

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1995**

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**SENATE BILL 340\***

Short Title: Governor's '95 Capital Approp./AB.

(Public)

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Sponsors: Senators Plyler, Perdue, Odom, Conder, Rand, Plexico, Jordan, Hobbs, Hoyle, and Albertson.

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Referred to: Appropriations

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March 8, 1995

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS  
3     FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES AND FOR  
4     OTHER PURPOSES.

5 The General Assembly of North Carolina enacts:

6

7 **INTRODUCTION**

8

9           Section 1. The appropriations made by the 1995 General Assembly for capital  
10 improvements are for constructing, repairing, or renovating State buildings, utilities, and  
11 other capital facilities, for acquiring sites for them where necessary, and for acquiring  
12 buildings and land for State government purposes.

13

14 **TITLE**

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16           Sec. 2. This act shall be known as the "Capital Improvements Appropriation  
17 Act of 1995".

18

19 **PART 1. PROCEDURES FOR DISBURSEMENTS**

1  
 2           Sec. 3. The appropriations made by the 1995 General Assembly for capital  
 3 improvements shall be disbursed for the purposes provided by this act. Expenditure of  
 4 funds shall not be made by any State department, institution, or agency until an allotment  
 5 has been approved by the Governor as Director of the Budget. The allotment shall be  
 6 approved only after full compliance with the Executive Budget Act, Article I of Chapter  
 7 143 of the General Statutes. Prior to the award of construction contracts for projects to  
 8 be financed in whole or in part with self-liquidating appropriations, the Director of the  
 9 Budget shall approve the elements of the method of financing of those projects including  
 10 the source of funds, interest rate, and liquidation period.

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

17           Capital improvement projects authorized by the 1995 General Assembly shall  
 18 be completed, including fixed and movable equipment and furnishings, within the limits  
 19 of the amounts of the direct or self-liquidating appropriations provided, except as  
 20 otherwise provided in this act. Capital improvement projects authorized by the 1995  
 21 General Assembly for the design phase only shall be designed within the scope of the  
 22 project as defined by the approved cost estimate filed with the Director of the Budget,  
 23 including costs associated with site preparation, demolition, movable and fixed  
 24 equipment, and works of art as required by G.S. 143-408.4.  
 25

26 **PART 2. CAPITAL IMPROVEMENTS/GENERAL FUND**

27  
 28           Sec. 4. Appropriations are made from the General Fund for the 1995-97  
 29 biennium for use by the State departments, institutions, and agencies to provide for  
 30 capital improvement projects according to the following schedule:

	<u>1995-96</u>	<u>1996-97</u>
31		
32		
33		
34		
35		
36		
37		
38		
39		
40		
41		
42		
43		
DEPARTMENT OF AGRICULTURE (Total)	\$ 12,650,000	\$
-		
1. Cattle and Livestock Exposition Center	\$ 6,650,000	\$
-		
2. Eastern North Carolina Agricultural Center- Continued Development	6,000,000	-
UNIVERSITY-BOARD OF GOVERNORS(Total)	\$ 50,000,000	\$
-		
1. Reserve for Capital Improvements	50,000,000	-

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1	DEPARTMENT OF COMMERCE (Total)	\$ 1,000,000	\$
2	-		
3	1. National Institute of Statistical Sciences-		
4	Grant for Capital Improvements	1,000,000	-
5			
6	DEPARTMENT OF CORRECTION (Total)	\$ 86,813,700	
7		\$14,000,000	
8	1. Reserve - Electronic Intrusion System	813,700	-
9	2. Reserve for Increased Prison Capacity	86,000,000	
10	14,000,000		
11			
12	DEPARTMENT OF CULTURAL		
13	RESOURCES (Total)	\$ 7,250,000	\$
14	-		
15	1. Reserve - Land Acquisition and Development	1,000,000	-
16	2. Children's Museum About the World -		
17	Grant-In-Aid	1,000,000	-
18	3. Elizabeth II State Historic Site	5,000,000	-
19	4. Museum of Art - Facilities Planning	250,000	-
20			
21	DEPARTMENT OF ENVIRONMENT, HEALTH		
22	AND NATURAL RESOURCES (Total)	\$ 14,935,000	\$
23	-		
24	1. Water Resources Development		
25	and Watershed Projects	2,065,000	-
26	2. Marine Fisheries - Enforcement	and Development	
27	2,170,000		-
28	3. State Parks and Natural Areas - Preservation,		
29	Development and Acquisition	9,000,000	-
30	4. North Carolina Aquariums - Planning	1,300,000	-
31	5. Museum of Natural Science Exhibits	400,000	-
32			
33	DEPARTMENT OF HUMAN RESOURCES (Total)	\$ 2,318,000	\$
34	-		
35	1. Division of Youth Services - Detention Center in		
36	Northeastern North Carolina	1,800,000	-
37	2. Renovate Gaston Detention Center	- Grant-In-Aid	
38	270,000		-
39	3. Renovate Wake County Building for Leonard		
40	Secure Unit	248,000	-
41			
42	DEPARTMENT OF JUSTICE (Total)	\$ 200,000	\$
43	-		

