

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 212  
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Proposed Conference Committee Substitute S212-PCCS35451-MQ-8

Short Title: Capital Appropriations/R&R/DIT/Cybersecurity.

(Public)

Sponsors:

Referred to:

March 12, 2019

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

12 The General Assembly of North Carolina enacts:

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

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

19 Agency Capital Improvement Project	Project Code
20	
21 Office of State Budget and Management–	
22 Freedom Park Project	OSBM20-1
23 Repairs and Renovations	R&R20-1
24	
25 The University of North Carolina	
26 University of North Carolina at Chapel Hill–	
27 Business School	UNC/CH20-1
28 Nursing School Renovation	UNC/CH20-2
29	
30 North Carolina State University–	
31 STEM Building	UNC/NCS20-1



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1  
2 Fayetteville State University–  
3 Dormitory Demolition and Removal UNC/FSU20-1  
4

5 University of North Carolina at Asheville–  
6 Woods Residence Hall Occupancy Requirements UNC/AVL20-1  
7

8 **SECTION 1.(c)** There is appropriated from the State Capital and Infrastructure Fund  
9 to the Office of State Budget and Management the sum of one hundred four million dollars  
10 (\$104,000,000) in nonrecurring funds for the 2020-2021 fiscal year to be allocated for the  
11 following project codes, as defined in subsection (b) of this section:

12 **Capital Improvements–**

13 <b>State Capital and</b>	<b>Total</b>	
14 <b>Infrastructure Fund</b>	<b>Project Authorization</b>	<b>2020-2021 FY</b>
15 OSBM20-1	\$1,500,000	\$1,500,000
16 R&R20-1	–	\$85,250,000
17 UNC/CH20-1	\$150,000,000	\$7,000,000
18 UNC/CH20-2	\$45,000,000	\$2,500,000
19 UNC/NCS20-1	\$160,000,000	\$7,000,000
20 UNC/AVL20-1	\$750,000	\$750,000

21  
22 **SECTION 1.(d)** For project code OSBM20-1, the Office of State Budget and  
23 Management shall provide a grant to the North Carolina Freedom Park, a nonprofit corporation,  
24 to build a public sculpture park on land located between the Legislative Building and the  
25 Governor's Mansion in downtown Raleigh to commemorate historic and ongoing struggles for  
26 freedom in North Carolina and especially the enduring roles of African-Americans in the struggle  
27 for freedom in this State. The North Carolina Historical Commission shall review and approve  
28 any monuments or sculptures, in accordance with G.S. 100-2, prior to placing them on State  
29 property. These funds shall not be expended unless the North Carolina Freedom Park raises the  
30 sum of one million seven hundred thousand dollars (\$1,700,000) in non-State funds to match the  
31 funds allocated under this section.

32 **SECTION 1.(e)** For project code UNC/CH20-1, the University of North Carolina at  
33 Chapel Hill is authorized to spend up to one hundred fifty million dollars (\$150,000,000) on the  
34 project, but shall commit to providing funding of at least seventy-five million dollars  
35 (\$75,000,000) from non-State sources on or before June 30, 2022, as a match for the intended  
36 State allocations totaling seventy-five million dollars (\$75,000,000) for the project.

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

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

47 **SECTION 2.** If funds are deposited pursuant to Section 3.2 of House Bill 1023, 2019  
48 Regular Session, the State Controller shall transfer the sum of thirty-one million five hundred  
49 thousand dollars (\$31,500,000) in nonrecurring funds for the 2020-2021 fiscal year from the  
50 General Fund to the State Capital and Infrastructure Fund. The funds transferred to the State  
51 Capital and Infrastructure Fund are hereby appropriated as nonrecurring funds for the 2020-2021

1 fiscal year and shall be allocated by the Office of State Budget and Management for the following  
2 project codes, as defined in Section 1(b) of this act:

- 3 (1) \$7,000,000 for project code UNC/CH20-1.
- 4 (2) \$2,500,000 for project code UNC/CH20-2.
- 5 (3) \$7,000,000 for project code UNC/NCS20-1.
- 6 (4) \$15,000,000 for project code R&R20-1.

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

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

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

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

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

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

31 "**§ 143C-8-13. Repairs and Renovations.**

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

41 ...

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

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

- 51 (1) The project meets all of the following requirements:

- 1           a.     The total project costs do not exceed six hundred thousand dollars  
 2                 (\$600,000).  
 3           b.     The project is one of the types set forth in subdivisions (1) through  
 4                 (13) of subsection (a) of this section, regardless of whether the relevant  
 5                 facilities and related infrastructure are supported from the General  
 6                 Fund or the State Capital and Infrastructure Fund.

