) The provisions of this Chapter shall apply to every State agency, unless specifically exempted herein, and to every non-State entity that receives or expends any State funds. No State agency or non-State entity shall expend any State funds except in accordance with an act of appropriation and the requirements of this Chapter. The provisions of Chapter 120 of the General Statutes shall continue to apply to the General Assembly and to control its expenditures and in the event of a conflict with this Chapter, the provisions of Chapter 120 of the General Statutes shall control. Nothing in this Chapter abrogates or diminishes the inherent power of the legislative, executive, or judicial branch.

(c) Purpose. – This Chapter establishes procedures for the following:

- (1) Preparing the recommended State budget.
- (2) Enacting the State budget.
- (3) Administering the State budget.

(d) Definitions. – The following definitions apply in this Chapter:

- (1) Appropriation. – An enactment by the General Assembly authorizing the withdrawal of money from the State treasury. An enactment by the General Assembly that authorizes, specifies, or otherwise provides that funds may be used for a particular purpose is not an appropriation.
 - (1a) Authorized budget. – The certified budget with changes authorized by the Director of the Budget through authority granted in G.S. 143C-6-4 or other statutes.
 - (1b) Availability. – The total anticipated cash available within a fund for appropriation purposes, including unreserved fund balance and all revenue and receipts anticipated in a fiscal year.
 - (1c) Base Budget. – That part of the recommended State budget that provides the baseline for the next biennium. The base budget for each State agency shall be the authorized budget for that agency with adjustments only for the following:
 - a. Annualization of programs and positions.
 - b. Reductions to adjust for items funded with nonrecurring funds during the prior fiscal biennium.
 - c. Increases to adjust for nonrecurring reductions during the prior fiscal biennium.
 - d. Adjustments for federal payroll tax changes.
 - e. Rate increases in accordance with the terms of existing leases of real property.
 - f. Adjustments to receipt projections, made in accordance with G.S. 143C-3-5(b)(2)c.
 - g. Reconciliation of intragovernmental and intergovernmental transfers.

- h. Adjustments for statutory appropriations and other adjustments as directed by the General Assembly.
- (2) Biennium. – The two fiscal years beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year.
 - (3) Budget. – A plan to provide and spend money for specified programs, functions, activities, or objects during a fiscal year.
 - (4) Budget year. – The fiscal year for which a budget is proposed and enacted.
 - (5) Capital improvement. – A term that includes real property acquisition, new construction or rehabilitation of existing facilities, and repairs and renovations over one hundred thousand dollars (\$100,000) in value.
 - (6) Repealed by Session Laws 2017-57, s. 6.6(a), effective July 1, 2017, and applicable beginning with the base budget developed for the 2018-2019 fiscal year.
 - (7) Certified budget. – The budget as enacted by the General Assembly including adjustments made for (i) distributions to State agencies from statewide reserves appropriated by the General Assembly, (ii) distributions of reserves appropriated to a specific agency by the General Assembly, and (iii) organizational or budget changes mandated by the General Assembly.
 - (7a) Repealed by Session Laws 2014-100, s. 6.4(a), effective July 1, 2014, and applicable beginning with the recommended State budget of the 2015-2017 fiscal biennium.
 - (8) Controller. – The Office of the State Controller.
 - (9) Current Operations Appropriations Act. – An act of the General Assembly estimating revenue availability for and appropriating money for the current operations and capital improvement needs of State government during one or more budget years.
 - (10) Departmental receipt. – Fees, licenses, federal funds, grants, fines, penalties, tuition, and other similar collections or credits generated by State agencies in the course of performing their governmental functions that are applied to the cost of a program administered by the State agency or transferred to the Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.1, and that are not defined as tax proceeds or nontax revenues. Departmental receipts may include moneys transferred into a fiscal year from a prior fiscal year.
 - (11) Director. – The Director of the Budget, who is the Governor.
 - (12) Encumbrance. – A financial obligation created by a purchase order, contract, salary commitment, unearned or prepaid collections for services provided by the State, or other legally binding agreement.
 - (13) Fiscal period. – A fiscal biennium beginning in odd-numbered years or the first or second fiscal year within a fiscal biennium.
 - (14) Fiscal year. – The annual period beginning July 1 and ending on the following June 30.
 - (15) Fund. – A fiscal and accounting entity with a self-balancing set of accounts recording cash and other resources, together with all related liabilities and residual equities or balances, and changes therein, for the purpose of carrying on stated programs, activities, and objectives of State government.

- (16) General Fund Operating Budget. – The sum of all appropriations from the General Fund for a fiscal year, except appropriations for (i) capital improvements, including repairs and renovations, and (ii) one-time expenditures due to natural disasters or other emergencies shall not be included.
- (16a) Increase the scope. – With respect to a capital improvement project, either increasing the square footage of a capital improvement project by more than ten percent (10%) of the amount authorized or programming new functions into the project.
- (17) Information technology. – As defined in G.S. 143B-1320.
- (18) Non-State entity. – Any of the following that is not a State agency: an individual, a firm, a partnership, an association, a county, a corporation, or any other organization or group acting as a unit. The term includes a unit of local government and public authority.
- (19) Nontax revenue. – Revenue that is not a tax proceed or a departmental receipt and that is required by statute to be credited to a fund.
- (20) Object or line item. – An expenditure or receipt in a recommended or enacted budget that is designated in the Budget Code Structure of the North Carolina Accounting System Uniform Chart of Accounts prescribed by the Office of the State Controller.
- (21) Performance information. – The organizational structure, agency activity statements, performance indicators, and analyses of program efficiency and effectiveness.
- (22) Public authority. – A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation and (ii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
- (23) Purpose or program. – A group of objects or line items for support of a specific activity outlined in a recommended or enacted budget that is designated by a nine-digit fund code in accordance with the Budget Code Structure of the North Carolina Accounting System Uniform Chart of Accounts prescribed by the Office of the State Controller.
- (24) State agency. – A unit of the executive, legislative, or judicial branch of State government, such as a department, an institution, a division, a commission, a board, a council, or The University of North Carolina. The term does not include a unit of local government or a public authority.
- (25) State funds. – Any moneys including federal funds deposited in the State treasury except moneys deposited in a trust fund or agency fund as described in G.S. 143C-1-3.
- (26) State resources. – All financial and nonfinancial assets of the State.
- (27) State revenue. – An increase, other than interfund transfers and debt issue proceeds, in the financial assets of any State governmental or proprietary fund.
- (28) Statutory appropriation. – An appropriation enacted by the General Assembly in the General Statutes that authorizes the current and future withdrawal of

funds from the State treasury during current and future fiscal years, without further act of the General Assembly.

- (29) Unit of local government. – A municipal corporation that has the power to levy taxes, including a consolidated city-county, as defined by G.S. 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.
- (30) Unreserved fund balance. – The available cash balance effective June 30 after excluding documented encumbrances, unearned revenue, statutory requirements, and other legal obligations to a fund's cash balance as determined by the State Controller. Beginning unreserved fund balance equals ending unreserved fund balance from the prior fiscal year. (2006-66, s. 6.19(h); 2006-203, s. 3; 2006-221, s. 3A; 2006-259, s. 40(h); 2007-393, s. 2; 2010-31, s. 30.8; 2013-360, s. 6.12(a), (b), (h), (i); 2014-100, s. 6.4(a), (b); 2015-241, s. 7A.4(z); 2017-57, s. 6.6(a); 2018-5, s. 36.7(c).)

§ 143C-1-2. Appropriations: constitutional requirement; reversions.

(a) Appropriation Required to Withdraw State Funds From the State Treasury. – In accordance with Section 7 of Article V of the North Carolina Constitution, no money shall be drawn from the State treasury but in consequence of appropriations made by law. A law enacted by the General Assembly that authorizes the expenditure of money from the State treasury is an appropriation; however, an enactment by the General Assembly that authorizes, specifies, or otherwise provides that funds may be used for a particular purpose is not an appropriation.

(b) Reversions. – Unless otherwise provided by law, at the end of the fiscal year the unexpended, unencumbered balance of an appropriation reverts to the fund from which the appropriation was made; except that (i) an appropriation to the General Assembly shall not revert unless otherwise provided by the Legislative Services Commission, (ii) an appropriation for a capital improvement project shall revert as provided by G.S. 143C-8-11, and (iii) an appropriation for the implementation of information technology (IT) projects shall not revert until the project is implemented or abandoned. (2006-203, s. 3.)

§ 143C-1-3. Fund types.

(a) Types. – The Controller shall account for State resources through use of the fund types listed in this subsection. The Controller may not establish a fund type that differs from the listed fund types unless the Governmental Accounting Standards Board has approved the use of the different fund type.

The fund types are described as follows, except that where a conflict exists between a description used in this section and the definition of the corresponding fund type issued by the Governmental Accounting Standards Board, it is presumed that the definition issued by the Governmental Accounting Standards Board shall prevail.

Governmental Funds.

- (1) Capital Projects Funds. – Accounts for financial resources to be used for the acquisition or construction of major capital facilities other than those financed by proprietary funds or in trust funds for individuals, private organizations, or other governments. Capital outlays financed from general obligation bond proceeds should be accounted for through a capital projects fund.

- (2) Debt Service Funds. – Accounts for the accumulation of resources for, and the payment of, general long-term debt principal and interest.
- (3) General Fund. – Accounts for all financial resources except those required to be reported in another fund.
- (4) Special Revenue Funds. – Accounts for the proceeds of specific revenue sources, other than trusts for individuals, private organizations, or other governments or for major capital projects, that are legally restricted to expenditure for specified purposes.
- (5) Permanent Funds. – Accounts for resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs.

Proprietary Funds.

- (6) Enterprise Funds. – Accounts for any activity for which a fee is charged to external users for goods or services. Activities are required to be reported as enterprise funds if any one of the following criteria is met. Each of these criteria should be applied in the context of the activity's principal revenue sources.
 - a. The activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity.
 - b. Laws or regulations require that the activity's costs of providing services, including capital costs, be recovered with fees and charges rather than with taxes or similar revenues.
 - c. The pricing policies of the activity establish fees and charges designed to recover its costs, including capital costs.
- (7) Internal Service Funds. – Accounts for any activity that provides goods or services to other funds, departments, or agencies of the primary government and its component units, or to other governments, on a cost-reimbursement basis. Internal service funds should be used only if the reporting government is the predominant participant in the activity. Otherwise, the activity should be reported as an enterprise fund.

Agency and Trust Funds.

- (8) Agency Funds. – Accounts for resources held by the reporting government in a purely custodial capacity. Agency funds typically involve only the receipt, temporary investment, and remittance of fiduciary resources to individuals, private organizations, or other governments.
- (9) Investment Trust Funds. – Accounts for the external portion of investment pools reported by the sponsoring government.
- (10) Pension and Other Employee Benefit Trust Funds. – Accounts for resources that are required to be held in trust for the members and beneficiaries of defined benefit pension plans, defined contribution plans, other postemployment benefit plans, or other employee benefit plans.
- (11) Private-Purpose Trust Funds. – Accounts for all other trust arrangements under which principal and income benefit individuals, private organizations, or other governments.

(b) Designation. – If State resources are designated by law as a fund or an account within a fund and there is a conflict between the legal designation and the appropriate accounting designation of the State resources, then the Controller shall determine the appropriate designation

of the State resources based on the intended use and financial treatment of the State resources as set out in the law establishing the fund or account. The Controller shall determine the fund type of all separate funds and account for them accordingly. The Controller shall keep the total number of funds to the minimum number practical.

(c) Notwithstanding subsections (a) and (b) of this section, funds established for The University of North Carolina and its constituent institutions pursuant to the following statutes are exempt from Chapter 143C of the General Statutes and shall be accounted for as provided by those statutes, except that the provisions of Article 8 of Chapter 143C of the General Statutes shall apply to the funds: G.S. 116-35, 116-36, 116-36.1, 116-36.2, 116-36.4, 116-36.5, 116-36.6, 116-44.4, 116-68, 116-220, 116-235. (2006-203, s. 3; 2013-360, s. 6.12(c).)

§ 143C-1-4. Interest earnings credited to the General Fund; interest earnings on Highway Fund and Highway Trust Fund credited to those funds.

(a) Interest Earnings Credited to the General Fund. – Unless otherwise provided by law, interest earned on all funds shall be credited to the General Fund.

(b) Exception for Interest Earnings on Highway Fund and Highway Trust Fund. – Interest earned by the Highway Fund and the Highway Trust Fund shall be credited to the Highway Fund and the Highway Trust Fund respectively. (2006-203, s. 3.)

§ 143C-1-5. Chapter is applicable to The University of North Carolina.