1	1. Western Justice Academy -	
2	Planning and Development	<u>200,000</u>
3	=	
4		
5	TOTAL CAPITAL IMPROVEMENTS -	
6	GENERAL FUND	\$175,166,700 _____ \$
7	14,000,000	

**PART 3. CAPITAL IMPROVEMENTS/HIGHWAY FUND**

Sec. 5. Appropriations are made from the Highway Fund for the 1995-97 biennium for use of the Department of Transportation to provide for capital improvement projects according to the following schedule:

	<u>1995-96</u>	<u>1996-97</u>
15 DEPARTMENT OF TRANSPORTATION (Total)	\$12,000,000	
16 \$12,000,000		
17 1. Reserve for Capital Improvements	<u>12,000,000</u>	
18 <u>12,000,000</u>		
20 TOTAL CAPITAL IMPROVEMENTS -		
21     HIGHWAY FUND	\$12,000,000	
22     \$12,000,000		

**PART 4. SPECIAL PROVISIONS**

**EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND RENOVATIONS**

Sec. 6. Of the funds in the Reserve for Repairs and Renovations for the 1995-96 fiscal year, fifty-five percent (55%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations to General Fund supported facilities and related infrastructure in The University of North Carolina, including the North Carolina School of Science and Math, and forty-five percent (45%) shall be allocated to the Office of State Budget and Management for necessary repairs and renovations to all other General Fund supported facilities and related infrastructure. From this Reserve, the Board of Governors may expend thirty-four million three hundred seventy-five thousand dollars (\$34,375,000), and the Office of State Budget and Management may expend twenty-eight million one hundred twenty-five thousand dollars (\$28,125,000) for repairs and renovation, improvements to roads and walks, architectural barrier removal, and North Carolina Occupation Safety and Health Act projects.

**WATER RESOURCES DEVELOPMENT FUNDS**

Sec. 7. The funds appropriated in Section 4 of this act to the Department of Environment, Health, and Natural Resources as a Reserve for Water Resources (Civil

1 Works) shall be allocated by the Division of Water Resources for the following types of  
2 projects in accordance with the Department's Water Resources Development Plan:

- 3 (1) Planning;
- 4 (2) Construction projects;
- 5 (3) Operations and maintenance projects; and
- 6 (4) Feasibility studies.

### 7 8 **FEDERAL MATCHING FUNDS**

9 Sec. 8. When allocations made in Section 4 of this act are contingent upon  
10 federal matching funds being available, and federal matching funds do not become  
11 available by July 1, 1996, these allocations may be transferred to the Office of State  
12 Budget and Management and placed in the Reserve for Repairs and Renovations.

### 13 14 **TECHNICAL CORRECTION**

15 Sec. 9. G.S. 143-15.3A(a) reads as rewritten:

16 "(a) There is established a Repairs and Renovations Reserve Account as a restricted  
17 reserve in the General Fund. The State Controller shall reserve to the Repairs and  
18 Renovations Reserve Account the lesser of (i) one-fourth of any unreserved credit  
19 balance remaining in and (ii) one and one-half percent (1.5%) of the replacement value of  
20 all State buildings supported from the General Fund at the end of each fiscal year. As  
21 used in this section, the term 'unreserved credit balance' means the credit balance amount,  
22 as determined on a cash basis, before funds are reserved by the Controller to the Savings  
23 Reserve Account or the Repairs and Renovations Reserve Account pursuant to this  
24 section and G.S. 143-15.3."

### 25 26 **ENERGY CONSERVATION MEASURES FOR STATE AGENCIES**

27 Sec. 10. (a) Part 1 of Article 3B of Chapter 143 of the General Statutes is  
28 amended by adding a new section to read:

#### 29 **"§ 143-64.15A. Guaranteed energy savings contracts.**

30 (a) The Department of Administration shall enter into guaranteed energy savings  
31 contracts as defined in G.S. 143-64.17(3) according to the procedures established for  
32 local governmental units contracting in Part 2 of this Article, on behalf of State  
33 departments, agencies, and institutions, to finance energy conservation measures in State  
34 facilities."

35 (b) G.S. 143-129.4 reads as rewritten:

#### 36 **"§ 143-129.4. Guaranteed energy savings contracts.**

37 The solicitation and evaluation of proposals for guaranteed energy savings contracts,  
38 as defined in Part 2 of Article 3b of this Chapter, and applying to Part 1 and Part 2 of  
39 Article 3B of this Chapter, are governed solely by the provisions of ~~that Part;~~ those Parts;  
40 except that guaranteed energy savings contracts are subject to the requirements of G.S.  
41 143-128(c)."

