

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2020-64
SENATE BILL 816

AN ACT TO APPROPRIATE FUNDS FOR ENROLLMENT GROWTH AT NORTH CAROLINA'S COMMUNITY COLLEGES, TO APPROPRIATE FUNDS FOR ADDITIONAL COOPERATIVE INNOVATIVE HIGH SCHOOLS, TO DIRECT THE DEPARTMENT OF PUBLIC INSTRUCTION TO REPORT ON THE FUNDING FOR COOPERATIVE INNOVATIVE HIGH SCHOOLS BY DEVELOPMENT TIER AREA LOCATION, TO PLACE A MORATORIUM ON NEW COOPERATIVE INNOVATIVE HIGH SCHOOLS FOR THE 2021-2022 SCHOOL YEAR, TO LIMIT APPROVALS FOR CERTAIN NEW COOPERATIVE INNOVATIVE HIGH SCHOOLS, AND 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 all of the following regarding the role of community colleges in the response of the State to the COVID-19 pandemic:

- (1) The coronavirus disease 2019 (COVID-19) pandemic has devastated the economy in North Carolina, caused unprecedented job loss, and significantly disrupted the delivery of education by traditional four-year institutions of higher education.
- (2) COVID-19 has caused students enrolled in four-year institutions of higher education primarily receiving online instruction to seek less expensive alternatives.
- (3) North Carolina community colleges can offer courses to students at a significantly lower cost than four-year institutions of higher education.
- (4) Students who take courses at community colleges can successfully transfer credits to four-year institutions of higher education later in their education pathways and overall have comparably positive educational outcomes to those attending traditional colleges and universities at substantial savings.
- (5) North Carolina community colleges also offer short-term workforce training courses for unemployed individuals who have lost their jobs due to COVID-19, which is crucial to the recovery of the economy in North Carolina.
- (6) Enrollment has particularly increased in short-term workforce education due to the growing emphasis of North Carolina's community colleges in meeting the needs of the businesses of the State and people recognizing the value and quality of a community college education.

SECTION 2. Transfer. – The State Controller shall transfer the sum of forty-one million five hundred thousand dollars (\$41,500,000) from the Coronavirus Relief Reserve established in Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund established in Section 2.2 of that same act.

SECTION 3. Appropriation. – There is appropriated from the Coronavirus Relief Fund to the Office of State Budget and Management (OSBM) the sum of forty-one million five



hundred thousand dollars (\$41,500,000) in nonrecurring funds for the 2020-2021 fiscal year to be allocated to the Community Colleges System Office for enrollment growth at North Carolina's community colleges.

SECTION 4. Requirements. – The requirements and limitations set forth in Part I of S.L. 2020-4 shall apply to the funds appropriated by Section 3 of this act. OSBM shall include the funds transferred and appropriated under Sections 2 and 3 of this act in the report required under Section 1.7 of S.L. 2020-4.

SECTION 4A.(a) Appropriation to the State Public School Fund from the Civil Penalty and Forfeiture Fund. – There is appropriated from the Civil Penalty and Forfeiture Fund to the State Public School Fund the sum of one million eight hundred eighty thousand dollars (\$1,880,000) in nonrecurring funds for the 2020-2021 fiscal year. By August 15, 2020, the Office of State Budget and Management shall reduce the appropriations to the State Public School Fund from the General Fund by the sum of one million eight hundred eighty thousand dollars (\$1,880,000) in nonrecurring funds for the 2020-2021 fiscal year.

SECTION 4A.(b) Appropriation to the Department of Public Instruction. – From the funds made available pursuant to subsection (a) of this section for the 2020-2021 fiscal year, there is appropriated from the General Fund to the Department of Public Instruction the sum of one million eight hundred eighty thousand dollars (\$1,880,000) in nonrecurring funds for the 2020-2021 fiscal year to be allocated to local school administrative units in amounts consistent with those set forth in Section 7.22 of S.L. 2017-57 as supplemental funding for the following cooperative innovative high schools for the 2020-2021 school year:

- (1) The Center for Industry, Technology, and Innovation.
- (2) The Innovation Early College High School.
- (3) The Marine Sciences and Technologies Early College High School.
- (4) The Roanoke Rapids Early College High School.
- (5) The Southeast Area Technical High School.
- (6) Halifax Early College High School.
- (7) Stanly STEM Early College High School.
- (8) Gaston Early College of Medical Sciences High School.

