

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 108*

Short Title: Hurricane Recovery Act of 2005.

(Public)

Sponsors: Representatives Haire, Fisher, Goforth, Rapp (Primary Sponsors); Alexander, L. Allen, Bell, Bordsen, Carney, Church, Coates, Cole, Culpepper, Farmer-Butterfield, Glazier, Hackney, LaRoque, Luebke, Martin, Miller, Nye, Ross, Tolson, Underhill, Wainwright, and Weiss.

Referred to: Appropriations.

February 8, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ENACT THE HURRICANE RECOVERY ACT OF 2005, MAKING
2 FINDINGS AS TO DAMAGE CAUSED BY THE HURRICANES THAT
3 STRUCK NORTH CAROLINA IN 2004, CONCERNING ESTABLISHMENT OF
4 THE DISASTER RELIEF RESERVE FUND, MAKING APPROPRIATIONS TO
5 THE DISASTER RELIEF RESERVE FUND, DIRECTING THE
6 REESTABLISHMENT AND MODIFICATION OF HURRICANE FLOYD
7 RECOVERY PROGRAMS, AUTHORIZING ESTABLISHMENT OF NEW
8 PROGRAMS, EXPANSION OF EXISTING PROGRAMS, AND MODIFICATION
9 OF EXISTING PROGRAMS TO IMPLEMENT THIS ACT, AUTHORIZING
10 TRANSFER OF FUNDS TO FEDERAL AGENCIES AND LOCAL
11 GOVERNMENTS, AUTHORIZING TIME-LIMITED POSITIONS TO
12 IMPLEMENT THIS ACT, PROVIDING FOR SUBROGATION BY THE STATE
13 OF CERTAIN INSURANCE CLAIMS, AUTHORIZING ADVISORY COUNCILS
14 TO ADVISE STATE AGENCIES ON RECOVERY EFFORTS, PROVIDING FOR
15 TAX EXEMPTION OF BENEFITS, DIRECTING THE MAPPING OF FLOOD
16 PLAINS AND THE IDENTIFICATION OF POTENTIAL LANDSLIDE AREAS
17 AND STREAM BANK EROSION, DIRECTING THE DEPARTMENT OF
18 ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE CAUSES OF
19 FLOODING IN CERTAIN AREAS AND DETERMINE MEASURES TO
20 PREVENT OR MITIGATE FUTURE FLOODING, DIRECTING THE
21 GOVERNOR TO MAINTAIN THE REDEVELOPMENT OFFICE IN WESTERN
22 NORTH CAROLINA, AND ESTABLISHING REPORTING REQUIREMENTS.

23 The General Assembly of North Carolina enacts:

24
25
26 PART I. TITLE OF ACT

1 **SECTION 1.** This act shall be known as "The Hurricane Recovery Act of
2 2005."

3
4 **PART II. LEGISLATIVE FINDINGS**

5 **DAMAGE CAUSED BY 2004 HURRICANES AND TROPICAL STORMS**

6 **SECTION 2.(a)** The General Assembly finds that the State of North
7 Carolina endured six hurricanes during the late summer and fall of 2004. In the
8 Western region of the State, Hurricanes Frances and Ivan dumped heavy rains that led
9 to flooding and landslides throughout the region. Eastern North Carolina, including
10 areas along the coast and the Sandhills, were struck by Hurricanes Alex, Bonnie,
11 Charlie, and Jeanne. Wind damage and flooding were the primary source of damage in
12 the east.

13 **SECTION 2.(b)** The General Assembly finds that Hurricanes Frances and
14 Ivan wrought havoc upon Western North Carolina impacting the region on a scale not
15 experienced before in that area of the State. Flooding and landslides destroyed
16 infrastructure, roads, bridges, homes, businesses, farmland, and crops damaging the
17 civil, social, economic, and environmental well-being of Western North Carolina. The
18 economic base of the region has been undermined as the result of business closures,
19 crop and aquaculture losses, and revenue losses to the extent that many individuals'
20 ability to support themselves and their families is threatened and may be lost completely
21 without assistance from the State. A disaster of this magnitude affects the entire State.
22 Extraordinary assistance to the region is necessary if Western North Carolina, and with
23 it the economic well-being of the State, is to recover from the effects of the damage
24 inflicted by Hurricanes Frances and Ivan.