Except as expressly provided in G.S. 143C-1-3(c) or otherwise expressly provided by law, The University of North Carolina shall be subject to the provisions of this Chapter in the same manner and to the same degree as other State agencies. (2013-360, s. 6.12(d).)

Article 2.

Director of the Budget.

§ 143C-2-1. Governor is Director of the Budget.

(a) Governor is Director of the Budget. – The Governor is the Director of the Budget. In that capacity, the Governor is required by Article III, Section 5(3) of the North Carolina Constitution to prepare and recommend a budget and to administer the budget as enacted by the General Assembly. The Governor's powers under this Chapter extend to all agencies, institutions, departments, bureaus, boards, and commissions of the State of North Carolina under whatever name now or hereafter known. The Governor may delegate the authority to perform a power or duty of the Director under this Chapter to the Office of State Budget and Management or to one or more persons.

(b) State Agencies and Non-State Entities to Provide Information Requested by the Director; Examination of Persons and Agencies by Director. – Upon request, all State agencies and non-State entities subject to this act shall furnish the Director, in the form and at the time requested by the Director, any information desired by the Director in relation to their respective activities or fiscal affairs so long as the information is not confidential pursuant to federal or State law. The Director may subpoena and examine under oath any person directly or indirectly responsible for the operations of any executive State agency or any non-State entity subject to the provisions of this Chapter.

(c) Governor May Request State Auditor to Audit State Agency or Non-State Entity Receiving State Funds. – As authorized by G.S. 147-64.6(c)(3), the Governor may request the

State Auditor to make an audit of or cause an audit to be made of the books and accounts of any State agency and may require that the cost of the audit be borne by the State agency. The Governor may also request the State Auditor to make an audit of or cause an audit to be made of the books and records of any non-State entity receiving State funds pursuant to the State Auditor's authority granted in G.S. 147-64.7. (2006-203, s. 3.)

§ 143C-2-2. Collection of State Budget Statistics.

The Director shall coordinate the efforts of governmental agencies to collect, disseminate, and analyze economic, demographic, and social statistics pertinent to State budgeting. The Director shall do all of the following:

- (1) Prepare and release the official demographic and economic estimates and projections for the State.
- (2) Conduct special economic and demographic analyses and studies to support statewide budgeting.
- (3) Develop and coordinate cooperative arrangements with federal, State, and local governmental agencies to facilitate the exchange of data to support State budgeting.
- (4) Report major trends that influence revenues and expenditures in the State budget in the current fiscal year and that may influence revenues and expenditures over the next five fiscal years. (2006-203, s. 3.)

§ 143C-2-3. Fiscal analysis required for any State agency bill that affects the budget.

A State agency proposing a bill that affects the State budget shall prepare a fiscal analysis for the bill and submit the analysis to the Fiscal Research Division upon introduction of the bill. The fiscal analysis shall estimate the impact of the legislation on the State budget for the first five fiscal years the legislation would be in effect. (2006-203, s. 3.)

§ 143C-2-4. Director of the Budget may direct State Treasurer to borrow money for certain payments.

The Director of the Budget, by and with the consent of the Governor and Council of State, may authorize and direct the State Treasurer to borrow in the name of the State, in anticipation of the collection of taxes, such sum as may be necessary to make the payments on the appropriations as even as possible and to preserve the best interest of the State in the conduct of the various State agencies during each fiscal year. (2006-203, s. 3.)

§ 143C-2-5. Grants and contracts database.

(a) The Director of the Budget shall require the Office of State Budget and Management, with the support of the Department of Information Technology, to build and maintain a database and Web site for providing a single, searchable Web site on State spending for grants and contracts to be known as NC OpenBook.

(b) The head of each State institution, department, bureau, agency, or commission, or a designee, shall conduct a quarterly review of all State contracts and grants administered by that agency.

(c) All State institutions, departments, bureaus, agencies, or commissions that maintain a Web site shall be required to include an access link to the NC OpenBook Web site on the home page of the agency Web site. Each agency shall also prominently display a search engine on the

agency Web site home page to allow for ease of searching for information, including contracts and grants, on the agency's Web site. (2010-169, s. 9; 2015-114, s. 1; 2015-241, s. 7A.4(aa).)

§ 143C-2-6. Contents of database and Web site.

(a) The Office of State Controller, the Department of Administration, and the Department of Information Technology shall provide the Office of State Budget and Management with the statewide information on State contracts necessary for the development and maintenance of the database and Web site required by this Article, with the information updated at least monthly.

(b) The Office of State Budget and Management shall work with the Office of the State Auditor and the Grant Information Center to incorporate data on grants into the database and Web site required by this Article. All State institutions, departments, bureaus, agencies, or commissions subject to the authority of the Governor shall make necessary changes to existing reporting processes for contracts and grants to ensure the goals of this Article are met.

(c) All State contracts and grants awarded in amounts in excess of ten thousand dollars (\$10,000) shall be included in the database and Web site required by this Article. The following information shall be provided for each contract or grant:

- (1) The name of the entity receiving the award.
- (2) The amount of the award or estimated award.
- (3) Information on the award, including type of transaction, funding agency, and duration of the contract or grant.
- (4) The location of the entity receiving the award.
- (5) Background information on the entity receiving the award.
- (6) Time lines for anticipated completion of the work required.
- (7) Expected outcomes of the contract or grant and specific deliverables required.
- (8) Contact information for the responsible State government officer or administrator of the contract or grant. (2010-169, s. 9; 2015-241, s. 7A.4(bb).)

Article 3.

Development of the Governor's Recommended Budget.

§ 143C-3-1. Budget estimate for the legislative branch.

The Legislative Services Officer shall give the Director an estimate of the financial needs of the legislative branch for the upcoming fiscal period in accordance with the schedule prescribed by the Director. The estimates for the legislative branch shall be approved and certified by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The estimates shall be itemized in accordance with the accounting classifications adopted by the Controller. The Director shall include the estimates in the budget the Director submits to the General Assembly. The Director may recommend changes to these estimates in the budget submitted to the General Assembly. (2006-66, s. 6.19(g); 2006-203, s. 3; 2006-221, s. 3A; 2006-259, s. 40(g).)

§ 143C-3-2. Budget estimate for the judicial branch.

The Administrative Officer of the Courts shall give the Director an estimate of the financial needs of the judicial branch for the upcoming fiscal period in accordance with the schedule prescribed by the Director. The estimates for the judiciary shall be approved and certified by the Chief Justice. The estimates shall be itemized in accordance with the accounting classifications

adopted by the Controller. The Director shall include these estimates for the judicial branch in the budget the Director submits to the General Assembly. The Director may recommend changes to these estimates in the budget the Director submits to the General Assembly. (2006-203, s. 3; 2007-393, s. 3.)

§ 143C-3-3. Budget requests from State agencies in the executive branch.

(a) General Provisions. – A State agency that is not in the legislative or judicial branch of government shall submit its budget requests for the upcoming fiscal period to the Director in accordance with the schedule prescribed by the Director. The Director shall give each State agency instructions to be used in estimating the funds required to provide necessary State government programs and capital improvements. The estimates shall be itemized in accordance with the accounting classifications adopted by the Controller and shall be approved and certified by the respective head or responsible officer of the agency submitting them.

(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.

(c) Repairs and Renovations Funds Request. – In addition to any other information requested by the Director, any State agency proposing to repair or renovate an existing facility shall accompany that request with all of the following:

- (1) A description of current deficiencies and proposed corrections with a review and evaluation of that proposal prepared by the Department of Administration.
- (2) An estimate of project costs approved by the Department of Administration.
- (3) A certification of project feasibility as described in G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.
- (4) An explanation of the method by which the repair or renovation is to be financed.

(d) Capital Funds Request. – In addition to any other information requested by the Director, any State agency proposing to (i) acquire real property, (ii) construct a new facility, (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate an existing facility to accommodate new or expanded uses shall accompany that request with all of the following:

- (1) An estimate of its space needs and other physical requirements, together with a review and evaluation of that estimate prepared by the Department of

Administration, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the estimate of space needs may be a preliminary estimate.

- (2) An estimate of project costs and cash flow requirements approved by the Department of Administration.
- (3) A certification of project feasibility as described in G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.
- (4) An explanation of the method by which the acquisition, construction, or rehabilitation is to be financed.
- (5) An estimate of maintenance and operating costs, including personnel, for the project, covering the first five years of operation.
- (6) An estimate of revenues, if any, to be derived from the project, covering the first five years of operation.

This subsection does not apply to requests for State resources for railroad, highway, or bridge construction or renovation.

(e) Information Technology Request. – In addition to any other information requested by the State Chief Information Officer (State CIO), any State agency requesting significant State resources, as defined by the State CIO, for the purpose of acquiring, operating, or maintaining information technology shall accompany that request with all of the following:

- (1) A statement of its needs for information technology and related resources, including expected improvements to programmatic or business operations, together with a review and evaluation of that statement prepared by the State Chief Information Officer.
- (2) A statement setting forth the requirements for State resources, together with an evaluation of those requirements by the State Chief Information Officer that takes into consideration the State's current technology, the opportunities for technology sharing, the requirements of Article 15 of Chapter 143B of the General Statutes, and any other factors relevant to the analysis, and in cases of an acquisition, an explanation of the method by which the acquisition is to be financed.
- (3) A statement by the State Chief Information Officer that sets forth viable alternatives, if any, for meeting the agency needs in an economical and efficient manner. A statement setting forth the requirements for State resources, together with an evaluation of those requirements, including expected improvements to programmatic or business operations by the Secretary that takes into consideration the State's current technology, the opportunities for technology sharing, the requirements of the General Statutes, and any other factors relevant to the analysis.
- (4) In the case of an acquisition, an explanation of the method by which the acquisition is to be financed.

This subsection shall not apply to requests submitted by the General Assembly or the Administrative Office of the Courts. (2006-203, s. 3; 2007-117, s. 5(a); 2011-145, s. 30.12(a); 2013-360, s. 6.12(j); 2015-241, ss. 7A.4(cc), 31.9; 2015-268, s. 9.3.)

§ 143C-3-4. Budget requests from non-State entities.

Unless otherwise provided by law, budget requests from non-State entities shall be submitted to the Director or to a State agency designated by the Director. A State agency designated to receive a budget request from a non-State entity shall evaluate the request and forward its evaluation to the Director in accordance with procedures established by the Director. This section does not apply to the General Assembly or to actions of the General Assembly to appropriate funds to non-State entities. (2006-203, s. 3.)

§ 143C-3-5. Budget recommendations and budget message.

(a) Budget Proposals. – The Governor shall present budget recommendations, consistent with G.S. 143C-3-1, 143C-3-2, and 143C-3-3 to each regular session of the General Assembly at a mutually agreeable time to be fixed by joint resolution.

(b) Odd-Numbered Years. – In odd-numbered years the budget recommendations shall include the following components:

- (1) A Recommended State Budget setting forth goals for improving the State with recommended expenditure requirements, funding sources, and performance information for each State government program and for each proposed capital improvement. The Recommended State Budget may be presented in a format chosen by the Director, except that the Recommended State Budget shall clearly distinguish program base budget requirements, program reductions, program eliminations, program expansions, and new programs, and shall explain all proposed capital improvements in the context of the Six-Year Capital Improvements Plan and as required by G.S. 143C-8-6.
- (1a) The Governor's Recommended State Budget shall include a base budget, which shall be presented in the budget support document pursuant to subdivision (2) of this subsection.
- (2) A Budget Support Document showing, for each budget code and purpose or program in State government, accounting detail corresponding to the Recommended State Budget.
 - a. The Budget Support Document shall employ the North Carolina Accounting System Uniform Chart of Accounts adopted by the State Controller to show both uses and sources of funds and shall display in separate parallel columns all of the following: (i) actual expenditures and receipts for the most recent fiscal year for which actual information is available, (ii) the certified budget for the preceding fiscal year, (iii) the currently authorized budget for the preceding fiscal year, (iv) program base budget requirements for each fiscal year of the biennium, (v) proposed expenditures and receipts for each fiscal year of the biennium, and (vi) proposed increases and decreases.
 - b. The Budget Support Document shall include detailed information on recommended expenditures for capital improvements as required by G.S. 143C-8-6.
 - c. The Budget Support Document shall include accurate projections of receipts, expenditures, and fund balances. Estimated receipts, including tuition collected by university or community college institutions, shall be adjusted to reflect actual collections from the previous fiscal year,

unless the Director recommends a change that will result in collections in the budget year that differ from prior year actuals, or the Director otherwise determines there is a more reasonable basis upon which to accurately project receipts. Revenue and expenditure detail provided in the Budget Support Document shall be no less detailed than the two-digit level in the North Carolina Accounting System Uniform Chart of Accounts as prescribed by the State Controller.

