



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# SENATE BILL 3: 2018 Hurricane Florence Disaster Recovery Act.

2017-2018 General Assembly

<b>Committee:</b>	Senate Appropriations/Base Budget	<b>Date:</b>	October 15, 2018
<b>Introduced by:</b>	Sens. Britt, Meredith, Brown, B. Jackson, Rabon, Clark, D. Davis, Fitch, Lee, McInnis, Sanderson, Smith	<b>Prepared by:</b>	Kory Goldsmith Staff Attorney
<b>Analysis of:</b>	PCS to First Edition S3-CSMMA-1		

**OVERVIEW:** *The Hurricane Florence Disaster Recovery Act reserves \$849,430,477 for disaster related activities and appropriates \$398,430,477 in the Hurricane Florence Disaster Recovery Fund (the Fund).*

*The substantive provisions of the act are as follows:*

**SECTION 1.1.** designates the act as the "2018 Hurricane Florence Disaster Recovery Act."

**SECTION 1.2.** provides that appropriations and allocations are for maximum amounts, and savings should be realized where total amounts appropriated or allocated are not needed.

**SECTION 2.1.** appropriates \$398,430,477 within the Hurricane Florence Disaster Recovery Fund, sets forth the availability of State funds for disaster related activities, instructs the State Controller to establish the Hurricane Florence Disaster Recovery Reserve (the Reserve) in the General Fund, specifies that funds in the Reserve are not appropriated funds, and amends the language establishing the Fund in S.L. 2018-34 to clarify that reallocated funds as well as appropriated funds shall be budgeted and accounted for in the Fund.

**SECTIONS 2.2. –2.6.** transfer \$792,930,477 to the Reserve from the following sources:

- \$700 million from the Savings Reserve.
- \$25 million from the Education Lottery Reserve under G.S. 166A-19.40(c). This transfer ratifies the Governor's prior budgetary action and does not duplicate that action.
- \$2 million from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund.
- \$930 thousand in unused funds allocated by a previously enacted Hurricane Matthew relief bill to the Department of Insurance.
- \$65 million from the Highway Fund.

**SECTION 3.1.** provides that unless otherwise provided, the allocations made in the bill apply to North Carolina counties designated under a major disaster declaration by the President as a result of Hurricane Florence.

**SECTION 4.1.** allocates \$398,430,477 to eleven state departments, agencies, and entities as set forth with greater detail in the Committee Report.

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**SECTION 4.2.** requires certain recipients of State funds under the Hurricane Florence Disaster Recovery Act to seek insurance, federal aid, and private donations to reimburse the State for funds provided to the recipient under the Act. The funds are to be remitted to the State, deposited in the Hurricane Florence Disaster Recovery Fund, and remain unexpended and unencumbered until appropriated by the General Assembly. The term "recipient" only includes local political subdivisions of the State, State agencies, State departments, the UNC system and its universities, community colleges, public schools, and non-State entities. Private donations are only required to be sought and remitted by universities and non-State entities.

**SECTION 4.3.** directs the Governor to (i) ensure the funds are expended in a manner that does not adversely affect any person's eligibility for federal funds that are made available and (ii) avoid expending State funds when federal funds are available. Subsection (b) prohibits the Governor from reallocating funds allocated or reallocated by this act pursuant to the authority set forth in G.S. 166A-19.40(c).

**SECTION 5.1.** directs the State Board of Education to consider the highest student population during the first four months of school, rather than just the first two months of school, when determining the allotted average daily membership for schools in disaster counties. It also encourages all school districts to take advantage of current State Board policy by seeking allotment adjustments as needed for increased average daily membership due to an influx of displaced students.

**SECTION 5.2.** clarifies that funds allocated for repair and renovation of public school facilities are not subject to approval by the State Board of Education.