SECTION 4A.(c) Operating Authorization. – For the 2019-2020 school year and for subsequent school years, notwithstanding G.S. 115C-238.51A(c), G.S. 115C-238.54, and any other provision of law, Halifax Early College High School and Stanly STEM Early College High School are permitted to be operating in accordance with G.S. 115C-238.53 and G.S. 115C-238.54 as cooperative innovative high schools approved under G.S. 115C-238.51A(c) and shall be subject to the evaluation requirements of G.S. 115C-238.55. Beginning with the 2020-2021 school year and for subsequent school years, Gaston Early College of Medical Sciences High School shall be permitted to operate in accordance with G.S. 115C-238.53 and G.S. 115C-238.54 as a cooperative innovative high school approved under G.S. 115C-238.51A(c) and shall be subject to the evaluation requirements of G.S. 115C-238.55.

SECTION 4A.(d) State Budget Act Applies. – The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

SECTION 4A.(e) Additional Limitations and Directions. – Except where expressly repealed or amended by this act, the provisions of any other legislation enacted during the 2019 Regular Session of the General Assembly expressly appropriating funds to an agency, a department, or an institution covered under this act shall remain in effect.

SECTION 5. Report on Cooperative Innovative High School Funding by Development Tier Area Location. – By January 15, 2021, the Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee with information on the list of cooperative innovative high schools approved to operate in accordance with G.S. 115C-238.51A(c), including the development tier designation as defined in

G.S. 143B-437.08 that was used by the Department for the purposes of allocating funding from the cooperative innovative high school allotment for each school for the 2020-2021 fiscal year. The Department shall also include in the report any projected adjustments to funding that would be required based on the development tier designation for those cooperative innovative high schools that is effective for the 2021-2022 fiscal year and the projected total difference in required State funding between the 2020-2021 fiscal year and the 2021-2022 fiscal year for the cooperative innovative high school allotment if all schools currently operating in accordance with G.S. 115C-238.51A(c) are funded for the 2021-2022 fiscal year in accordance with the updated development tier designations.

SECTION 6. Moratorium on New Schools for the 2021-2022 School Year. – Notwithstanding Part 9 of Article 16 of Chapter 115C of the General Statutes, the State Board of Education shall not approve any new applications for cooperative innovative high schools pursuant to G.S. 115C-238.51A(c) to open for the 2021-2022 school year.

SECTION 7.(a) Limitations on CIHS Approvals. – G.S. 115C-238.51A reads as rewritten:

"§ 115C-238.51A. Approval process.

(a) Joint Advisory Committee. – The State Board of Education and the applicable governing Board of the local board of trustees shall appoint a joint advisory committee to review the applications and to recommend approval for those applications that meet the requirements of this Part and achieve purposes set out in G.S. 115C-238.50. The recommendation shall indicate whether additional funds were requested in the application.

(a1) Limitation on Approvals. – The State Board may only conditionally approve up to three applications for cooperative innovative high schools that request additional funds under subsection (c) of this section to open in a school year. If an application requesting additional funds is not approved due to this limitation, a revised application may be submitted under subsection (b) of this section. The State Board may prioritize conditional approval of applications for cooperative innovative high schools located in local school administrative units that do not already operate a school pursuant to this Part.

(b) No Additional Funds. – For applications which have not requested additional funds, the State Board of Education and the applicable governing Board may approve cooperative innovative high schools. In granting approval, consideration shall be given to the proposed budget and demonstration of sources of sustainable funding for the operation of the cooperative innovative high school. Approvals shall be made by June 30 of each year. No additional State funds, position allotments, earning of budget full-time equivalent students, or payments of tuition shall be provided to cooperative innovative high schools approved under this subsection.