- d. The Budget Support Document shall clearly identify all proposed expenditures supported by existing or proposed appropriations, including statutory appropriations.
- (3) A Current Operations Appropriations Act that makes appropriations for each fiscal year of the upcoming biennium for the operating and capital expenses of all State agencies as contained in the Recommended State Budget.
- (4) The biennial State Information Technology Plan as outlined in Part 2 of Article 15 of Chapter 143B of the General Statutes to be consistent in facilitating the goals outlined in the Recommended State Budget.
- (5) A list of budget adjustments made during the prior fiscal year pursuant to G.S. 143C-6-4 that are included in the proposed base budget for the upcoming fiscal year.
- (6) The Governor's Recommended State Budget shall include a transfer to the Savings Reserve of fifteen percent (15%) of the estimated growth in State tax revenues that are deposited in the General Fund for each fiscal year of the upcoming biennium. This subdivision applies only if, and to the extent that, the balance of the Savings Reserve remains below the recommended Savings Reserve balance developed pursuant to G.S. 143C-4-2(f).
- (7) **(Effective July 1, 2019)** The Governor's Recommended State Budget shall include a transfer to the State Capital and Infrastructure Fund of four percent (4%) of the estimated net State tax revenues that are deposited in the General Fund for each fiscal year of the upcoming biennium.

(c) **Even-Numbered Years.** – In even-numbered years, the Governor may recommend changes in the enacted budget for the second year of the biennium. These recommendations shall be presented as amendments to the enacted budget and shall be incorporated in a recommended Current Operations Appropriations Act. Any recommended changes shall clearly distinguish program reductions, program eliminations, program expansions, and new programs, and shall explain all proposed capital improvements in the context of the Six-Year Capital Improvements Plan and as required by G.S. 143C-8-6. The Governor shall provide sufficient supporting documentation and accounting detail, consistent with that required by G.S. 143C-3-5(b), corresponding to the recommended amendments to the enacted budget.

(d) **Funds Included in Budget.** – Consistent with requirements of the North Carolina Constitution, Article 5, Section 7(1), the Governor's Recommended State Budget, together with the Budget Support Document, shall include recommended expenditures of State funds from all Governmental and Proprietary Funds, as those funds are described in G.S. 143C-1-3, and all funds established for The University of North Carolina and its constituent institutions that are subject to this Chapter. Except where provided otherwise by federal law, funds received from the federal government become State funds when deposited in the State treasury and shall be classified and

accounted for in the Governor's budget recommendations no differently than funds from other sources.

(e) Availability Estimates. – The recommended Current Operations Appropriations Act shall contain a statement showing the estimates of General Fund availability, Highway Fund availability, and Highway Trust Fund availability upon which the Recommended State Budget is based.

(f) Budget Message. – The Governor's budget recommendations shall be accompanied by a written budget message that does all of the following:

- (1) Explains the goals embodied in the recommended budget.
- (2) Explains important features of the activities anticipated in the budget.
- (3) Explains the assumptions underlying the statement of revenue availability.
- (4) Sets forth the reasons for changes from the previous biennium or fiscal year, as appropriate, in terms of programs, program goals, appropriation levels, and revenue yields.
- (5) Identifies anticipated sources of funding for major spending initiatives.
- (6) Prepares a fiscal analysis that addresses the State's budget outlook for the upcoming five-year period. This fiscal analysis shall include detailed estimates for five years for any proposals to create new or significantly expand programs and for proposals to create new or change existing law.

(g) Different Gubernatorial Administrations. – For years in which there will be a change in gubernatorial administrations, the incumbent Governor shall complete the budget recommendations and budget message by December 15 and deliver them to the Governor-elect. (2006-203, s. 3; 2007-393, s. 4; 2012-194, s. 34; 2013-360, ss. 6.12(e), (k); 2014-100, s. 6.4(c); 2015-241, s. 7A.4(dd); 2017-5, s. 2; 2017-57, ss. 6.6(c), 36.12(d).)

Article 4.

Budget Requirements.

§ 143C-4-1. Annual balanced budget.

The budget recommended by the Governor and the budget enacted by the General Assembly shall be balanced and shall include two fiscal years beginning on July 1 of each odd-numbered year. Each fiscal year and each fund shall be balanced separately. The budget for a fund is balanced when the beginning unreserved fund balance for the fiscal year, together with the projected receipts to the fund during the fiscal year, is equal to or greater than the sum of appropriations from the fund for that fiscal year. (2006-203, s. 3.)

§ 143C-4-2. Savings Reserve.

(a) Creation. – The Savings Reserve is established as a reserve in the General Fund and is a component of the unappropriated General Fund balance.

(b) General Use of Funds. – In each fiscal year, funds reserved to the Savings Reserve shall be available for expenditure in an aggregate amount that does not exceed seven and one-half percent (7.5%) of the prior fiscal year's General Fund operating budget appropriations, excluding departmental receipts, upon appropriation by a majority vote of the membership of the Senate and House of Representatives present and voting for any of the following purposes:

- (1) To cover a decline in General Fund revenue from one fiscal year to another.

- (2) To cover the difference between that fiscal year's General Fund operating budget appropriations, excluding departmental receipts, and projected revenue.
- (3) To pay costs imposed by a court or administrative order.
- (4) To provide relief and assistance from the effects of an emergency, as that term is defined in G.S. 166A-19.3.

(b1) Extraordinary Use of Funds. – In each fiscal year, funds reserved to the Savings Reserve shall be available for expenditure upon a two-thirds vote of the membership of the Senate and House of Representatives present and voting for any of the following purposes:

- (1) To use for any of the purposes set forth in subdivisions (1) through (4) of subsection (b) of this section in an aggregate amount that exceeds seven and one-half percent (7.5%) of the prior fiscal year's General Fund operating budget appropriations, excluding departmental receipts.
- (2) For a purpose not set forth in subdivisions (1) through (4) of subsection (b) of this section in any amount.

(c) Repealed by Session Laws 2017-5, s. 1, effective October 1, 2017.

(d) Savings Reserve Requirement. – Each Current Operations Appropriations Act enacted by the General Assembly shall include a transfer to the Savings Reserve of fifteen percent (15%) of each fiscal year's estimated growth in State tax revenues that are deposited in the General Fund, except that if that transfer would cause the balance of the Reserve to exceed the recommended Savings Reserve balance developed pursuant to subsection (f) of this section then the amount transferred pursuant to this subsection shall be reduced accordingly.

(e) Actual Transfer of Funds to Savings Reserve. – Each fiscal year, the Office of State Controller shall transfer to the Savings Reserve the estimated growth amount required by subsection (d) of this section. Upon calculation of the actual growth in State tax revenues that are deposited in the General Fund, the Office of State Controller shall adjust the amount of the transfer to the Savings Reserve to achieve an amount equivalent to fifteen percent (15%) of the actual growth.

(f) Evaluation of Savings Reserve. – The Office of State Budget and Management and the Fiscal Research Division of the General Assembly shall jointly develop and annually produce an evaluation of the adequacy of the Savings Reserve based on the volatility of North Carolina's General Fund tax structure, which shall take into consideration relevant statistical and economic literature. After completing the evaluation, these entities may revise the methodology as needed to estimate the target for the Savings Reserve balance, which shall be calculated so as to be sufficient to cover two years of need for nine out of 10 scenarios involving a decline in General Fund revenue from one fiscal year to the next fiscal year. The recommended balance shall be expressed as a percentage of the prior year General Fund operating budget appropriations, excluding departmental receipts. The Office of State Budget and Management shall report this percentage to the Chairs of the House of Representatives and Senate Appropriations and Finance Committees no later than February 1 of each year.

(g) Additional Transfer of Funds by General Assembly Permissible. – Nothing in this section shall be construed to prohibit the General Assembly from directing the transfer of additional funds into the Savings Reserve.

(h) Applicability. – Nothing in this section shall be construed to apply to the Highway Fund or the Highway Trust Fund.

(i) Unfunded Liability Solvency Reserve Full-Growth Transfer Requirement. – If, and to the extent that, the balance of the Savings Reserve is at or above the recommended Savings

Reserve balance developed under subsection (f) of this section as of the last day of the fiscal year, the Current Operations Appropriations Act for the succeeding fiscal year shall include a transfer to the Unfunded Liability Solvency Reserve of fifteen percent (15%) of the succeeding fiscal year's estimated growth in State tax revenues that are deposited in the General Fund.

(j) Unfunded Liability Solvency Reserve Partial Growth Transfer Requirement. – If, and to the extent that, the balance of the Savings Reserve is below the recommended Savings Reserve balance developed under subsection (f) of this section as of the last day of the fiscal year, prior to the transfer of fifteen percent (15%) of the succeeding fiscal year's estimated growth in State tax revenues that are deposited in the General Fund, then the following shall apply:

- (1) If, upon transfer to the Savings Reserve funds in the amount of fifteen percent (15%) of estimated growth in State tax revenues deposited in the General Fund, the balance of the Savings Reserve is above the recommended Savings Reserve balance developed under subsection (f) of this section, then the Current Operations Appropriations Act shall include a transfer to the Unfunded Liability Solvency Reserve of an amount equal to the difference between the recommended balance of the Savings Reserve developed under subsection (f) of this section and the balance of the Savings Reserve upon transfer of fifteen percent (15%) of estimated growth in State tax revenues.
- (2) If, upon transfer to the Savings Reserve funds in the amount of fifteen percent (15%) of estimated growth in State tax revenues deposited in the General Fund, the balance of Savings Reserves is at or below the recommended Savings Reserve balance developed under subsection (f) of this section, then no such transfer described in subdivision (1) of this subsection shall occur. (2006-203, s. 3; 2017-5, s. 1; 2018-30, s. 2(c).)

§ 143C-4-3. (Repealed effective July 1, 2019) Repairs and Renovations Reserve.

(a) Creation and Source of Funds. – The Repairs and Renovations Reserve is established as a reserve in the General Fund. The State Controller shall reserve to the Repairs and Renovations Reserve 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.

(b) Use of Funds. – The funds in the Repairs and Renovations Reserve shall be used only for the repair and renovation of (i) State facilities and related infrastructure that are supported from the General Fund or (ii) Department of Information Technology facilities and related infrastructure. Funds from the Repairs and Renovations Reserve shall be used only for the following types of projects:

- (1) Roof repairs and replacements;
- (2) Structural repairs;
- (3) Repairs and renovations to meet federal and State standards;
- (4) Repairs to or installation of new electrical, plumbing, and heating, ventilating, and air-conditioning systems;
- (5) Improvements to meet the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., as amended;
- (6) Improvements to meet fire safety needs;
- (7) Improvements to existing facilities for energy efficiency;
- (8) Improvements to remove asbestos, lead paint, and other contaminants, including the removal and replacement of underground storage tanks;

- (9) Improvements and renovations to improve use of existing space;
- (10) Historical restoration;
- (11) Improvements to roads, walks, drives, utilities infrastructure; and
- (12) Drainage and landscape improvements.
- (13) Building demolition.

Funds from the Repairs and Renovations Reserve 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.

(c) Use of Funds. – Funds Available Only Upon Appropriation. – Funds reserved to the Repairs and Renovations Reserve shall be available for expenditure only upon an act of appropriation by the General Assembly.

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

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

(e) Repealed by Session Laws 2013-360, s. 6.12(*l*), effective July 1, 2013. (2006-203, s. 3; 2011-145, s. 30.11(a); 2012-142, s. 26.11; 2013-360, ss. 6.12(*l*), 36.5(d); 2015-241, s. 7A.3; 2016-94, s. 37.5.)

§ 143C-4-3.1. (Effective July 1, 2019) State Capital and Infrastructure Fund.

(a) Legislative Intent. – The General Assembly recognizes the need to establish and maintain a sufficient funding source to address the ongoing capital and infrastructure needs of the State. The General Assembly further recognizes the need to protect the State's substantial improvements in existing public facilities while providing a stable funding source to pay for new facilities to meet the needs of a growing population.

(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 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.

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

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

(e) **Use of Funds.** – Monies in the Fund shall first be used to meet the debt service obligations of the State. In addition to meeting the State's debt service obligations, 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.

(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. (2017-57, s. 36.12(b); 2018-5, s. 36.8(a).)

§ 143C-4-4. Contingency and Emergency Fund.

(a) **Creation.** – The Contingency and Emergency Fund is established within the General Fund. The General Assembly shall appropriate a specific amount to this fund for contingencies and emergencies in the Current Operations Appropriations Act or other appropriations bill.

(b) **Authorized Uses.** – Notwithstanding any other provision of law, funds appropriated to the Contingency and Emergency Fund may be used only for expenditures required: (i) by a court or Industrial Commission order, (ii) to respond to events as authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management Act, or (iii) for other statutorily authorized purposes or other contingencies and emergencies.