**SECTION 5.3.** establishes the Emergency Scholarship Grant Program for Postsecondary Students (Program) to provide emergency scholarship grants to eligible postsecondary students who are enrolled at institutions of higher education, which means a UNC constituent institution, community college, or eligible private postsecondary institution (private postsecondary institutions that are also eligible under the Need-Based Scholarship Program for Private Institutions). The Program provides up to \$1,250 per student in an academic semester to cover expenses resulting from Hurricane Florence to support continued postsecondary enrollment. The Program provides for emergency scholarship grants to students who (i) were enrolled at an institution of higher education located in a county impacted by Hurricane Florence, (ii) reside in a county impacted by Hurricane Florence, or (iii) have been displaced and transferred to other institutions of higher education. To implement the Program, Section 5.2 allocates \$2M to the Board of Governors to be allocated to constituent institutions, \$5M to the Community Colleges System Office to be allocated to community colleges, and \$1M to the State Education Assistance Authority to be allocated to eligible private postsecondary institutions.

**SECTION 5.4.** directs DMH/DD/SAS to allocate increased single-stream funding to LME/MCOs serving one or more federally declared disaster areas, to fund behavioral health services that are (i) for individuals residing in a federally declared disaster area who have been determined by the LME/MCO to be in need of these services as a result of Hurricane Florence, and (ii) not reimbursable under the Medicaid program. Requires each qualifying LME/MCO to offer at least the same level of single stream service utilization required by the 2018 Appropriations Act, increased proportionately by the amount of increased single stream funding allocated to that LME/MCO. Directs DHHS to manage, within the Medicaid budget, any Hurricane Florence-related increase in behavioral health services reimbursable under the Medicaid program for individuals residing in a federally declared disaster area.

**SECTION 5.5.** directs that funds allocated to the North Carolina Hospital Foundation (NCHF) be used for awarding grants to unaffiliated community hospitals located in federally declared disaster areas, with preference given to unaffiliated community hospitals serving rural areas. Recipient hospitals must use these funds to assist with (i) offsetting the cost of increased nursing and other staffing expenses related to

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Hurricane Florence, and after this purpose is fulfilled, (ii) other hospital relief related to Hurricane Florence. Prohibits recipient hospitals from using these funds to supplant existing funds for community recovery related to Hurricane Florence and specifies that any unexpended or unencumbered funds as of June 30, 2019, shall revert to the Hurricane Florence Disaster Recovery Fund. Establishes reporting requirements regarding use of these funds.

**SECTION 5.6.** extends the 90-day transition period to 120 days for certain child care subsidy recipients who reside in areas impacted by Hurricane Florence.

**SECTION 5.7.** creates an Office of Recovery and Resiliency within the Division of Emergency Management of the Department of Public Safety to provide oversight of recovery and resiliency projects and to administer federal CBDG-DR funds. Subsection (b) directs the Office to create and administer a local government grant program to (i) increase recovery capacity for financially-distressed local governments and (ii) provide a one-time emergency fund to assist local governments in disaster areas in need of immediate cash flow assistance.

**SECTION 5.8.** directs the Office of Recovery and Resiliency to report quarterly (beginning January 1, 2019) and annually (beginning in January, 2020) to the Director of the Budget and the General Assembly regarding use of state funds appropriated by this act, Federal funds provided to the State, and projects and timelines for current and future expenditures.

**SECTION 5.9.** permanently increases from eight hours to 24 hours the period within which a National Guard member must apply for reemployment after returning from State active duty lasting 30 days or less.

**SECTION 5.10.** directs the State Controller to waive outstanding debt from overpayment of active duty salary paid to state National Guard members during state active duty related to Hurricane Matthew in 2016, and to refund overpayment reimbursement already paid by state National Guard members.

