

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 500

Short Title: Disaster Relief and Mitigation Act of 2021. (Public)

Sponsors: Representatives Bell, B. Jones, McElraft, and Miller (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Finance, if favorable, Environment, if favorable, Appropriations, if favorable,
Rules, Calendar, and Operations of the House

April 12, 2021

A BILL TO BE ENTITLED
AN ACT TO ENACT THE DISASTER RELIEF AND MITIGATION ACT OF 2021.
The General Assembly of North Carolina enacts:

ESTABLISHMENT OF THE DISASTER RELIEF AND MITIGATION FUND

SECTION 1.(a) There is established the Disaster Relief and Mitigation Fund (Fund) in the Department of Public Safety, Division of Emergency Management (Division). Any funds appropriated to the Fund shall remain available for expenditure as provided in this section unless directed otherwise by the General Assembly.

SECTION 1.(b) The Division shall administer a grant program that allows units of local government and nonprofit corporations to apply for funds to be used for any of the following:

- (1) Flood mitigation efforts that stabilize areas and reduce future damage.
- (2) Predevelopment assistance to provide small and underserved communities with technical assistance to identify and design shovel-ready projects related to disaster relief and flood mitigation.
- (3) Matching funds for federal grants and other federal funding for projects related to disaster relief and flood mitigation.

SECTION 1.(c) There is appropriated from the General Fund to the Disaster Relief and Mitigation Fund in the Department of Public Safety, Division of Emergency Management, the sum of twenty million dollars (\$20,000,000) in nonrecurring funds for the 2021-2022 fiscal year to be used for the purposes set out in this section.

ESTABLISHMENT OF THE TRANSPORTATION INFRASTRUCTURE RESILIENCY FUND

SECTION 2.(a) There is established the Transportation Infrastructure Resiliency Fund (Fund) in the Department of Public Safety, Division of Emergency Management (Division). Any funds appropriated to the Fund shall remain available for expenditure as provided in this section unless directed otherwise by the General Assembly.

SECTION 2.(b) The Division shall administer a grant program to ensure transportation resilience against natural disasters. The Division shall consult with the Department of Transportation prior to awarding grants to State agencies, units of local government, and nonprofit corporations. Funds may be used for any of the following:



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- (1) Projects that update and prepare transportation infrastructure for storms, mudslides, and flooding events.
- (2) Risk assessments for critical transportation routes, building on existing and future reports such as the I-95 and I-40 Flood Resilience Feasibility Study.
- (3) Create community-informed flood risk and vulnerability assessments that identify resilience gaps and project opportunities for transportation routes in North Carolina to help maintain vital transportation functions following flooding events.

SECTION 2.(c) There is appropriated from the General Fund to the Transportation Infrastructure Resiliency Fund in the Department of Public Safety, Division of Emergency Management, the sum of twenty million dollars (\$20,000,000) in nonrecurring funds for the 2021-2022 fiscal year to be used for the purposes set out in this section.

MAKE NORTH CAROLINA OFFICE OF RECOVERY AND RESILIENCY PERMANENT

SECTION 3.(a) Subpart A of Part 5 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-1001. The North Carolina Office of Recovery and Resiliency.

(a) There is established within the Division of Emergency Management the North Carolina Office of Recovery and Resiliency (NCORR), which shall be organized and staffed in accordance with applicable law and within the limits of authorized appropriations.

(b) NCORR shall having the following functions:

- (1) To execute multiyear recovery and resiliency projects.
- (2) To administer funds provided by the Community Development Block Grant Disaster Recovery program.
- (3) To provide general disaster recovery coordination and public information, citizen outreach, and application case management.
- (4) To audit, finance, comply with, and report on disaster recovery funds and program and construction management services.
- (5) To contract for services from vendors specializing in housing, construction, and project management services.
- (6) To develop and administer a grant program for financially distressed local governments to assist with recovery and resiliency capacity.
- (7) To provide technical assistance to local governments.

(c) Funds for NCORR may be used to locate NCORR employees in key regions or to foster partnerships with councils of government in order to address capacity gaps and aid local governments to access federal funds for resiliency and recovery projects and activities."