(c) **Request for Allocation.** – A State agency may request an allocation from the Contingency and Emergency Fund by submitting a request in writing to the Director along with any information required by the Director. If the Director approves the request, the Director shall present the request, together with a recommendation, to the Council of State for its approval. If the Council of State approves the request, the Director shall order the Controller to allocate the funds requested. The Director shall report on the request at the next scheduled meeting of the Joint Legislative Commission on Governmental Operations. (2006-203, s. 3; 2012-12, s. 2(v).)

§ 143C-4-5. Non-State match restrictions.

Whenever money is required to match an appropriation made for a specific purpose by the State of North Carolina, the recipient of the appropriation shall actually receive as a gift, grant, earnings in actual money, or a pledge that can be used as collateral in any prudent loan transaction,

the matching amount required. The recipient shall retain the matching amount received in its possession until spent for that purpose and shall spend an equal percentage of the appropriation and of the matching amount each time an expenditure is made, unless the individual appropriation requires otherwise. (2006-203, s. 3.)

§ 143C-4-6. General Fund operating budget size limited.

(a) Size Limitation. – Except as otherwise provided in this section, the General Fund operating budget each fiscal year shall not be greater than seven percent (7%) of the projected total State personal income for that fiscal year.

(b) Increase in Size Limitation. – To the extent that any percent increase in appropriations for a fiscal year for (i) Medicaid, (ii) operation of prisons, or (iii) operation of the courts or (iv) the costs of providing health insurance for teachers and State employees, exceeds the percent increase in State personal income growth for the same period, the limitation on the size of the General Fund operating budget provided in subsection (a) of this section for that fiscal year shall be increased by the dollar amount represented by the excess percentage. For all subsequent fiscal years, the percent limitation contained in subsection (a) shall then be increased to reflect that dollar adjustment.

(c) Fiscal Reports. – The Office of State Budget and Management and the Fiscal Research Division of the General Assembly shall each submit a tentative estimate of total State personal income for the upcoming fiscal year to the General Assembly no later than February 1 of each year. The Office and the Fiscal Research Division shall each submit a final projection of total State personal income for the upcoming fiscal year to the General Assembly no later than May 1 of each year. The General Assembly shall use the lower of the two final projections to calculate the limitation on the size of the General Fund operating budget provided in this section. (2006-203, s. 3; 2007-393, s. 5.)

§ 143C-4-7. Limit on number of permanent positions budgeted.

The total number of permanent budgeted positions established in State agencies shall not be increased by the end of any State fiscal year by a greater percentage rate of change than the percentage rate of change of the residential population growth for the State of North Carolina. The Office of State Budget and Management shall be responsible for computing the annual percentage rates of change for each measure. The population growth rate shall be computed by averaging the annual residential population growth rate in each of the preceding 10 fiscal years as stated in the annual estimates of residential population in North Carolina made by the United States Census Bureau. The growth rate of the number of budgeted positions shall be computed by averaging the annual rate of growth of State budgeted positions in each of the preceding 10 fiscal years. The total number of permanent budgeted positions established in State agencies shall be computed by adding the total number of budgeted Full-Time Equivalents from all fund types. This section does not apply to State-funded positions supported by the State in a local public school system or local community college institution. (2006-203, s. 3.)

§ 143C-4-8. Use of funds appropriated to a reserve.

All funds appropriated into a reserve by a Current Operations Appropriations Act or other act of the General Assembly may be expended only for the purpose or purposes for which the reserve was established. (2017-57, s. 6.3.)

§ 143C-4-9. Pay Plan Reserve.

(a) Creation. – The Pay Plan Reserve is established within the General Fund. The General Assembly shall appropriate in the Current Operations Appropriations Act or other appropriations act a specific amount to this reserve for allocation, on an as-needed basis only, to fund statutory and scheduled pay expenses authorized by:

- (1) G.S. 20-187.3.
- (2) G.S. 7A-102.
- (3) G.S. 7A-171.1.
- (4) Teacher Salary Schedule, as enacted by the General Assembly.
- (5) Pay Plans for Principals and Assistant Principals, as enacted by the General Assembly.

(b) Authorized Uses. – The funds in the Pay Plan Reserve are available to agencies for employee salary and benefit costs only if the amount of funds appropriated for statutory or scheduled salaries and benefits expenses, in any fiscal year, would be insufficient to cover those expenses for eligible employees.

(c) Request for Allocation. – After January 1 of each fiscal year, an agency may request an allocation from the Pay Plan Reserve by submitting:

- (1) A detailed description of the pay plan design, including the salary or salary range at each step within the pay plan and the criteria for movement between steps of the pay plan.
- (2) Proof to the Office of State Budget and Management (OSBM) that the agency has exhausted or is projected to exhaust funds appropriated for statutory or scheduled salary and benefit expenses.

The OSBM must certify the need for any allocation before disbursing funds from the reserve. The OSBM shall report to Fiscal Research Division on or before April 1 of each year on any disbursements made from the reserve and regarding projected recurring appropriations necessary to fully fund positions eligible for funding in the next fiscal year. Funds from the reserve may be allocated and reallocated only as expressly provided by this section. (2017-57, s. 35.17; 2018-5, s. 35.17.)

§ 143C-4-10. Unfunded Liability Solvency Reserve.

(a) Creation. – The Unfunded Liability Solvency Reserve is established as a reserve in the General Fund. The Unfunded Liability Solvency Reserve is an employee benefits trust as described under G.S. 143C-1-3(a).

(b) Definitions. – The following definitions apply in this section:

- (1) Benefit enhancement. – Any change to the benefits provided under the Teachers' and State Employees' Retirement System of North Carolina established under G.S. 135-2 or to the Retiree Health Benefit Fund established under G.S. 135-7(f) that is estimated to increase the contributions or liabilities associated with either program, as indicated by an actuarial note provided under G.S. 120-114.
- (2) Health Benefit Fund. – The Retiree Health Benefit Fund established under G.S. 135-7(f).
- (3) Health Benefit Fund Actuarial Committee. – The Committee on Actuarial Valuation of Retired Employees' Health Benefits established under G.S. 135-48.12.

- (4) Reserve. – The Unfunded Liability Solvency Reserve established under subsection (a) of this section.
- (5) Retirement System. – The Teachers' and State Employees' Retirement System of North Carolina established under G.S. 135-2.
- (c) Source of Funds. – The Reserve shall receive the following funds:
 - (1) Any amounts that shall be appropriated by the General Assembly.
 - (2) Funds transferred under G.S. 142-15.4, 142-96, and 143C-4-2.
- (d) Transfer of Funds From the Reserve. – The transfer of funds from the Reserve shall meet all of the following requirements:
 - (1) The funds in the Reserve shall be used only for transfers to the (i) Health Benefit Fund or (ii) the Retirement System for the purpose of reducing the unfunded liabilities of those two funds.
 - (2) Funds in the Reserve must be appropriated by the end of the next fiscal year after the funds entered the Reserve.
 - (3) Transfers from the Reserve to the Health Benefit Fund and the Retirement System shall not supplant employer contributions otherwise designated for the Health Benefit Fund or Retirement System. Transfers shall be made from the Reserve only upon the following conditions:
 - a. The portion of the State's employer contribution rate provided to the Health Benefit Fund is not less than the cost of the premiums for the retirees served by the Retiree Health Benefit Fund in the most recent plan year.
 - b. The portion of the State's employer contribution rate provided to the Retirement System in effect at the time of the transfer is equal to or greater than the rate certified under G.S. 135-8 as necessary by the Board of Trustees of the Retirement System.
 - c. Transfers from the Reserves shall not be used to pay the cost of benefit enhancements commencing after July 1, 2017.
- (e) Use of Funds in the Reserve. – On the first day of each fiscal year, the total balance of the Reserve as of the last day of the preceding fiscal year shall be used to appropriate an additional employer contribution to the Health Benefit Trust and the Retirement System. This additional employer contribution shall be calculated as follows:
 - (1) The total balance in the Reserve as of the last day of the preceding fiscal year shall be divided between the Health Benefit Fund and the Retirement System according to each program's proportion of the State's total unfunded liability of both programs as reported in the most recent Comprehensive Annual Financial Report issued by the State Controller.
 - (2) Each program's pro rata share of the total balance in the Reserve as of the last day of the preceding fiscal year shall be converted into a percentage of the General Fund payroll of covered members of the Health Benefit Fund and the Retirement System.
 - (3) Each program's percentage of General Fund payroll of covered members, as calculated in subdivision (2) of this subsection, shall be set as an additional portion of the State's employer contribution rate budgeted for retirement and related benefits. The following shall also apply:

- a. The percentage of General Fund payroll of covered members allocated to the Health Benefit Fund shall be added to the portion of the State's employer contribution rate budgeted for hospital and medical benefits.
- b. The percentage of General Fund payroll of covered members allocated to the Retirement System shall be added to the State's employer contribution rate budgeted for the Retirement System.

(f) Not Considered Debt Service Funds. – Any funds in the Reserve, as well as any funds from the Reserve used to establish additional contributions to the Health Benefit Fund or Retirement System, shall not be considered debt service funds for general long-term debt principal and interest. (2018-30, s. 1.)

Article 5.

Enactment of the Budget.

§ 143C-5-1. Rules for the introduction of the Governor's appropriations bills.

The Current Operations Appropriations Act recommended by the Governor shall be introduced by the chairs of the committee on appropriations in each house of the General Assembly. This section shall be considered and treated as a rule of procedure in the Senate and House of Representatives unless provided otherwise by a rule of either branch of the General Assembly. (2006-203, s. 3; 2017-57, s. 6.6(d).)

§ 143C-5-2. Order of appropriations bills.

(a) Each house of the General Assembly shall first pass its version of the Current Operations Appropriations Act on third reading and order it sent to the other chamber before placing any other appropriations bill on the calendar for second reading. This section does not apply to the following bills:

- (1) An appropriations bill to respond to an emergency as defined by G.S. 166A-19.3.
- (2) An appropriations bill making adjustments to the current year budget.
- (3) An appropriations bill authorizing continued operations at current funding levels.
- (4) In even-numbered years, an appropriations bill that contains a statement that the General Assembly does not intend to enact a Current Operations Appropriations Act that year.

(b) The provisions of subsection (a) of this section shall apply to each fiscal year of the biennium. (2006-203, s. 3; 2012-12, s. 2(w); 2014-100, s. 6.8.)

§ 143C-5-3. Availability statement required.

The Current Operations Appropriations Act enacted by the General Assembly shall state the General Fund, Highway Fund, and Highway Trust Fund availability used as basis for appropriations from those funds. (2006-203, s. 3.)

§ 143C-5-4. Enactment deadline; procedures to be followed when the Current Operations Appropriations Act does not become law prior to the end of certain fiscal years.

(a) Enactment Deadline. – The General Assembly shall enact the Current Operations Appropriations Act by June 15 of odd-numbered years and by June 30 of even-numbered years in which a Current Operations Appropriations Act is enacted.

(b) Procedure for Budget Continuation. – If a fiscal year begins for which no Current Operations Appropriations Act providing for current operations of State government during that fiscal year has become law, then the following procedures shall be followed and the following limitations shall apply:

- (1) Authority. – Unless otherwise provided by law, the Director of the Budget may continue to allocate funds from all funds for expenditure by State departments, institutions, and agencies at a level not to exceed the level of recurring expenditures from those funds for the prior fiscal year. If the Director of the Budget finds that projected revenues for the fiscal year will not support expenditures at the level of recurring expenditures for the prior fiscal year, the Director of the Budget shall allot funds at a lower level. In making these allocations, the Director of the Budget shall ensure the prompt payment of the principal and interest on bonds and notes of the State according to their terms. Except as otherwise provided by this section, the limitations and directions on the expenditure of funds for the prior fiscal biennium shall remain in effect.
- (2) Appropriation of funds necessary to implement. – There is appropriated from the appropriate State funds, cash balances, federal receipts, and departmental receipts sums sufficient to implement the authority described in this subsection for the applicable fiscal year.
- (3) Relation to Current Operations Appropriations Act. – The appropriations and the authorizations to allocate and spend funds which are set out in this subsection shall remain in effect until the Current Operations Appropriations Act for the applicable fiscal year becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the Current Operations Appropriations Act for that fiscal year becomes law, the Director of the Budget shall adjust allotments to give effect to that act from July 1 of the fiscal year.
- (4) Vacant positions. – If both houses of the General Assembly have passed their respective versions of the Current Operations Appropriations Act on the third reading and ordered them sent to the other chamber, then vacant positions subject to proposed budget reductions in either or both versions of the bill shall not be filled.
- (5) State employee salaries. – The salary schedules and specific salaries established for the prior fiscal year and in effect on June 30 of the prior fiscal year for offices and positions shall remain in effect until the Current Operations Appropriations Act for the current fiscal year becomes law. State employees subject to G.S. 7A-102(c), 7A-171.1, 20-187.3, or any other statutory salary schedule, shall not move up on salary schedules or receive automatic increases, including automatic step increases, until authorized by the General Assembly. State employees, including those exempt from the classification and compensation rules established by the State Human Resources Commission, shall not receive any automatic step increases, annual, performance, merit, bonuses, or other increments until authorized by the General Assembly.

