

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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**SENATE BILL 805
PROPOSED COMMITTEE SUBSTITUTE S805-PCS35420-MLa-24**

Short Title: Coronavirus Relief Funds/Create Offsets.

(Public)

Sponsors:

Referred to:

May 20, 2020

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

The General Assembly of North Carolina enacts:

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

- (1) The United States Department of the Treasury (Treasury) has developed the Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (Guidance) to instruct the State as to how to expend funds provided to the State from the Coronavirus Relief Fund (Fund) created in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136.
- (2) The Guidance provides that "funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency."
- (3) In determining what type of employee qualifies under the allowance set forth in subdivision (2) of this section, the Guidance provides that "as a matter of administrative convenience in light of the emergency nature of this program, a State ... may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency."
- (4) There are a multitude of State employees that presumably qualify under the presumption set forth in subdivision (3) of this section, including public health doctors and nurses, epidemiologists, law enforcement officers, juvenile justice officers, probation/parole officers, and correctional officers.
- (5) Several reasons as to why correctional officers are presumed to qualify as "public safety employees" for purposes of the presumption set forth in subdivision (3) of this section are as follows:
 - a. To ensure a consistent level of competency and professionalism among law enforcement officials, the Criminal Justice Standards Division of the North Carolina Criminal Justice Training and Standards Commission administers the mandatory certification and training programs. The Commission certifies all public safety employees as a condition of employment, including (i) correctional officers, (ii) probation/parole officers, (iii) juvenile justice officers, and (iv) law enforcement officers.



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- 1 b. As of June 8, 2020, the Division of Adult Correction and Juvenile
2 Justice in the Department of Public Safety has performed 1,946
3 COVID-19 tests on prison inmates.
4 c. Of the tests performed, 691 (or 35.5%) have found positive results for
5 COVID-19.
6 d. Current testing has found confirmed positive COVID-19 cases in 14
7 of the 55 Adult Correction facilities in the State.
8 e. The Johnston Correctional Institution was temporarily closed due to a
9 COVID-19 outbreak.
10 f. There have been five confirmed COVID-19-related deaths in Adult
11 Correction facilities in the State.
12 g. The Superior Court of North Carolina has ordered the Division of
13 Adult Correction and Juvenile Justice to present a plan to test all prison
14 inmates in the State by June 22, 2020.
15 h. The 1,946 completed tests represent 6.1% of the 31,906 inmates
16 currently housed in North Carolina Adult Correction facilities.
17 i. Two correctional institutions tested 100% of all inmates housed there.
18 (6) In addition to the allowance set forth in subdivision (2) of this section, the
19 Guidance provides a non-exhaustive list of eligible expenditures for which
20 Fund payments may be used, including "[a]ny other COVID-19-related
21 expenses reasonably necessary to the function of government that satisfy the
22 Fund's eligibility criteria."
23 (7) The Guidance further provides that the term "necessary" is to be interpreted
24 "broadly to mean that the expenditure is reasonably necessary for its intended
25 use in the reasonable judgment of the government officials responsible for
26 spending Fund payments."
27 (8) The General Assembly is tasked by the State Constitution with appropriating
28 all funds, including payments received from the Fund, and using its
29 "reasonable judgment" to appropriate the funds, in a manner that is consistent
30 with the authorizing federal legislation and Guidance provided by the
31 Treasury, to remedy or otherwise mitigate the devastating effects on the State
32 economy caused by the COVID-19 public health emergency.

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

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

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

47 **SECTION 5.** Limitation on Use of Funds; Transfer to Reserve. – Funds appropriated
48 to OSBM in Section 3 of this act shall not be used to increase total requirements of a State agency
49 or department. As allowable expenditures are identified in accordance with Section 3 of this act,
50 OSBM shall reduce the net General Fund appropriation in the relevant State agency or
51 department and transfer that appropriation to the Reserve created in Section 4 of this act.

1 **SECTION 6.** Requirements. – The requirements and limitations set forth in Part I of
2 S.L. 2020-4 shall apply to the funds appropriated by this act. OSBM shall include the funds
3 transferred and appropriated under this act in the report required under Section 1.7 of S.L. 2020-4.
4 **SECTION 7.** Effective Date. – This act becomes effective July 1, 2020.