7           (2)   The constituent institution reports on projects undertaken pursuant to this  
 8                 subsection to the Board of Governors of The University of North Carolina and  
 9                 the Fiscal Research Division on a quarterly basis. The report shall include all  
 10                of the following information for each project:

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

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

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

20           **"§ 143C-8-7. When a State agency may begin a capital improvement project.**

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

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

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

36           **"§ 143C-8-7.1. Procedures for disbursement of capital funds.**

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

50           (b)    Where direct capital improvement appropriations include the purpose of furnishing  
 51           fixed and movable equipment for any project, those funds for equipment shall not be subject to

1 transfer into construction accounts except as authorized by the Director of the Budget. The  
2 expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and  
3 approved by the Director of the Budget prior to commitment of funds.

4 (c) Capital improvement projects authorized by an act of the General Assembly shall be  
5 completed, including fixed and movable equipment and furnishings, within the limits of the  
6 amounts of the direct or self-liquidating appropriations provided, except as otherwise provided  
7 in that act. Capital improvement projects authorized by an act of the General Assembly for the  
8 design phase only shall be designed within the scope of the project as defined by the approved  
9 cost estimate filed with the Director of the Budget, including costs associated with site  
10 preparation, demolition, and movable and fixed equipment. Amounts contracted for projects  
11 authorized by the General Assembly cannot exceed the total project cost authorization.

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

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

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

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

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

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

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

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

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

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

1 **"§ 143C-4-3.1. State Capital and Infrastructure Fund.**

2 ...

3 (b) Creation and Source of Funds. – There is established in the General Fund the State  
4 Capital and Infrastructure Fund, hereinafter referred to as the "Fund." The Fund shall be  
5 maintained as a special fund and administered by the Office of State Budget and Management to  
6 carry out the provisions of this section. With the exception of debt service obligations,  
7 appropriations from the Fund may be administered by other State agencies as deemed necessary  
8 by the Office of State Budget and Management. Interest accruing from the monies in the Fund  
9 shall be credited to the Fund. The Fund shall consist of the following sources of funding:

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

18 ...

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

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

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

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

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

- 39 (1) If the project for which funds have been appropriated is for one of the  
40 constituent institutions of The University of North Carolina, then  
41 unencumbered funds may be allocated from another project for a constituent  
42 institution of The University of North Carolina for which funds have been  
43 appropriated.
- 44 (2) If the project for which funds have been appropriated is for a State agency that  
45 is not The University of North Carolina, then unencumbered funds may be  
46 allocated from another project for a State agency for which funds have been  
47 appropriated.
- 48 (3) The amount disbursed will not exceed amounts appropriated from the State  
49 Capital and Infrastructure Fund.
- 50 (4) The amount disbursed on any project cannot exceed the amount authorized  
51 for that project.

1           (5)    The amount reallocated cannot be used to expand the scope of the project.

2           (6)    A project shall not begin until the fiscal year authorized by the General  
3           Assembly."

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

5           "b1.    To certify that a statement of needs pursuant to G.S. 143C-3-3, other  
6           than for a project of The University of North Carolina for which  
7           advance planning has not been completed, is feasible. For purposes of  
8           this sub-subdivision, "feasible" means that the proposed project is  
9           sufficiently defined in overall scope; building program; site  
10          development; detailed design, construction, and equipment budgets;  
11          and comprehensive project scheduling so as to reasonably ensure that  
12          it may be completed with the amount of funds requested. At the  
13          discretion of the General Assembly, advanced planning funds may be  
14          appropriated in support of this certification. This sub-subdivision shall  
15          not apply to requests for appropriations ~~of less than one hundred~~  
16          ~~thousand dollars (\$100,000)~~ below the formal project limit, as set by  
17          the State Building Commission."

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

19          "**§ 116-30.3. Reversions.**

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

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

32               (1)    Each special responsibility constituent institution.

33               (2)    The Area Health Education Centers of the University of North Carolina at  
34               Chapel Hill.

35               (3)    University of North Carolina System Office Budget Code 16010.

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

41          ...

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

46          **SECTION 5.** The Information Technology Innovation Center, established pursuant  
47          to G.S. 143B-1350(j), shall create a cybersecurity pilot program to establish and utilize  
48          public-private partnerships to provide cybersecurity support services from participating vendors  
49          to eligible counties. The Center shall receive proposals from vendors that demonstrate the  
50          capability to provide comprehensive cybersecurity support services to counties designated as  
51          development tier one or tier two areas, pursuant to G.S. 143B-437.08. The Center shall establish

1 agreements with participating vendors that describe the funds or professional services to be  
2 offered in the cybersecurity pilot program described by this section. Participating vendors  
3 selected by the Center shall meet all of the following requirements:

- 4 (1) Demonstrated compliance with the security guidelines outlined in the  
5 National Institute of Standards and Technology Special Publication 800-171.
- 6 (2) Services offered must be complete and include all hardware, software,  
7 licenses, support, maintenance, training, and labor, as applicable.
- 8 (3) Services must account for evolving technology and security threats.
- 9 (4) Adequate ability for review and oversight of services by the Department of  
10 Information Technology.
- 11 (5) Services must be as integrated as possible and must identify accountability  
12 and responsibility measures for incident response.
- 13 (6) Projects and services shall be integrated with existing State cybersecurity  
14 infrastructure and shall share all resulting data with the State.