- (6) School Employee Salaries. – Public school employees paid on the teacher salary schedule, the school-based administrator salary schedule, or any other salary schedule established by State law shall not move up on salary schedules or receive automatic step increases until authorized by the General Assembly.
- (7) State's employer contribution rate. – The State's employer contribution rates budgeted for retirement and related benefits for the current fiscal year shall remain the same as they are on June 30 of the prior fiscal year. These rates are effective until the Current Operations Appropriations Act for the current fiscal year becomes law and are subject to revision in that act. If that act modifies those rates, the Director of the Budget shall further modify the rates set in that act for the remainder of the fiscal year so as to compensate for the different amount contributed between July 1 and the date the Current Operations Appropriations Act becomes law so that the effective rates for the entire year reflect the rates set in the Current Operations Appropriations Act.
- (8) **(Effective until July 1, 2019)** Statutory transfers to reserves. – Notwithstanding G.S. 143C-4-2 and G.S. 143C-4-3, funds shall not be reserved to the Savings Reserve or the Repairs and Renovations Reserve and the State Controller shall not transfer funds from the unreserved fund balance to those reserves on June 30 of the prior fiscal year.
- (8) **(Effective July 1, 2019)** Statutory transfers to reserves. – Notwithstanding G.S. 143C-4-2 and G.S. 143C-4-3.1, funds shall not be reserved to the Savings Reserve Account or the State Capital and Infrastructure Fund and the State Controller shall not transfer funds from the unreserved fund balance to those accounts on June 30 of the prior fiscal year.
- (9) Federal block grant funds and other grant funds. – Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget, spend funds received from grants awarded during the current fiscal year, including federal block grants, that are for less than two million five hundred thousand dollars (\$2,500,000), do not require State matching funds, and will not be used for a capital project. State agencies shall report to the Joint Legislative Commission on Governmental Operations within 30 days of receipt of such funds. State agencies may spend all other funds from grants awarded during the current fiscal year, including federal block grants, only with approval of the Director of the Budget and after consultation with the Joint Legislative Commission on Governmental Operations, except that consultation with the Joint Legislative Commission on Governmental Operations shall not be required prior to an expenditure to respond to an emergency, as that term is defined in G.S. 166A-19.3(6). The Office of State Budget and Management shall work with the recipient State agencies to budget grant awards according to the annual program needs and within the parameters of the respective granting entities. Depending on the nature of the award, additional State personnel may be employed on a time-limited basis. Funds received from such grants are hereby appropriated and shall be incorporated into the authorized budget of the recipient State agency. Notwithstanding the provisions of this subdivision, no State agency may accept a grant if acceptance of the grant would obligate the State to make future expenditures relating to the program

receiving the grant or would otherwise result in a financial obligation as a consequence of accepting the grant funds. Nothing in this subdivision shall be construed to prohibit or limit expenditures that are authorized under subdivision (1) of this subsection. (2006-203, s. 3; 2016-94, s. 6.3(a); 2016-123, s. 2.2; 2017-5, s. 5; 2017-57, s. 36.12(h).)

§ 143C-5-5. Committee report used to construe intent of budget acts.

A committee report incorporated by reference in the Current Operations Appropriations Act and distributed on the floor of the House of Representatives and of the Senate as part of the explanation of the act is to be construed with the appropriate act in interpreting its intent. If a report conflicts with the act, the act prevails. The Director of the Fiscal Research Division of the Legislative Services Commission shall send a copy of the reports to the Director. (2006-203, s. 3; 2017-57, s. 6.6(e).)

Article 6.

Administration of the Budget.

Part 1. Certification and Administration of the Budget.

§ 143C-6-1. Budget enacted by the General Assembly; certified budgets of State agencies.

(a) Governor to Administer the Budget as Enacted by the General Assembly. – In accordance with Section 5(3) of Article III of the North Carolina Constitution, the Governor shall administer the budget as enacted by the General Assembly. All appropriations of State funds now or hereafter made to the State agencies and non-State entities authorize expenditures only for the (i) purposes or programs and (ii) objects or line items enumerated in the Recommended State Budget and the Budget Support Document recommended to the General Assembly by the Governor, as amended and enacted by the General Assembly in the Current Operations Appropriations Act or any other act affecting the State budget. The Governor shall ensure that appropriations are expended in strict accordance with the budget enacted by the General Assembly.

(b) Departmental Receipts. – Departmental receipts collected to support a program or purpose shall be credited to the fund from which appropriations have been made to support that program or purpose. A State agency shall expend departmental receipts first, including receipts in excess of the amount of receipts budgeted in the certified budget for the program or purpose, and shall expend other funds appropriated for the purpose or program only to the extent that receipts are insufficient to meet the costs anticipated in the certified budget.

Except as authorized in G.S. 143C-6-4, excess departmental receipts shall not be used to increase expenditures for a purpose or program.

(c) Certification of the Budget. – The Director of the Budget shall certify to each State agency the amount appropriated to it for each program and each object from all funds included in the budget as defined in G.S. 143C-3-5(d). The certified budget for each State agency shall reflect the total of all appropriations enacted for each State agency by the General Assembly in the Current Operations Appropriations Act and any other act affecting the State budget. The certified budget for each State agency shall follow the format of the Budget Support Document as modified to reflect changes enacted by the General Assembly. (2006-203, s. 3; 2013-360, s. 6.12(m); 2017-57, s. 6.6(f).)

§ 143C-6-2. Methods to avoid deficit.

(a) Appropriations. – Each appropriation is maximum and conditional. The expenditures authorized by an appropriation from a fund shall be made only if necessary and only if the aggregate revenues to the fund during each fiscal year of the biennium, when added to any unreserved fund balance from the previous fiscal year, are sufficient to support the expenditures.

(b) Revenue Collections. – The Director, with the assistance of the Secretary of Revenue and other officials collecting or receiving appropriated State revenue, shall continuously survey the revenue collections. If the Director finds that revenues to any fund, when added to the beginning unreserved fund balance in that fund, will be insufficient to support appropriations from that fund, the Director shall immediately notify the General Assembly that a deficit is anticipated. The Director shall consult with the Chief Justice to identify expenditure reductions and other lawful measures the Chief Justice and Judicial Branch can implement to reduce expenditures. The Director shall report in a timely manner to the General Assembly a plan containing the expenditure reductions and other lawful measures as the Director is implementing in order to avert the deficit.

(c) Local Governments Funds. – In exercising the powers contained in Section 5(3) of Article III of the North Carolina Constitution, the Governor shall not withhold from distribution funds that have been collected by the State on behalf of local governments or funds that the General Assembly has appropriated to local governments unless the Governor has exhausted all other sources of revenue of the State including any appropriated surplus remaining in the treasury at the beginning of the fiscal period.

In accordance with Section 19 of Article I of the North Carolina Constitution and the Due Process Clause of the United States Constitution, the State is prohibited from taking local tax revenue. This subsection does not authorize the Governor to withhold revenues from taxes levied by units of local governments and collected by the State. (2006-203, s. 3; 2007-393, s. 6.)

§ 143C-6-3. Allotments.

To receive the operating funds appropriated to it, a State agency shall submit to the Director, at intervals and in a format prescribed by the Director, a request for an allotment of the amount estimated to be required for the agency's operating costs during the ensuing fiscal period. The Director shall approve or modify the allotment requests, and the State Controller shall implement the allotments as approved or modified by the Director. (2006-203, s. 3.)

§ 143C-6-4. Budget Adjustments Authorized.

(a) Findings. – The General Assembly recognizes that even the most thorough budget deliberations may be affected by unforeseeable events; therefore, under the limited circumstances set forth in this section, the Director is authorized to adjust the enacted budget by making transfers among lines of expenditure, purposes, or programs or by increasing expenditures funded by departmental receipts.

(b) Budget Adjustments. – Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was appropriated in the certified budget by adjusting the authorized budget for all of the following:

- (1) Line items within programs. – An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.
- (2) Responses to extraordinary events. – A purpose or program if the overexpenditure of the purpose or program is:

- a. Required by a court or Industrial Commission order;
 - b. Authorized under G.S. 166A-19.40(a)(1) and (c) of the North Carolina Emergency Management Act; or
 - c. Required to call out the North Carolina National Guard.
- (3) Responses to unforeseen circumstances. – A purpose or program not subject to the provisions of subdivision (b)(2) of this subsection, if each of the following conditions is satisfied:
- a. The overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted.
 - b. The scope of the purpose or program is not increased.
 - c. The overexpenditure is authorized on a one-time nonrecurring basis for one year only, unless the overexpenditure is the result of (i) salary adjustments authorized by law or (ii) the establishment of time-limited positions funded with agency receipts.

(b1) If the overexpenditure would cause a department's total requirements for a fund to exceed the department's certified budget for a fiscal year for that fund by more than three percent (3%), the Director shall consult with the Joint Legislative Commission on Governmental Operations prior to authorizing the overexpenditure.

(b2) Subsection (b) of this section shall not be construed to authorize budget adjustments that cause General Fund expenditures, excluding expenditures from General Fund receipts, to exceed General Fund appropriations for a department.

(c) Overexpenditures Reported. – The Director shall report quarterly, beginning October 31, to the Joint Legislative Commission on Governmental Operations on overexpenditures approved by the Director under subdivisions (2) and (3) of subsection (b) of this section.

(d) Overexpenditures in Senate Budget. – The President Pro Tempore of the Senate may approve expenditures for more than was authorized in the enacted budget for objects or line items in the budget of the Senate.

(e) Overexpenditures in House of Representatives Budget. – The Speaker of the House of Representatives may approve expenditures for more than was authorized in the enacted budget objects or line items in the budget of the House of Representatives.

(f) Transfers Between Line Items or Programs in General Assembly Budget Other Than Senate and House of Representatives. – Expenditures exceeding amounts authorized for programs, objects, or line items in the budget of the General Assembly other than those of the Senate and House of Representatives shall be approved jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(g) Transfers in The University of North Carolina Budget. – Transfers or changes within the budget of The University of North Carolina may be made as provided in Article 1 of Chapter 116 of the General Statutes.

(h) Transfers Within the Office of the Governor. – Transfers or changes as between objects or line items in the budget of the Office of the Governor may be made by the Governor. (2006-203, s. 3; 2007-117, s. 4; 2009-281, s. 1; 2011-183, s. 127(c); 2012-12, s. 2(x); 2013-360, s. 6.12(n); 2017-102, s. 26.)

§ 143C-6-5. No expenditures for purposes for which the General Assembly has considered but not enacted an appropriation; no fee increases that the General Assembly has rejected.

(a) **(Effective until July 1, 2019)** Notwithstanding any other provision of law, no funds from any source, except for gifts, grants, or funds allocated from the Repair and Renovations Account in accordance with G.S. 143C-4-3, funds allocated from the Contingency and Emergency Fund in accordance with G.S. 143C-4-4, and funds exempted from Chapter 143C in accordance with G.S. 143C-1-3(c) may be expended for any new or expanded purpose, position, or other expenditure for which the General Assembly has considered but not enacted an appropriation of funds for the current fiscal period. For the purpose of this subsection, the General Assembly has considered a purpose, position, or other expenditure when that purpose is included in a bill which fails a reading, or if the purpose is included in the version of a bill that passes one house, but the bill is enacted without the purpose.

(a) **(Effective July 1, 2019)** Notwithstanding any other provision of law, no funds from any source, except for gifts, grants, or funds allocated from the State Capital and Infrastructure Fund in accordance with G.S. 143C-4-3.1, funds allocated from the Contingency and Emergency Fund in accordance with G.S. 143C-4-4, and funds exempted from Chapter 143C in accordance with G.S. 143C-1-3(c) may be expended for any new or expanded purpose, position, or other expenditure for which the General Assembly has considered but not enacted an appropriation of funds for the current fiscal period. For the purpose of this subsection, the General Assembly has considered a purpose, position, or other expenditure when that purpose is included in a bill which fails a reading, or if the purpose is included in the version of a bill that passes one house, but the bill is enacted without the purpose.

(b) Notwithstanding any other provision of law, no fee shall be increased if the General Assembly has rejected an increase of that fee for the current fiscal period. For the purpose of this subsection, the General Assembly has rejected a fee increase when that fee increase is included in a bill which fails a reading, or if the fee increase is included in the version of a bill that passes one house, but the bill is enacted without the fee increase. (2006-66, s. 6.4; 2006-203, s. 3; 2017-57, s. 36.12(i).)