SECTION 3.(b) NCORR shall establish an intergovernmental working group composed of representatives from the Department of Environmental Quality, local governments, and other stakeholders to identify jurisdictional challenges related to stream management and flooding reduction. The working group shall make recommendations to the Joint Legislative Emergency Management Oversight Committee by February 1, 2022.

SECTION 3.(c) There is appropriated from the General Fund to the Department of Public Safety, North Carolina Office of Recovery and Resiliency, the sum of five hundred twenty-four thousand three hundred sixty-three dollars (\$524,363) in recurring funds for the 2021-2022 fiscal year and five hundred ninety-four thousand three hundred sixty-three dollars (\$594,363) in recurring funds for the 2022-2023 fiscal year. The funds shall be used to support up to five full-time equivalent positions to provide technical support to communities with resiliency planning and projects to protect communities from flooding and other natural disasters.

FLOOD RESILIENCE BLUEPRINT

SECTION 4. Ten million dollars (\$10,000,000) of Community Development Block Grant. – Mitigation Program funds are hereby allocated to the Department of Public Safety, North Carolina Office of Recovery and Resiliency (NCORR), to be used to develop Flood Resilience Blueprints for major watersheds impacted by flooding, including the Cape Fear River and the Neuse River Basins. These watershed blueprints shall form the backbone of a State flood planning process that increases community resilience to flooding, shall be a resource for riverine and stream management to reduce flooding, and should support the establishment and furtherance of local government stormwater maintenance programs. NCORR shall identify the major watersheds affected by flooding and direct these funds toward the activities which are central to the creation of actionable blueprints, namely flood risk assessment, identification of data gaps, and recommendations to reduce flood risk for each target watershed. When developing the blueprints, NCORR shall incorporate local knowledge, community goals, and hydrologic modeling to create a decision tool for flood mitigation investments and strategies from local watersheds up to whole river basins. A successful blueprint should ultimately lead to a prioritized set of projects and funding strategies that the State can implement. NCORR is encouraged to examine examples from other states such as the Louisiana Coastal Master Plan or the flood resilience planning processes in South Carolina and Virginia. NCORR shall report by July 1, 2022, to the Oversight Committee on Agriculture and Natural and Economic Resources and the Joint Legislative Emergency Management Oversight Committee the implementation of this section.

TARGETED FUNDING FOR FLOOD MITIGATION/NORTH CAROLINA LAND AND WATER FUND

SECTION 5.(a) There is appropriated from the General Fund to the North Carolina Land and Water Fund in the Department of Natural and Cultural Resources the sum of twenty million dollars (\$20,000,000) in nonrecurring funds for the 2021-2022 fiscal year. The Division of Land and Water Stewardship shall use the funds to provide grants to counties, municipalities, nonprofit corporations, and other State agencies for projects addressing the purposes specified in G.S. 143B-135.234(c)(12). The Division shall develop criteria to score projects based on the ability of a project to reduce flood risks.

SECTION 5.(b) G.S 143B-135.244 reads as rewritten:
"§ 143B-135.244. Clean Water Management Trust Fund: reporting requirement.

The Chair of the Board of Trustees shall report no later than December 1 each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Environmental Review Commission, the Subcommittees of the House of Representatives and Senate Appropriations Committees with jurisdiction over natural and economic resources, and the Fiscal Research Division of the General Assembly regarding the implementation of this Part. The report shall include a list of the projects awarded grants from the Fund for the previous 12-month period. The list shall include for each project a description of the project, the amount of the grant awarded for the project, and the total cost of the project. In 2024 and annually thereafter, the report shall also include a review of all projects funded over time pursuant to G.S. 143B-135.234(c)(12) and the extent to which each project reduced flooding during flooding events."

FUND ADDITIONAL POSITIONS AND OTHER PURPOSES/DIVISION OF COASTAL MANAGEMENT/COASTAL RESILIENCY PROGRAM

SECTION 6. There is appropriated from the General Fund to the Department of Environmental Quality, Division of Coastal Management, the sum of one million three hundred thousand dollars (\$1,300,000) in recurring funds for the 2021-2023 fiscal biennium to be used for the following purposes:

- (1) Create four additional permanent full-time positions to staff the Resilient Coastal Communities Program.
- (2) Coastal planning and management grants.