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

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

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

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

- 44 (1) Implementation of mandatory program management policies established by  
45 the Department pursuant to this section.
- 46 (2) Development of a written strategy for enhancing the role of program managers  
47 within the Department which shall include all of the following:
  - 48 a. Enhanced training and educational opportunities for program  
49 managers.
  - 50 b. Mentoring of current and future program managers by experienced  
51 agency personnel within the Department.



- c. Establishing improved career paths and career opportunities for program managers.
- d. Providing incentives for the recruitment and retention of highly qualified individuals to serve as program managers.
- e. Developing resources and support, including establishing relevant competencies encompassed with program and project management within the private sector for program managers.
- f. Developing means of collecting and disseminating best practices and lessons learned to enhance program management throughout the Department.
- g. Create common templates and tools to support improved data gathering and analysis for program management and oversight purposes.

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

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

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

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

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

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

**(a) The following definitions apply in this section:**

- (1) Broadband service. – Internet access service, regardless of the technology or medium used to provide the service, with transmission speeds that are equal to or greater than the requirements for the minimum performance tier and with latency equal to or lesser than the requirements for low latency, as both metrics are provided by the Federal Communications Commission in Paragraph 39 of the report and order adopted January 30, 2020, and released February 7, 2020.
- (2) Grantee. – A satellite-based provider that has been awarded a grant pursuant to this section.

- 1           (3) Office. – The Broadband Infrastructure Office in the Department of  
2           Information Technology.
- 3           (4) Project area. – An area identified by a grantee and defined in a grant agreement  
4           entered into pursuant to this section that contains unserved households. A  
5           project area may also cover areas that have broadband service.
- 6           (5) Satellite-based provider. – A broadband service provider that provides  
7           Internet access directly to consumers via satellite technology.
- 8           (6) Unserved household. – A household located in this State that does not have  
9           access to broadband service from a wireline or wireless service provider. A  
10           household that is included in an area where a grant from the Growing Rural  
11           Economies with Access to Technology (GREAT) program pursuant to  
12           G.S. 143B-1373 has been awarded is not eligible for a grant under this section.

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

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

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

41           (d) The Office shall determine eligibility for a grant pursuant to this section based upon  
42           the information provided in the application of a satellite-based provider, and any other  
43           information or supplementary documentation requested by the Office, and shall award grants to  
44           applicants that will provide access to the greatest number of unserved households. Applications  
45           of satellite-based providers that propose the provision of broadband service to the greatest  
46           number of unserved households situated in census tracts that have been identified as significantly  
47           unserved by the Office shall be given priority. The maximum aggregate amount of total liability  
48           for all grants awarded under this section is four million dollars (\$4,000,000). The maximum  
49           amount of total annual liability for grants awarded in any single calendar year under this section  
50           is two million five hundred thousand dollars (\$2,500,000). No agreement may be entered into  
51           that, when considered together with other existing agreements governing grants awarded during

1 a single calendar year, could cause the State's potential total annual liability for grants awarded  
2 in a single calendar year to exceed the applicable amount. The amount of award per household  
3 for each grant year shall be equal to the product of two hundred fifty dollars (\$250.00) multiplied  
4 by a fraction, the numerator of which is the total number of full months all unserved households  
5 subscribed to and received broadband service from the grantee in the grant year and the  
6 denominator of which is 12. No broadband service to an unserved household beyond 24 months  
7 of service may be included in the calculation of an award.

8 Eligibility for a grant award is dependent upon the household maintaining broadband service  
9 with the grantee for at least eighty-three percent (83%) of the year in which the grantee seeks an  
10 award. No single subscription or full-year equivalent subscription may be used to calculate a  
11 grant award for more than the three-year term identified in the agreement. The total grant award  
12 for a single unserved household under this section shall not exceed five hundred dollars  
13 (\$500.00). A grantee shall submit documentation to the Office annually that will provide  
14 information sufficient for the Office to verify eligibility of subscriptions, including that the  
15 household was unserved. Payment of grant funds is subject to documentation showing eligibility  
16 of subscriptions.