§ 143C-6-5.5. Limitation on use of State funds for abortions.

No State funds may be used for the performance of abortions or to support the administration of any governmental health plan or government-offered insurance policy offering abortion, except that this prohibition shall not apply where (i) the life of the mother would be endangered if the unborn child were carried to term or (ii) the pregnancy is the result of a rape or incest. Nothing in this section shall be construed to limit medical care provided after a spontaneous miscarriage. (2011-145, s. 29.23(a).)

§ 143C-6-6. Positions included in the State Payroll.

(a) Before a State agency establishes a new position or changes the funding of an existing position, the agency shall submit the proposed action to the Director for approval. The Director shall review the proposed action to ensure that funds for the action are included in the amount appropriated to the agency. If the Director approves the action, the Director shall notify the agency and the Controller of the approval. The Controller shall not honor a voucher in payment of a payroll that includes a new position or a change in an existing position that has not been approved by the Director.

(b) Payments on behalf of employees for hospital-medical insurance, longevity payments, salary increments, and legislative salary increases, required employer salary-related contributions for retirement benefits, death benefits, the Disability Income Plan and social security for employees shall be paid from the General Fund or the Highway Fund, only to the extent of the proportionate part paid from the General Fund or Highway Fund, in support of the salary of the employee, and the remainder of the employer's contribution requirements shall be paid from the same source that supplies the remainder of the employee's salary.

(c) Subsection (a) of this section does not apply to The University of North Carolina. (2006-203, s. 3; 2007-484, s. 34.)

§ 143C-6-7. Compliance with Chapter and appropriations acts by State agencies.

(a) Compliance With Chapter and Appropriations Acts. – Except as otherwise provided by law, all expenditures of State funds by a State agency shall be made in compliance with the State budget as enacted by the General Assembly and certified by the Director. If the Director finds that a State agency has spent or encumbered State funds for an unauthorized purpose, the Director shall take appropriate administrative action to ensure that no further irregularities occur and shall report to the Attorney General any facts that pertain to an apparent violation of a penal statute or an apparent instance of malfeasance, misfeasance, or nonfeasance by a person.

(b) Repayment of Funds Spent for an Unauthorized Purpose. – In addition to the provisions of subsection (a) of this section, if the Director finds that a State agency violated this section, the Director shall withhold any future allocations for the unauthorized purpose and shall also withhold future allocations to the Department in an amount equal to the funds unlawfully spent. (2006-203, s. 3.)

§ 143C-6-8. State agencies may incur financial obligations only if authorized by the Director of the Budget and subject to the availability of appropriated funds.

(a) Limitation. – Unless otherwise authorized by the Director as provided by law, purchase orders, contracts, salary commitments, and any other financial obligations by State agencies shall be subject to the availability of appropriated funds or available funds that are not State funds as defined in this Chapter. Any employment contract or salary commitment that is paid in whole or in part with State funds shall also be subject to this limitation.

(b) Notice. – Any written purchase order, contract, salary commitment, or other financial obligation subject to this section shall include a clause that sets forth the limitation imposed by subsection (a) of this section. Where this section applies but there is no written document to which the limitation may be added, the entity that administers the State funds at issue shall notify the person or entity of the limitation. (2006-203, s. 3; 2012-142, s. 6.13(a).)

§ 143C-6-9. Use of lapsed salary savings.

(a) Lapsed salary savings may be expended only for nonrecurring purposes or line items.

(b) Lapsed salary savings shall not be used to pay for litigation services provided by private counsel. As used in this subsection, litigation services and private counsel are as defined in G.S. 147-17(c1) and G.S. 114-2.3(d). (2006-203, s. 3; 2017-57, s. 6.7.)

§ 143C-6-10. Flexible compensation plan.

Notwithstanding any other provision of law, the Director may establish a program of dependent care assistance and a flexible compensation plan for eligible officers and employees of State

agencies as provided in G.S. 126-95. With the approval of the Director, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may also be used as provided by G.S. 126-95. (2007-117, s. 3(c).)

Part 2.

Highway Appropriations.

§ 143C-6-11. Highway appropriation.

(a) General Provisions. – Appropriations made for transportation projects are subject to the provisions in this section. If the provisions in this section conflict with the budget acts, the budget acts prevail.

(b) Cash Flow Management of Transportation Projects. – Transportation Project funds shall be budgeted, expended, and accounted for on a "cash flow" basis. Pursuant to this end, transportation project contracts shall be planned and limited so payments due at any time will not exceed the cash available to pay them.

(c) Appropriations Are for Payments and Contract Commitments to Be Made in the Appropriation Fiscal Year. – The appropriations for transportation projects are for maximum payments estimated to be made during the appropriation fiscal year and for maximum contracting authority for future years. Transportation project contracts shall be scheduled so that the total contract payments and other expenditures charged to projects in the fiscal year for each transportation project appropriation item will not exceed the current appropriations provided by the General Assembly and unspent prior appropriations made by the General Assembly for the particular appropriation item.

(d) Payments Subject to Availability of Funds. – The annual appropriations for transportation projects shall be expended only to the extent that sufficient funds are available in the Highway Fund.

(e) Retainage Fully Funded. – The Department of Transportation shall fully fund retainage from transportation project contracts in the year in which the work is performed.

(f) Seven and One-Half Percent (7.5%) Cash Balance Required. – The Department of Transportation shall maintain an available cash balance at the end of each month equal to at least seven and one-half percent (7.5%) of the total appropriations for the current fiscal year from the Highway Fund and the Highway Trust Fund. In projecting cash balances in future years, the Department shall use the estimated cash flow as specified in the Current Operations Appropriation Act. In the event this cash position is not maintained, no further transportation project contract commitments may be entered into until the cash balance has been regained. Any federal funds on hand shall not be considered as cash for the purposes of this subsection.

(g) Anticipation of Revenues. – In awarding State transportation project contracts requiring payments beyond a biennium, the Director may anticipate revenues as authorized and certified by the General Assembly to continue contract payments for up to seventy-five percent (75%) of the revenues which are estimated for the first fiscal year of the succeeding biennium and which are not required for other budget items. Up to fifty percent (50%) of the revenues not required for other budget items may be anticipated for the second and subsequent fiscal years' contract payments. Up to forty percent (40%) of the revenues not required for other budget items may be anticipated for the first year of the second succeeding biennium and up to twenty percent (20%) of the revenues not required for other budget items may be anticipated for the second year of the second succeeding biennium.

(h) Amounts Encumbered. – Transportation project appropriations may be encumbered in the amount of allotments made to the Department of Transportation by the Director for the estimated payments for transportation project contract work to be performed in the appropriation fiscal year. The allotments shall be multiyear allotments and shall be based on estimated revenues and shall be subject to the maximum contract authority contained in subsection (c) above. Payment for transportation project work performed pursuant to contract in any fiscal year other than the current fiscal year is subject to appropriations by the General Assembly. Transportation project contracts shall contain a schedule of estimated completion progress, and any acceleration of this progress shall be subject to the approval of the Department of Transportation provided funds are available. The State reserves the right to terminate or suspend any transportation project contract, and any transportation project contract shall be so terminated or suspended if funds will not be available for payment of the work to be performed during that fiscal year pursuant to the contract. In the event of termination of any contract, the contractor shall be given a written notice of termination at least 60 days before completion of scheduled work for which funds are available. In the event of termination, the contractor shall be paid for the work already performed in accordance with the contract specifications.

(i) Provision Incorporated in Contracts. – The provisions of subsection (h) of this section shall be incorporated verbatim in all transportation project contracts.

(j) Existing Contracts Are Not Affected. – The provisions of this section shall not apply to transportation project contracts awarded by the Department of Transportation prior to July 15, 1980.

(k) The Department of Transportation shall do all of the following:

- (1) Utilize cash flow financing to the extent possible to fund transportation projects with the goal of reducing the combined average daily cash balance of the Highway Fund and the Highway Trust Fund to an amount equal to between fifteen and twenty percent (15-20%) of the total appropriations for the current fiscal year from those funds. In projecting cash balances in future years, the Department shall use the estimated cash flow as specified in the Current Operations Appropriation Act. Any federal funds on hand shall not be considered as cash for the purposes of this subsection. The target amount shall include an amount necessary to make all municipal-aid funding requirements of the Department.
- (2) Establish necessary management controls to facilitate use of cash flow financing, such as establishment of a financial planning committee, development of a monthly financing report, establishment of appropriate fund cash level targets, review of revenue forecasting procedures, and reduction of accrued unbilled costs.
- (3) Report annually, on October 1 of each year, to the Joint Legislative Transportation Oversight Committee on its cash management policies and results.

(l) It is the intent of the General Assembly to (i) prevent the inclusion of duplicative fund codes in the Highway Fund certified budget and (ii) correctly align authorized positions and associated operating costs with the appropriate purposes and definitions as defined in G.S. 143C-1-1. To that end, the Office of State Budget and Management, in consultation with the Department of Transportation, the Office of the State Controller, and the Fiscal Research Division of the General Assembly, shall include, as an appendix to the Highway Fund certified budget,

object detail using the North Carolina Accounting System Uniform Chart of Accounts prescribed by the Office of the State Controller to provide a more detailed accounting of the proposed budgets and receipts and actual expenditures and revenue collections. This requirement includes applying object detail at the four-digit level for all accounts to full-time and part-time positions, to operating expenditures and receipts, and to intrafund transfers. Additionally, work order positions shall be budgeted within existing fund codes. (2006-203, s. 3; 2014-100, s. 34.23(a); 2018-5, s. 34.8(b).)

§ 143C-6-12. Quarterly report on State agency reorganizations and movements of positions.

The Office of State Budget and Management shall report quarterly to the Joint Legislative Commission on Governmental Operations and the appropriate Joint Legislative Oversight Committee on reorganizations of State agencies and movements of State agency positions. Each report submitted pursuant to this section shall include all of the following information for the previous quarter:

- (1) A list of all reorganizations within State agencies or between State agencies.
- (2) A list of all positions moved within a State agency or between State agencies.
- (3) A statement of the purpose of each reorganization and position movement undertaken and of the legal authority under which each reorganization and position movement was made. (2014-100, s. 6.10.)

§ 143C-6-13: Reserved for future codification purposes.

§ 143C-6-14: Reserved for future codification purposes.

§ 143C-6-15: Reserved for future codification purposes.

§ 143C-6-16: Reserved for future codification purposes.

§ 143C-6-17: Reserved for future codification purposes.

§ 143C-6-18: Reserved for future codification purposes.

§ 143C-6-19: Reserved for future codification purposes.

§ 143C-6-20: Reserved for future codification purposes.

Part 3. Non-State Entities Receiving State Funds.

§ 143C-6-21. Payments to nonprofits.

Except as otherwise provided by law, an annual appropriation of one hundred thousand dollars (\$100,000) or less to or for the use of a nonprofit corporation may be made in a single annual payment, in the discretion of the Director of the Budget. An annual appropriation of more than one hundred thousand dollars (\$100,000) to or for the use of a nonprofit corporation shall be made in quarterly or monthly payments, in the discretion of the Director of the Budget. (2006-203, s. 3; 2013-360, s. 6.12(o).)

§ 143C-6-22. Use of State funds by non-State entities.

(a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State Treasury.

(b) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, or fails to submit or falsifies the information required by G.S. 143C-6-23 or any other provision of law, the Director shall take appropriate administrative action to ensure that no further irregularities or violations of law occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds. Appropriate administrative action may include suspending or withholding the disbursement of State funds and recovering State funds previously disbursed.

(c) Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County. (2006-203, s. 3.)

§ 143C-6-23. State grant funds: administration; oversight and reporting requirements.

(a) Definitions. – The following definitions apply in this section:

- (1) Grant or grant funds. – State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers and State Employees, or other similar medical programs.
- (2) Grantee. – A non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
- (3) Encumbrance. – A financial obligation created by a purchase order, contract, salary commitment, unearned or prepaid collections for services provided, or other legally binding agreement. A financial obligation is not an encumbrance for purposes of this section unless it (i) is in writing and has been signed by a person or entity who has authority to legally bind the grantee or subgrantee to spend the funds or (ii) was created by the provision of goods or services to the grantee or subgrantee by a third party under circumstances that create a legally binding obligation to pay for the goods or services.
- (4) Subgrantee. – A non-State entity that receives State funds as a grant from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(b) Conflict of Interest Policy. – Every grantee shall file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.

(c) No Overdue Tax Debts. – Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds. A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.