FUND NC 2-1-1 SYSTEM

SECTION 7. There is appropriated from the General Fund to the Department of Public Safety, Division of Emergency Management, the sum of two hundred fifty thousand dollars (\$250,000) in nonrecurring funds to support NC 2-1-1 activities.

ADDITIONAL FUNDS FOR COASTAL STORM MITIGATION

SECTION 7.1. There is appropriated from the General Fund to the Department of Environmental Quality the sum of twenty million dollars (\$20,000,000) in nonrecurring funds for the 2021-2022 fiscal year to be allocated to the Coastal Storm Mitigation Fund.

PILOT PROGRAM FOR NATURAL INFRASTRUCTURE FLOOD MITIGATION WITHIN THE DIVISION OF MITIGATION SERVICES

SECTION 8.(a) There is appropriated from the General Fund to the Department of Environmental Quality, Division of Mitigation Services, the sum of five million dollars (\$5,000,000) in nonrecurring funds for the 2021-2022 fiscal year. The funds shall be used in accordance with G.S. 143-214.11A to create one or more pilot projects addressing chronic flooding in the Stoney Creek watershed impacting businesses, roadways, and access to emergency services in Wayne County and Goldsboro. The pilot shall also serve as the basis for expanding natural infrastructure flood mitigation projects to additional watersheds and scaling solutions to enhance community resilience across North Carolina.

SECTION 8.(b) There is appropriated from the General Fund to the Department of Environmental Quality, Division of Mitigation Services, the sum of twenty-five million dollars (\$25,000,000) in nonrecurring funds for the 2021-2022 fiscal year to be allocated to the Natural Infrastructure Flood Mitigation program to be used for flood reduction projects in no less than three and up to six additional priority watersheds.

SECTION 8.(c) G.S. 143-214.11A is amended by adding a new subsection to read:
"(e) The Division shall include in the annual report required by G.S. 143-214.13 information on projects funded under this section. The report shall include a list and description of projects funded, the amount of State funds and total budget for each project, and the amount of flood storage capacity enhanced or restored for each project."

NEUSE RIVER FLOOD MITIGATION

SECTION 9. There is appropriated from the General Fund to the Department of Public Safety, North Carolina Office of Recovery and Resiliency, the sum of thirty-two million two hundred thousand dollars (\$32,200,000) in nonrecurring funds for the 2021-2022 fiscal year to be allocated as follows and with regard to the Neuse River flood mitigation activities:

- (1) \$5,200,000 for Seven Spring Levee.
- (2) \$5,000,000 for Stoney Creek acquisitions.
- (3) \$12,000,000 for 301/Railroad elevation.
- (4) \$10,000,000 for buyouts.

LUMBER RIVER FLOOD MITIGATION

SECTION 10. There is appropriated from the General Fund to the Department of Public Safety, North Carolina Office of Recovery and Resiliency, the sum of thirty-six million five hundred thousand dollars (\$36,500,000) in nonrecurring funds for the 2021-2022 fiscal year to be allocated as follows and with regard to Lumber River flood mitigation activities:

- (1) \$18,000,000 for channel widening.

- (2) \$5,000,000 for Lumberton CSX/Floodgates.
- (3) \$3,500,000 for Fairbluff levee.
- (4) \$10,000,000 for buyouts.

MILITARY PRESERVATION AND RURAL RESILIENCY TAX CREDIT

SECTION 11.(a) G.S. 105-130.34 is reenacted as it existed immediately before its expiration and reads as rewritten:

"§ 105-130.34. Credit for certain real property donations.

(a) Credit. — Any C Corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for ~~(i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation~~ (i) for farmland preservation, (ii) as a buffer to limit land use activities that would restrict, impede, or interfere with military training, testing, or operations on a military installation or training area or otherwise be incompatible with the mission of the installation, (iii) for fish and wildlife conservation, or (iv) for floodplain protection in a county that, in the five years preceding the donation, was the subject of a Type II or Type III gubernatorial disaster declaration, as provided in G.S. 166A-19.21, as a result of a natural disaster is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity for one of the qualifying uses listed in this subsection and accepted in perpetuity for the qualifying use for which the property is donated. The person to whom the property is donated must be the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit.