**SECTION 5.11.** establishes within the Department of Agriculture and Consumer Services (DACS) a financial assistance program to provide assistance to farmers who experienced a verifiable loss of crops or livestock as a result of Hurricane Florence. An applicant must submit documentation of acreage or participation in the United States Department of Agriculture (USDA) Livestock Indemnity Program. DACS must determine a payment calculation based on acreage, county loss estimates, and USDA averages for crops and 12.5% of total reported losses for livestock. Applications for assistance will remain open until December 10, 2018, unless DACS grants an extension to an individual applicant. DACS may audit financial records, and awarded funds that are based on inaccurate information must be refunded.

**SECTION 5.12.** provides that funds allocated in this act for coastal storm debris removal should be used by the North Carolina Coastal Federation to contract with third parties for removal and proper disposal. This section also directs the Coastal Federation to report on the use of the funds to the General Assembly.

**SECTION 5.13.** directs the Coastal Resources Commission to adopt temporary rules revising its general permit for certain structures in estuarine and public trust waters to make it consistent with the regional general permit for living shorelines issued by the local district of the U.S. Army Corps of Engineers.

**SECTION 5.14.** authorizes the Secretary of the Department of Transportation to waive ferry tolls during a state of emergency declared by the Governor.

**SECTION 5.15.** requires the Department of Transportation to report quarterly to the Office of Recovery and Resiliency on the use of funds allocated in the act for repairs and cleanup. The report will include all costs and progress for each project by Highway Division.

**SECTION 5.16.** imposes a temporary moratorium on fees imposed by local governments for building permits and other construction activities in the areas impacted by Florence. The moratorium applies only

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in counties designated under a major disaster declaration by the President as a result of Hurricane Florence, and is effective retroactively to September 13, 2018. The moratorium expires December 31, 2018.

**SECTION 5.17.** would allow disclosure of a taxpayer's tax information to provide to the Office of Recovery and Resiliency data drawn from tax information to facilitate the taxpayer's application for means-tested federal or state relief related to a federal major disaster declaration. Under existing law, DOR may only disclose a taxpayer's tax information for specified purposes. The Department and Emergency Management must execute a confidential information sharing agreement no later than June 20, 2019.

**SECTION 5.18.** notwithstanding portions of G.S. 122E-6 governing types of activities and income level eligibility for funds allocated to the Housing Finance Agency for Hurricane Florence recovery. The Agency will be able to assist a broader range of income levels and will be able to both rehabilitate and build new construction with the funds.

**SECTION 5.19.** directs the State Auditor to conduct a preliminary audit of the Hurricane Florence Disaster Recovery Fund no later than March 1, 2019, and then conduct additional financial and performance audits as requested by the Director of the Budget or the General Assembly.

**SECTION 5.20.** directs the Department of Insurance to report quarterly to the Office of Recovery and Resiliency and the General Assembly regarding the funds allocated to the Department for grants to volunteer fire departments.

**SECTION 5.21.** expresses the intent of the General Assembly that the State should strive to acquire goods and services from historically underutilized business vendors and that the General Assembly will continue to review the sufficiency of funding to meet disaster recovery needs.

**SECTION 5.22.** expresses the intent of the General Assembly to review in 2018 and 2019 federal funding provided to the State for disaster relief and the adequacy of funds provided in this act and consider actions needed to address remaining unmet needs.

**SECTION 5.23.** provides that no State funds appropriated in this act may be used for new residential construction in the 100-year floodplain, requires that homeowners receiving housing assistance in a 100-year flood plain must be covered by the federal flood insurance program, and provides a definition of "100-year floodplain". Subsection (c) places various requirements on funds loaned to small and mid-sized businesses.

**SECTION 5.24.** provides a right of subrogation in favor of the State against persons who own a home purchased or relocated with certain State funds.

**SECTION 6.1.** provides that the Committee Report accompanying this act indicates action by the General Assembly on this act, is used to construe this act, and for those purposes is a part of this act. In the event of a conflict between the Committee Report and the act, the act prevails.

**SECTIONS 6.2. – 6.3.** contain standard appropriations bill language regarding the effect of headings and severability of the act.

**SECTION 7.1.** Unless otherwise provided, the act is effective when it becomes law.