(d) Office of State Budget Rules Must Require Uniform Administration of State Grants. – The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by this subsection. The rules shall establish policies and procedures for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures shall:

- (1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.
- (2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.
- (3) Ensure that State funds are spent in accordance with the purposes for which they were granted.
- (4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of grant funds.
- (5) Provide for adequate oversight and monitoring to prevent the misuse of grant funds. These policies shall require each grantee and subgrantee to ensure that, for accounting purposes, State funds and interest earned on those funds remain separate and apart from other funds in the possession or control of the grantee or subgrantee.
- (6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial and program performance information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection. Compliance with the mandatory periodic reporting requirements of this subdivision shall not require grantees and subgrantees to file with the State Auditor the information described in subsections (b) and (c) of this section.
- (7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.
- (8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (i) of this section.
- (9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by grant funds and each subgrantee project, program, or activity supported by grant funds.

- (10) Provide procedures for the suspension of further disbursements or use of grant funds for noncompliance with these rules or other inappropriate use of the funds.
- (11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of grant funds.
- (12) Provide procedures for the recovery and return to the grantor State agency of unexpended grant funds from a grantee or subgrantee (i) in accordance with subsection (f1) of this section or (ii) in the event that the grantee or subgrantee is unable to fulfill the purposes of the grant for a reason not set forth in that subsection.

(d1) Required Grant Terms. – The terms of each grant shall include all of the following, which shall be deemed a part of the grant:

- (1) The limitation contained in G.S. 143C-6-8 concerning the availability of appropriated funds.
- (2) The relevant provisions of any legislation authorizing or governing the administration of the grant.
- (3) The terms of this section.

(e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding the provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.

(f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The Office of State Budget and Management, after consultation with the administering State agency, shall have the power to suspend disbursement of grant funds to grantees or subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.

(f1) Return of Grant Funds. – Except as otherwise required by federal law, a grantee or subgrantee shall return to the State all affected grant funds and interest earned on those funds if any of the following occurs:

- (1) The funds are in the possession or control of a grantee and are not expended, made subject to an encumbrance, or disbursed to a subgrantee by August 31 immediately following the fiscal year in which the funds are appropriated by the General Assembly, or a different period set forth in the terms of the applicable appropriation or federal grant.
- (2) The funds remain unexpended at the time that the grantee or subgrantee dissolves, ceases operations, or otherwise indicates that it does not intend to spend the funds.
- (3) The Office of State Budget and Management seeks to recover the funds pursuant to subsection (f) of this section.

(f2) Use of Returned Grant Funds. – Encumbered funds returned to the State pursuant to subsection (f1) of this section by a grantee or subgrantee shall upon appropriation by the General Assembly be spent in accordance with the terms of the encumbrance. All other funds returned to

the State by a grantee or subgrantee pursuant to subsection (f1) of this section shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly. Nothing in this section shall be construed to authorize an expenditure pursuant to an unlawful encumbrance or in a manner that would violate the terms of the appropriation of the grant funds at issue.

(g) **Audit Oversight.** – The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds.

(h) **Report on Grant Recipients That Failed to Comply.** – Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section with respect to grant funds received in the prior fiscal year.

(i) **State Agencies to Submit Grant List to Auditor.** – No later than October 1 of each year, each State agency shall submit a list to the State Auditor, in the format prescribed by the State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal year. The list shall include the amount disbursed to each grantee and other information as required by the State Auditor to comply with the requirements of this section.

(j) **Use of Interest Earned on Grant Funds.** – Except as otherwise required by federal law or the terms of a federal grant, interest earned on grant funds after receipt of the funds by a grantee or subgrantee shall be credited to the grantee or subgrantee and shall be used for the same purposes for which the grant or subgrant was made.

(k) **Reporting by Grantees and Subgrantees That Cease Operations.** – A grantee or subgrantee that intends to dissolve or cease operations shall report that decision in writing to the Office of State Budget and Management and to the Fiscal Research Division at least 30 days prior to taking that action. (2006-203, s. 3; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2014-100, s. 6.5(a); 2015-264, s. 21.)

Article 7.

Federal and Other Receipts.

§ 143C-7-1. Funds creating an obligation.

(a) **Report to Director.** – A State agency, other than the judicial branch, that submits to the federal government or to any other party an application for funds that will be subject to this Chapter shall first provide to the Director a copy of the application along with any related information the Director may require. The judicial branch shall provide the Director with a copy of the application and any related information after making the application.

(b) **Contract Provision.** – A State agency that receives funds pursuant to an application that must be reported to the Director under subsection (a) of this section shall include in any related contract or other grant instrument a clause specifically stating that the expenditure of money

deposited in the State treasury is subject to acts of appropriation by the General Assembly. (2006-203, s. 3; 2007-393, s. 9.)

§ 143C-7-2. Federal Block Grants.

(a) Plans Submitted and Reviewed. – The Secretary of each State agency that receives and administers federal Block Grant funds shall prepare and submit the agency's Block Grant plans to the Director of the Budget. The Director of the Budget shall submit the Block Grant plans to the General Assembly as part of the Recommended State Budget submitted pursuant to G.S. 143C-3-5.

(b) Information To Be Included in Plans. – Each State agency shall submit a separate Block Grant plan for each Block Grant received and administered by the agency, and each plan shall include all of the following:

- (1) A delineation of the proposed dollar amount by activity and by category, including dollar amounts to be used for administrative costs.
- (2) A comparison of the proposed funding with two prior years' program budgets. (2006-203, s. 3; 2013-360, s. 6.12(p).)

Article 8.

Budgeting Capital Improvement Projects.

§ 143C-8-1. Legislative intent; purpose.

(a) Legislative Intent. – The General Assembly recognizes the need to establish a comprehensive process for capital improvement planning and budgeting that is fully integrated with State financial planning and debt management.

(b) Capital Improvement Planning and Budgeting Process. – The capital improvement planning and budgeting process shall include the following elements:

- (1) A database of facilities owned by State agencies, maintained pursuant to G.S. 143-341(4).
- (2) Criteria used to evaluate capital improvement needs.
- (3) A six-year capital improvement needs estimate.
- (4) A six-year capital improvements plan.
- (5) Recommendations for capital improvements set forth in the Recommended State Budget as specified in G.S. 143C-3-5.

(c) Office of State Budget and Management to Manage Planning Process. – The Office of State Budget and Management has responsibility for management of the capital improvement planning process. The Director of the Budget may assign to any State agency or institution such duties and responsibilities as may, in the Director's judgment, be necessary to the successful administration of the capital improvement planning process. (1997-443, s. 34.9; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2006-203, s. 3; 2016-119, s. 2(c).)

§ 143C-8-2: Repealed by Session Laws 2016-119, s. 2(b), effective July 28, 2016.

§ 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. (1997-443, s. 34.9; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2006-203, s. 3; 2016-94, s. 37.7(j).)

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

(a) Needs Estimate Required. – On or before September 1 of each even-numbered year, each State agency shall submit to the Office of State Budget and Management and to the Division of Fiscal Research a six-year capital improvement needs estimate. This estimate shall describe the agency's anticipated capital needs for each year of the six-year planning period. Capital improvement needs estimates shall be shown in two parts.

(b) Repairs and Renovations Needs Estimate. – The first part of the capital improvement needs estimates shall include only requirements for repairs and renovations necessary to maintain the existing use of existing facilities. Each proposed repair and renovation expenditure shall be justified by reference to the Facilities Condition Assessment Program operated by the Office of State Construction.

(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 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) and shall include the information required by G.S. 143C-3-3(d)(5). (1997-443, s. 34.9; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2006-203, s. 3; 2016-94, s. 37.7(f).)

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

(a) General. – The State capital improvement plan shall address the long-term capital improvement needs of all State government agencies and shall incorporate all capital projects, however financed, proposed to meet those needs, except that transportation infrastructure projects shall be excluded. On or before December 31 of each even-numbered year, the Director of the Budget shall prepare and transmit to the General Assembly a six-year capital improvement plan. When preparing the plan, the Director of the Budget shall consider the capital improvement needs estimates submitted by State agencies as required in G.S. 143C-8-4. The plan shall be prepared in two parts.

(b) Repair and Renovations Requirements. – The first part of the capital improvement plan shall set forth repair and renovations requirements that, in the judgment of the Director of the Budget, should be met within each year of the six-year planning period to protect and preserve existing capital improvement facilities. The plan shall identify individual projects in priority order by State agency and shall specify the means of financing.

(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, (ii) a means of financing the project, (iii) an estimated schedule for the completion of the 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. (1997-443, s. 34.9; 2006-203, s. 3; 2016-94, s. 37.7(g).)

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

(a) Budget Director's Recommendations. – The Director of the Budget shall recommend expenditures for repairs and renovations of existing facilities, and real property acquisition, new construction, or rehabilitation of existing facilities in the Recommended State Budget in accordance with G.S. 143C-3-5.

(b) Repairs and Renovations in the Recommended State Budget. – The Recommended State Budget shall contain for repairs and renovations of existing facilities: (i) the amount recommended for each State agency, (ii) a summary of the recommendations by project type, and (iii) the means of financing.

(c) Repairs and Renovations in the Budget Support Document. – The Budget Support Document shall contain for each repair and renovation project recommended in accordance with subsection (b) of this section: (i) a project description and justification, (ii) a detailed cost estimate, (iii) an estimated schedule for the completion of the project, and (iv) an explanation of the means of financing.

(d) Other Capital Projects in the Recommended State Budget. – The Recommended State Budget shall contain for each capital project involving real property acquisition, new construction, building area (sq. ft.) expansions, or the rehabilitation of existing facilities to accommodate new or expanded uses: (i) a project description and statement of need, (ii) an estimate of acquisition and construction or rehabilitation costs, and (iii) a means of financing the project.

(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 revenues, if any, likely to be derived from the project, covering the first five years of operation, and (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. (2006-203, s. 3; 2007-117, s. 5(b); 2010-96, s. 17; 2016-94, s. 37.7(h).)

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

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. (2006-203, s. 3.)

§ 143C-8-8. When a State agency may increase the cost of a capital improvement project.

Upon the request of the administration of a State agency, the Director of the Budget may, when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution. (2006-203, s. 3.)

§ 143C-8-9. When a State agency may change the scope of a capital improvement project.

A State agency may increase the scope of a capital improvement project only if the General Assembly authorizes the increase. A State agency may decrease the scope of a capital improvement project if the Director authorizes the decrease. To obtain the Director's authorization for a decrease in the scope of a capital improvement project, a State agency shall submit its request to the Director in writing and shall state the reason for the request. (2006-203, s. 3.)

§ 143C-8-10. Project Reserve Account.

(a) Project Reserve Account. – There is established a Project Reserve Account. When a construction contract is entered for a capital improvement project for which the General Assembly has enacted an appropriation, the appropriation is encumbered for the project's costs of real property acquisition, planning, design, site development, construction, contingencies, and other related costs. If the amount appropriated for the project exceeds the amount encumbered, the excess shall be credited to the Project Reserve Account, unless otherwise required by law. The Director may authorize funds in the Account to be used for any of the following:

- (1) An emergency repair and renovation project at a State facility.
- (2) The award of a project contract when bids for the contract exceed the amount appropriated for it if the project was designed within the scope intended by the appropriation and if the Director finds that all means to award the contract within the appropriation were reasonably attempted.
- (3) A reversion to the principal fund from which revenue was appropriated for a project when the amount encumbered for the project is less than the amount appropriated.

(b) Reporting Requirement. – Whenever the Director authorizes the use of funds from the Project Reserve Account, the Director shall report the action to the Joint Legislative Commission on Governmental Operations at its next meeting. (2006-203, s. 3; 2007-117, s. 6.)

§ 143C-8-11. Reversion of appropriation; lapse of project authorization; transfer of funds remaining after project completion.

(a) Reversion of Appropriation. – A State agency shall begin the planning of or the construction of an authorized capital improvement project during the fiscal year in which the funds are appropriated. If it does not, the Director may credit the appropriation to the Project Reserve Account, unless otherwise required by law. If the Director does not credit the appropriation to the Project Reserve Account, the appropriation shall revert to the principal fund from which it was appropriated. The Director may, for good cause, allow a State agency to take up to an additional 12 months to take the actions required by this subsection.

(b) Lapse of Project Authorization. – Authorizations for capital improvement projects shall lapse if any of the following occur: (i) the appropriation for a capital improvement project reverts, (ii) the construction of a project does not begin during the first two fiscal years in which funds are appropriated, or (iii) the Director redirects funds appropriated for a capital improvement project in accordance with G.S. 143C-6-2. The Director may, for good cause, allow a State agency to take up to an additional 12 months to begin construction of a project; however, if the Director approves an extension of time under this subsection and construction of the project has not begun by the end of the extension, the authorization for the project shall lapse.