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

- 19 (1) A detailed description of the anticipated area where the grantee will deploy  
20 broadband service.
- 21 (2) The current number of unserved households situated within the anticipated  
22 area.
- 23 (3) The total number of unserved households the grantee anticipates subscribing  
24 to its broadband service.
- 25 (4) A method for the grantee to report annually to the Office the number of  
26 households subscribing to broadband service offered by the grantee and for  
27 documenting that those households were previously unserved households.
- 28 (5) A plan for the grantee to address barriers to adoption by households situated  
29 within the project area.
- 30 (6) A provision that requires the grantee to maintain its service for the area, or  
31 another area approved by the Office, for at least five years.
- 32 (7) A provision establishing the conditions under which the grant agreement may  
33 be terminated and under which grant funds may be recaptured by the Office.
- 34 (8) A provision stating that unless the agreement is terminated pursuant to its  
35 terms, the agreement is binding and constitutes a continuing contractual  
36 obligation of the State and the grantee.
- 37 (9) A provision that establishes any allowed variation in the terms of the  
38 agreement that will not subject the grantee to grant reduction, amendment, or  
39 termination of the agreement.
- 40 (10) A provision describing the manner in which the amount of the grant will be  
41 measured and administered to ensure compliance with the agreement and this  
42 section.
- 43 (11) A provision stating that any recapture of a grant and any reduction in the  
44 amount of the grant or the term of the agreement must, at a minimum, be  
45 proportional to the failure to comply measured relative to the condition or  
46 criterion with respect to which the failure occurred.
- 47 (12) A provision describing the methodology the Office will use to verify  
48 subscriptions and the types of information required to be submitted by the  
49 grantee.
- 50 (13) A provision prohibiting a grantee from receiving a payment or other benefit  
51 under the agreement at any time when the grantee has received a notice of an

1 overdue tax debt, as defined in G.S. 105-243.1, and the overdue tax debt has  
2 not been satisfied or otherwise resolved.

3 (14) A provision stating that any disputes over interpretation of the agreement shall  
4 be submitted to binding arbitration.

5 (15) A provision encouraging the business to contract with small businesses  
6 headquartered in the State for goods and services.

7 (16) A provision encouraging the business to hire North Carolina residents.

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

9 (18) Any other provision the Office deems necessary.

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

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

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

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

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

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

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

- 4           (1)   The number of grant projects applied for and the number of grant agreements  
5               entered into.  
6           (2)   A time line for each grant agreement and the number of households expected  
7               to benefit from each agreement.  
8           (3)   The total amount of investment for each agreement.  
9           (4)   A summary of areas receiving grants that are now being provided broadband  
10               service and the advertised broadband speeds and subscription prices for those  
11               areas.  
12           (5)   Any breaches of agreements, and any grant fund forfeitures or reductions.  
13           (6)   Any recommendations for the grant program, including better data sources  
14               and methods for improving outcomes and accountability."

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

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

19       "**§ 146-29.2. Lease or interest in real property for communication purposes.**

20       ...

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

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

48       ...."

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

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

1           **SECTION 9.(a)** Notwithstanding any other provision of law to the contrary, the  
2 appropriation in Fund Code 14660-1990 for transfer to the IT Reserve Fund (Budget Code:  
3 24667) is reduced by twelve million two hundred fifty thousand dollars (\$12,250,000) in  
4 nonrecurring funds for the 2020-2021 fiscal year and the appropriation to Enterprise Security and  
5 Risk Management Office (Fund Code: 14660-1720) is increased by twelve million two hundred  
6 fifty thousand dollars (\$12,250,000) in nonrecurring funds for the 2020-2021 fiscal year.

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

- 10           (1) \$2,500,000 in nonrecurring funds for the 2020-2021 fiscal year for the  
11 cybersecurity pilot program described in Section 5 of this act.
- 12           (2) \$3,250,000 in nonrecurring funds for the 2020-2021 fiscal year to be allocated  
13 to Gaston College to use to found the Carolina Cyber Network. Gaston  
14 College may use up to two hundred fifty thousand dollars (\$250,000) of the  
15 funds allocated in this subdivision for administration costs associated with the  
16 Network.
- 17           (3) The sum of five million five hundred thousand dollars (\$5,500,000) in  
18 nonrecurring funds for the 2020-2021 fiscal year to be used to enhance  
19 Statewide cybersecurity.
- 20           (4) The sum of one million dollars (\$1,000,000) to the Satellite-Based Broadband  
21 Grant Fund, established in Section 7 of this act.

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

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

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

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

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

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

50           **SECTION 11.(c)** Except where expressly repealed or amended by this act, the  
51 provisions of any other legislation enacted during the 2019 Regular Session of the General

1 Assembly expressly appropriating funds to an agency, a department, or an institution covered  
2 under this act shall remain in effect.  
3           **SECTION 12.** Sections 1, 2, and 3 of this act become effective July 1, 2020. The  
4 remainder of this act is effective when it becomes law.