42 (c) G.S. 133-4.1 reads as rewritten:

#### 43 **"§ 133-4.1. Guaranteed energy savings contracts.**

1 Except for G.S. 133-1.1, the provisions of this Article shall not apply to energy  
2 conservation measures undertaken as part of a guaranteed energy savings contract entered  
3 into pursuant to the provisions of Part 1 or Part 2 of Article 3B of Chapter 143 of the  
4 General Statutes."

## 6 LEASE/PURCHASE OF FACILITIES

7 Sec. 11. (a) G.S. 143-341(4)d. reads as rewritten:

8 "d. To acquire, whether by purchase, exercise of the power of  
9 eminent domain, lease-purchase, lease, or rental, all land,  
10 buildings, and space in buildings for all State agencies, subject to  
11 the approval of the Governor and Council of State in each  
12 instance. The Governor, acting with the approval of the Council  
13 of State, may adopt rules (i) exempting from any or all of the  
14 requirements of this paragraph ~~such~~the classes of lease, rental,  
15 easement, and right-of-way transactions as ~~he~~the Governor  
16 deems advisable; and (ii) authorizing any State agency to enter  
17 into and/or approve the classes of transactions thus exempted  
18 from the requirements of this paragraph; and (iii) delegating to  
19 any other State agency the authority to approve the severance of  
20 buildings and standing timber from State lands; upon ~~such~~  
21 approval of severance, the buildings and timber so affected shall  
22 be treated, for the purposes of this Chapter, as personal property.  
23 Any contract entered into or any proceeding instituted contrary to  
24 the provisions of this paragraph is voidable in the discretion of  
25 the Governor and Council of State."

26 (b) G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

27 "d2. To purchase or finance the purchase of real property by installment contracts  
28 that create in the property purchased a security interest to secure payment of the purchase  
29 price to the seller or to an individual or entity advancing moneys or to supply financing  
30 for the purchase transaction.

31 The Department of Administration may also finance the acquisition, construction, or  
32 repair of fixtures or improvements on real property by contracts that create in the fixture  
33 or improvements, or in all or some portion of the property on which the fixtures or  
34 improvements are located, or in both, a security interest to secure repayment of moneys  
35 advanced or made available for this acquisition, construction, or repair.

36 No contract entered into under this sub-subdivision may contain a nonsubstitution  
37 clause that restricts the right of the State to: (i) continue to provide a service or activity;  
38 or (ii) replace or provide a substitute for any fixture, improvement, project, or property  
39 financed or purchased pursuant to this contract.

40 No deficiency judgment shall be rendered against the State in any action for breach of  
41 a contractual obligation authorized by this sub-subdivision, and the taxing power of the  
42 State may not be pledged directly or indirectly to secure any moneys due under a contract  
43 authorized by this sub-subdivision."

**JUSTICE ACADEMY FUNDS**

Sec. 12. Any funds received by the Department of Justice in settlement of insurance claims, lawsuits, and/or settlements arising from damage to the Blue Bell Building at the Justice Academy in Salemburg, North Carolina, may be expended by the Department for replacement of the Blue Bell Building or other capital improvements at the North Carolina Justice Academy in Salemburg, as approved by the Director of the Budget.

**DETENTION CENTER CONSTRUCTION**

Sec. 13. Section 25.7 of Chapter 769 of the 1993 Session Laws, Regular Session 1994, reads as rewritten:

"Sec. 25.7. The Department of Human Resources, Division of Youth Services, shall use the one million six hundred thousand dollars (\$1,600,000) placed in a reserve for detention center construction in Section 67 of Chapter 24 of the Session Laws of the 1994 Extra Session, to construct a 24-bed detention center in Wake County center."

**PART 5. MISCELLANEOUS PROVISIONS****ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND**

Sec. 14. When each capital improvement project appropriated by the 1995 General Assembly, other than those projects under The University of North Carolina Board of Governors, is placed under construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the Project Reserve may be used for emergency repair and renovation projects at State facilities with the approval by the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the physical scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget any balances in the project reserve fund shall revert to the original source.

**PROJECT COST INCREASE**

Sec. 15. Upon the request of the administration of a State department or institution, the Director of the Budget may, when in his opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

**NEW PROJECT AUTHORIZATION**

Sec. 16. Upon the request of the administration of any State department or institution, the Governor may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness.

**ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

Sec. 17. Funds which become available by gifts, excess patient receipts above those budgeted at 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 department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund may not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

**APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

Sec. 18. Construction of all capital improvement projects enumerated by the 1995 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse, except that direct appropriations may be placed in a reserve fund as authorized by this act. This deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

**EFFECT OF HEADINGS**

Sec. 19. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

**SEVERABILITY CLAUSE**

Sec. 20. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.



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**EFFECTIVE DATE**

Sec. 21. Except as otherwise provided, this act becomes effective July 1, 1995.