(c) Additional Funds. – For applications which have requested additional funds, the State Board of Education and the applicable governing Board may approve cooperative innovative high schools contingent upon appropriation of the additional funds by the General Assembly. Contingent approval shall be made by April 1 of each year. The contingent approval shall expire if no appropriation is made by the General Assembly for the additional funds within one calendar year. No cooperative innovative high school shall open prior to the appropriation by the General Assembly of the full amount of the additional funds as requested in the application for that school under G.S. 115C-238.51 for the upcoming fiscal year or fiscal biennium, as appropriate. If no appropriation is made by the General Assembly, a revised application may be submitted under subsection (b) of this section."

SECTION 7.(b) Section Effective Date. – Subsection (a) of this section applies beginning with applications to open a cooperative innovative high school for the 2022-2023 school year and for subsequent school years.

SECTION 8.(a) 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.
 - b. As of June 8, 2020, the Division of Adult Correction and Juvenile Justice in the Department of Public Safety has performed 1,946 COVID-19 tests on prison inmates.
 - c. Of the tests performed, 691 (or 35.5%) have found positive results for COVID-19.
 - d. Current testing has found confirmed positive COVID-19 cases in 14 of the 55 Adult Correction facilities in the State.
 - e. The Johnston Correctional Institution was temporarily closed due to a COVID-19 outbreak.
 - f. There have been five confirmed COVID-19-related deaths in Adult Correction facilities in the State.
 - g. The Superior Court of North Carolina has ordered the Division of Adult Correction and Juvenile Justice to present a plan to test all prison inmates in the State by June 22, 2020.
 - h. The 1,946 completed tests represent 6.1% of the 31,906 inmates currently housed in North Carolina Adult Correction facilities.
 - i. Two correctional institutions tested 100% of all inmates housed there.
 - (6) In addition to the allowance set forth in subdivision (2) of this section, the Guidance provides a non-exhaustive list of eligible expenditures for which Fund payments may be used, including "[a]ny other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria."

- (7) The Guidance further provides that the term "necessary" is to be interpreted "broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments."
- (8) The General Assembly is tasked by the State Constitution with appropriating all funds, including payments received from the Fund, and using its "reasonable judgment" to appropriate the funds, in a manner that is consistent with the authorizing federal legislation and Guidance provided by the Treasury, to remedy or otherwise mitigate the devastating effects on the State economy caused by the COVID-19 public health emergency.

SECTION 8.(b) Transfer. – The State Controller shall transfer the sum of six hundred forty-five million four hundred thousand dollars (\$645,400,000) from the Coronavirus Relief Reserve established in Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund established in Section 2.2 of that same act.

SECTION 8.(c) Appropriation. – There is appropriated from the Coronavirus Relief Fund to the Office of State Budget and Management (OSBM) the sum of six hundred forty-five million four hundred thousand dollars (\$645,400,000) in nonrecurring funds for the 2020-2021 fiscal year to be used to offset General Fund appropriations across State government for allowable expenditures of funds from the Coronavirus Relief Fund.

SECTION 8.(d) Creation of Reserve. – There is created in the General Fund a Statewide Reserve for Appropriations (Reserve) (Budget Code: 190XX). The Reserve shall have a beginning negative appropriation balance of six hundred forty-five million four hundred thousand dollars (\$645,400,000). By December 30, 2020, the Reserve shall have a balance of zero dollars (\$0.00).

SECTION 8.(e) Limitation on Use of Funds; Transfer to Reserve. – Funds appropriated to OSBM in subsection (c) of this section shall not be used to increase total requirements of a State agency or department. As allowable expenditures are identified in accordance with subsection (c) of this section, OSBM shall reduce the net General Fund appropriation in the relevant State agency or department and transfer that appropriation to the Reserve created in subsection (d) of this section.

SECTION 8.(f) Requirements. – The requirements and limitations set forth in Part I of S.L. 2020-4 shall apply to the funds appropriated by this section. OSBM shall include the funds transferred and appropriated under this section in the report required under Section 1.7 of S.L. 2020-4.

SECTION 9. Effective Date. – This act becomes effective July 1, 2020.

In the General Assembly read three times and ratified this the 24th day of June, 2020.

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

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 5:22 p.m. this 1st day of July, 2020