The credit allowed under this section for one or more qualified donations made in a taxable year may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed the following:

- (1) A certification by the Department of ~~Environment and Natural~~ Environment and Natural and Cultural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.
- (2) A self-contained appraisal report or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(b) Limitation. — The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Carryforward. — Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) No Double Benefit. — That portion of a qualifying donation that is the basis for a credit allowed under this section is not eligible for deduction as a charitable contribution under G.S. 105-130.9."

SECTION 11.(b) G.S. 105-151.12 is reenacted as it existed immediately before its expiration, is recodified as G.S. 105-153.11, and reads as rewritten:

"§ 105-153.11. Credit for certain real property donations.

(a) Credit. – An individual or pass-through entity that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) ~~public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation~~ (i) for farmland preservation, (ii) as a buffer to limit land use activities that would restrict, impede, or interfere with military training, testing, or operations on a military installation or training area or otherwise be incompatible with the mission of the installation, (iii) for fish and wildlife conservation, or (iv) for floodplain protection in a county that, in the five years preceding the donation, was the subject of a Type II or Type III gubernatorial disaster declaration, as provided in G.S. 166A-19.21, as a result of a natural disaster is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity for one of the qualifying uses listed in this subsection and accepted in perpetuity for the qualifying use for which the property is donated. The person to whom the property is donated must be the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit.

To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed the following:

- (1) A certification by the Department of ~~Environment and Natural~~ and Cultural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection. The certification for a qualified donation made by a pass-through entity must be filed by the pass-through entity.
- (2) A self-contained or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(a1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable year under this section for one or more qualified donations made during the taxable year, whether made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty thousand dollars (\$250,000). In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. The aggregate amount of credit allowed to a husband and wife filing a joint tax return may not exceed five hundred thousand dollars (\$500,000). If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.

(a2) Pass-Through Entities. – The aggregate amount of credit allowed to a pass-through entity in a taxable year under this section for one or more qualified donations made during the taxable year, whether made directly or indirectly as owner of another pass-through entity, may not exceed five hundred thousand dollars (\$500,000). Each individual who is an owner of a

pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed two hundred fifty thousand dollars (\$250,000). Each corporation that is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed five hundred thousand dollars (\$500,000). If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(b) Limitation. – The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Carryforward. – Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) No Double Benefit. – That portion of a qualifying donation that is the basis for a credit allowed under this section is not eligible for deduction as a charitable contribution under G.S. 105-130.9.

~~(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 2003 to qualify for the credit allowed by this section.~~

(f) Repealed by Session Laws 2007-309, s. 2, effective for taxable years beginning on or after January 1, 2007."

SECTION 11.(c) This section is effective for taxable years beginning on or after January 1, 2021.

CLARIFY USE OF PREVIOUSLY APPROPRIATED FUNDS FOR THE NORTH CAROLINA FOREST SERVICE

SECTION 12.(a) Section 3.9 of S.L. 2020-97 reads as rewritten:

"**SECTION 3.9.** The funds allocated to the North Carolina Forest Service by subdivision (10) of Section 4.1 of S.L. 2016-124 and that are unencumbered and unexpended for those purposes or for the additional purposes authorized by Section 12.9 of S.L. 2017-57 shall be used by the Department of Agriculture and Consumer Services for the following purposes:

- (1) ~~The purchase and renovation of an existing facility for use as a regional headquarters and training facility construction authorization and partial support of construction of a Region One headquarters and training facility for the North Carolina Forest Service. The facility shall include, but is not limited to, an office building with classrooms, an equipment maintenance facility, and multi-bay equipment shelters.~~
- (2) Support of operations and other receipt-supported activities such as maintenance and repairs at the North Carolina State Fair and the Western North Carolina Agriculture Center."

SECTION 12.(b) This section is effective when this act becomes law.

EFFECTIVE DATE

SECTION 13. Except as otherwise provided, this act becomes effective July 1, 2021.