(c) Funds Remaining After Project Completion. – The State Controller shall transfer any balance of State funds appropriated for a capital project that remains unspent and unencumbered two years after completion of the project in accordance with this section. If applicable law requires a particular disposition of the funds, then the transfer shall be made in accordance with that requirement. Otherwise, the transfer shall be made in accordance with the following requirements:

- (1) If the funds were initially allocated from the Reserve for Repairs and Renovations, then the funds shall be transferred to that Reserve.
- (2) All other funds shall be transferred to the Project Reserve Account created by G.S. 143C-8-10. (2006-203, s. 3; 2014-100, s. 36.14.)

§ 143C-8-12. Capital improvement projects from sources other than the General Fund.

(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.

(b) **(Effective until July 1, 2019)** Carryforward Funds. – For purposes of this section, the term "non-General Fund money" includes funds carried forward from one fiscal year to another pursuant to G.S. 116-30.3 and G.S. 116-30.3B. These funds shall only be used for projects listed in G.S. 143C-4-3(b).

(b) **(Effective July 1, 2019)** Carryforward Funds. – For purposes of this section, the term "non-General Fund money" includes funds carried forward from one fiscal year to another pursuant to G.S. 116-30.3 and G.S. 116-30.3B. These funds shall only be used for projects listed in G.S. 143C-8-13(a).

(c) National Guard Projects. – Notwithstanding any other provision of this Chapter, the North Carolina National Guard may approve expenditures for a capital project of the North Carolina National Guard if (i) the project will be funded entirely with federal funds and (ii) any operating costs associated with the project will be paid entirely with federal funds.

(d) Reporting. – The Board of Governors and the National Guard shall report any expenditure made pursuant to this section to the Office of State Budget and Management and to the Joint Legislative Commission on Governmental Operations. (2006-203, s. 3; 2011-145, s. 30.10(a); 2014-100, ss. 36.5, 36.8(a); 2017-57, s. 36.12(j).)

§ 143C-8-13. (Effective July 1, 2019) Repairs and Renovations.

(a) Use of Funds. – 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 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:

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

- (12) Drainage and landscape improvements.
- (13) Building demolition.

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

- (1) Any project that receives an allocation or reallocation satisfies the requirements of subsection (a) of this section.
- (2) If the allocation or reallocation of funds from one project to another under this section is two million five hundred thousand dollars (\$2,500,000) or more for a particular project, the Office of State Budget and Management or the Board of Governors, as appropriate, consults with the Joint Legislative Commission on Governmental Operations prior to the expenditure or reallocation.
- (3) If the allocation or reallocation of funds from one project to another under this section is less than two million five hundred thousand dollars (\$2,500,000) for a particular project, the allocation or reallocation of funds is reported to the Joint Legislative Commission on Governmental Operations within 60 days of the expenditure or reallocation. (2017-57, s. 36.12(c).)

Article 9.

Special Funds and Fee Reports.

§ 143C-9-1. Medicaid Special Fund; transfers to Department of Health and Human Services.

(a) The Medicaid Special Fund is established as a nonreverting special fund in the Department of Health and Human Services. The Medicaid Special Fund shall consist of the federal Medicaid disproportionate share monies remaining after payments are made to hospitals. Annually, the Department shall transfer the disproportionate share gain, after payments are made to hospitals, to the Medicaid Special Fund. Funds deposited to the Medicaid Special Fund shall only be available for expenditure upon an act of appropriation of the General Assembly.

Political subdivisions may appropriate funds directly to the Department of Health and Human Services for Medicaid programs. Other public agencies and private sources may transfer funds to the Department for Medicaid programs. The Department may accept unconditional and unrestricted donations of such funds. Notwithstanding the provisions of this Article which might forbid such transfer or donation, the University of North Carolina Hospitals at Chapel Hill may transfer funds as provided by the previous sentence of this section.

(b) Contributed funds shall be subject to the Department of Health and Human Services administrative control and shall be allocated only as specifically provided in the Current Operations Appropriations Act, except such contributions shall not reduce State general revenue funding. At the end of any fiscal year, the unobligated balance of any such funds shall not revert to the General Fund, but shall be reappropriated for these purposes in the next fiscal year. (2006-203, s. 3; 2007-117, s. 7.)

§ 143C-9-2. Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.

(a) The Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs is established as an interest-bearing, nonreverting special trust

fund in the Office of State Budget and Management. Moneys in the Trust Fund shall be held in trust and used solely to increase community-based services that meet the mental health, developmental disabilities, and substance abuse services needs of the State. The Trust Fund shall be used to supplement and not to supplant or replace existing State and local funding available to meet the mental health, developmental disabilities, and substance abuse services needs of the State.

The State Treasurer shall hold the Trust Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Trust Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Trust Fund shall become part of the Trust Fund. Any balance remaining in the Trust Fund at the end of any fiscal year shall be carried forward in the Trust Fund for the next succeeding fiscal year.

Moneys in the Trust Fund shall be expended only in accordance with subsection (b) of this section and in accordance with limitations and directions enacted by the General Assembly.

(b) Moneys in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs shall be allocated to area programs to be used only to:

- (1) Provide start-up funds and operating support for programs and services that provide more appropriate and cost-effective community treatment alternatives for individuals currently residing in the State's mental health, developmental disabilities, and substance abuse services institutions.
- (2) Repealed by Session Laws 2007-323, s. 10.49(w1), effective July 1, 2007.
- (3) Facilitate reform of the mental health, developmental disabilities, and substance abuse services system and expand and enhance treatment and prevention services in these program areas to remove waiting lists and provide appropriate and safe services for clients.
- (4) Provide bridge funding to maintain appropriate client services during transitional periods as a result of facility closings, including departmental restructuring of services.
- (5) Repealed by Session Laws 2007-323, s. 10.49(w1), effective July 1, 2007.

(b1) The Dorothea Dix Hospital Property Fund is established as a separate fund within the Trust Fund. The Fund is established to receive the net proceeds from the sale of the Dorothea Dix Hospital property. Moneys in the Dorothea Dix Hospital Property Fund shall be allocated or expended only upon an act of appropriation by the General Assembly and shall not be subject to the limitations of the moneys in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs as described in subsection (b) of this section.

(c) Notwithstanding G.S. 143C-1-2, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143C-1-2, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(1) and (b)(3) of this section.

(d) Beginning July 1, 2007, the Secretary of the Department of Health and Human Services shall report annually to the Fiscal Research Division on the expenditures made during the

preceding fiscal year from the Trust Fund. The report shall identify each expenditure by recipient and purpose and shall indicate the authority under subsection (b) of this section for the expenditure. (2006-203, s. 3; 2007-323, s. 10.49(w1); 2015-241, s. 12F.7(b).)

§ 143C-9-3. Settlement Reserve Fund.

(a) The "Settlement Reserve Fund" is established as a special fund to receive proceeds from tobacco litigation settlement agreements or final orders or judgments of a court in litigation between tobacco companies and the states.

(a1) Each year, the sum of seventeen million five hundred thousand dollars (\$17,500,000) from the Settlement Reserve Fund is appropriated to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., a nonprofit corporation, and these funds shall not be subject to G.S. 143C-6-23. The remainder of the funds credited to the Settlement Reserve Fund each fiscal year shall be transferred to the General Fund and included in General Fund availability as nontax revenue.

(b), (c) Repealed by Session Laws 2011-145, s. 6.11(i), effective July 1, 2011.

(d) Unless prohibited by federal law, federal funds provided to the State by block grant or otherwise as part of federal legislation implementing a settlement between United States tobacco companies and the states shall be credited to the Settlement Reserve Fund. Unless otherwise encumbered or distributed under a settlement agreement or final order or judgment of the court, funds paid to the State or a State agency pursuant to a tobacco litigation settlement agreement, or a final order or judgment of a court in litigation between tobacco companies and the states, shall be credited to the Settlement Reserve Fund. (2006-203, s. 3; 2011-145, s. 6.11(i); 2013-360, s. 6.4(e); 2013-363, s. 1.5; 2015-241, s. 6.24(a); 2015-268, s. 1.2; 2016-94, s. 6.6; 2017-57, s. 6.5.)

§ 143C-9-4. Biennial fee report.

The Office of State Budget and Management shall prepare a report biennially on the fees charged by each State department, bureau, division, board, commission, institution, and agency during the previous two fiscal years. The report shall include the statutory or regulatory authority for each fee, the amount of the fee, when the amount of the fee was last changed, the number of times the fee was collected during the prior fiscal year, and the total receipts from the fee during the prior fiscal year. (2006-203, s. 3; 2007-323, s. 6.3.)

§ 143C-9-5. Assignment to the State of rights to tobacco manufacturer escrow funds.

A tobacco product manufacturer that elects to place funds into escrow pursuant to G.S. 66-291(a)(2) may make an assignment of its interest in the funds to the benefit of the State. The assignment applies to all funds, and any earnings and appreciation, that are in the escrow account at the time of the assignment or are subsequently deposited into the escrow account and are not released under the provisions of subdivision (1) or (2) of G.S. 66-291(b) at any time on or before the expiration of 10 years from the date of assignment. The assignment is irrevocable and shall include any reversionary interest in the escrow account and the funds therein that would otherwise belong to the tobacco manufacturer, including the right to receive the escrowed funds pursuant to G.S. 66-291(b)(3).

An assignment of rights executed pursuant to this section shall be in writing and shall be signed by a duly authorized representative of the tobacco product manufacturer making the assignment. An assignment is effective upon delivery to the Attorney General and the financial institution

where the escrow account is maintained. (2006-66, s. 6.19(d); 2006-221, s. 3A; 2006-259, ss. 40(d), 40.5.)

§ 143C-9-6: Repealed by Session Laws 2016-94, s. 15.2(e), effective July 1, 2016.

§ 143C-9-7. Indian Gaming Education Revenue Fund.

(a) The "Indian Gaming Education Revenue Fund" is established in the State Treasury. Funds shall be expended from the Indian Gaming Education Revenue Fund only by specific appropriation by the General Assembly.

(b) Upon appropriation by the General Assembly, funds received in the Indian Gaming Education Revenue Fund shall be allocated quarterly by the State Board of Education to local school administrative units, charter schools, and regional schools on the basis of allotted average daily membership. The funds allotted by the State Board of Education pursuant to this section shall be nonreverting. Funds received pursuant to this section by local school administrative units shall be expended for classroom teachers, teacher assistants, classroom materials or supplies, or textbooks. (2012-6, s. 1; 2013-360, s. 6.12(r).)

§ 143C-9-8: Repealed by Session Laws 2016-94, s. 15.2(e), effective July 1, 2016.

Article 10.

Penalties.

§ 143C-10-1. Offenses for violation of Chapter.

(a) Class 1 misdemeanor. – It is a Class 1 misdemeanor for a person to knowingly and willfully do any one or more of the following:

- (1) Withdraw funds from the State treasury for any purpose not authorized by an act of appropriation.
- (2) Approve any fraudulent, erroneous, or otherwise invalid claim or bill to be paid from an appropriation.
- (3) Make a written statement, give a certificate, issue a report, or utter a document required by this Chapter, any portion of which is false.
- (4) Fail or refuse to perform a duty imposed by this Chapter.

(b) Class A1 misdemeanor. – It is a Class A1 misdemeanor for a person to make a false statement in violation of G.S. 143C-6-23(c).

(c) Forfeiture of Office or Employment. – An appointed officer or employee of the State or an officer or employee of a political subdivision of the State, whether elected or appointed, forfeits his office or employment upon conviction of an offense under this section. An elected officer of the State is subject to impeachment for committing any of the offenses specified in this section. (2006-203, s. 3.)

§ 143C-10-2. Civil liability for violation of Chapter.

A person convicted of an offense under G.S. 143C-10-1 is liable in a civil action for any damages suffered by the State in consequence of the offense. (2006-203, s. 3.)

§ 143C-10-3. Suspension from office or impeachment for refusal to comply with Chapter.

(a) State Officers or Employees of the Executive Branch. – The Governor may suspend from the performance of his or her duties any State officer or employee of the executive branch except an officer elected by the people, who persists, after notice and warning, in failing or refusing to comply with the provisions of this Chapter or any lawful administrative directive issued pursuant to this Chapter. Before acting to suspend, the Governor shall give the accused notice and an opportunity to be heard in his or her own defense. The Governor shall report the facts leading to suspension to the Attorney General who may initiate appropriate criminal or civil proceedings. The Governor may apply to the General Court of Justice for a restraining order and injunction if a suspended officer or employee persists in performing official acts.

(b) Elected Officers. – A State officer elected by the people who knowingly and willfully fails or refuses to comply with any provision of this Chapter or any lawful administrative directive issued under this Chapter is subject to impeachment. (2006-203, s. 3; 2007-393, s. 10.)