25 **SECTION 2.(c)** The General Assembly finds that as a result of the
26 hurricanes in Western North Carolina:

- 27 (1) The President of the United States issued two federal disaster
28 declarations for the Western region of the State.
- 29 (2) Eleven people lost their lives.
- 30 (3) People lost their loved ones, their homes, sources of livelihood, and, in
31 some instances their communities. During Hurricane Ivan, the
32 community of Peeks Creek was devastated by a debris flow triggered
33 by the heavy rains. The debris flow traveled speeds as great as 33
34 miles per hour for two and a quarter miles from the top of Fishhawk
35 Mountain. Five persons were killed, and 15 homes destroyed by the
36 flow that was estimated to be several hundred feet wide and up to 40
37 feet high. Other communities that were particularly hard hit by
38 landslides include the Starnes Creek area in Buncombe County, the
39 Little Pine area in Madison County, the White Laurel community in
40 Watauga County, and Bear Rock Estates in Henderson County.
- 41 (4) Sixty-two homes were destroyed, and 11,107 homes suffered damage
42 in Hurricane Frances. Another 78 homes were destroyed, and 5,127
43 homes damaged in Hurricane Ivan. Eighty-five landslides were
44 reported as a result of the 27+ inches of rain that fell on the region.

1 Many persons did not have flood insurance, as they did not know that
2 there was a danger of flooding where they lived. Further, people could
3 not know the landslide risks associated with their housing location
4 because such maps are not readily available. The State needs to update
5 current flood mapping for and prepare landslide zone mapping for the
6 region so that homes may be rebuilt in safe areas. Homes lying within
7 flood and landslide zones need to be relocated to mitigate the
8 possibility of further damage to life and property should subsequent
9 events occur. Additional State assistance to homeowners is necessary
10 to accomplish these goals and to assure that there is safe and adequate
11 housing for the citizens of the affected area.

12 (5) The region also lost rental properties that provided needed housing for
13 those who cannot afford to purchase their own homes. The impact of
14 the hurricanes on the regional economy is such that sufficient rental
15 housing at affordable prices may not be built to replace the property
16 damaged or destroyed, leaving persons who were forced from their
17 homes unable to obtain adequate housing.

18 (6) Landslides and flooding damaged or destroyed at least 272 private
19 roads, culverts and bridges, cutting off numerous families from access
20 to emergency services and access to State roads.

21 (7) The Small Business Administration reported receiving 10,113 referrals
22 for business loan applications from the Federal Emergency
23 Management Agency to cover physical damage to businesses. Of
24 these requests for applications, however, only 2,080 (around twenty
25 percent (20%)) were returned to the SBA for processing. The numbers
26 suggest both the numbers of businesses that suffered physical damage
27 as a result of the hurricane and the inability of many businesses in the
28 region to take on additional debt. Without additional assistance, many
29 businesses may not be able to reopen, and jobs will be lost.

30 (8) Reports from the region indicated that the town of Canton lost forty
31 percent (40%) of its business district in the floods attending Ivan. Blue
32 Ridge Paper, the largest manufacturing employer in Western North
33 Carolina, reportedly suffered several million dollars in flood damages
34 from Hurricane Frances alone. The flooding a week later from
35 Hurricane Ivan was two to three feet above the level experienced by
36 the plant during Frances. Biltmore Village, a community near the
37 Biltmore Estate, was almost completely inundated by floodwaters of
38 the Swannanoa.

39 (9) According to North Carolina Department of Commerce reports, the
40 region lost an estimated eighty-seven million dollars (\$87,000,000) in
41 tourism revenue during the three-week period after the hurricanes
42 struck.

43 (10) The agricultural economy of the region was seriously affected. Early
44 estimates of crops and acreage affected included thousands of acres of

1 fruits and vegetables, hay, corn, soybeans, and tobacco. In Henderson
2 County alone, approximately 90,000 of the county's 1,000,000 apple
3 trees were downed. Greenhouse and nursery crops were also seriously
4 affected. At least five trout farms reported extensive physical damage
5 and losses of over 160,000 pounds of fish. In addition to crop and fish
6 losses, there was extensive damage to farmland through erosion and
7 flooding, and many farms suffered damage to farm structures. Most
8 farmers cannot afford to take on additional debt to rehabilitate
9 damaged fields, rebuild and repair farm structures, purchase new
10 equipment, replant trees, or replace inventory. Many farmers may be
11 unable to continue farming without assistance from the State. It is
12 therefore necessary to provide State assistance to farmers to preserve
13 the agricultural sector of the economy in Western North Carolina and
14 the economic stability of the region.

15 (11) Impacts on the environment have yet to be calculated. In addition to
16 the stream damage from flooding, there was also contamination from
17 sewage overflows and chemical spills. It was reported that over
18 100,000 gallons of petroleum products were spilled into the French
19 Broad River system.

20 (12) Local governments have suffered loss of infrastructure, damage to
21 public buildings, roads, wastewater treatment plants, and other
22 facilities. One thousand four hundred and forty specific public
23 assistance projects have been authorized to repair facilities and roads,
24 remove debris and otherwise effect cleanup and repair of local
25 government facilities. In addition, the damage from the storms to
26 property and businesses has eroded the tax base of the counties
27 affected. These counties must bear a loss of revenue at the same time
28 they are shouldering the costs of replacing and repairing the
29 infrastructure and meeting the additional needs of the population
30 struggling to recover from the effects of the hurricanes.

31 **SECTION 2.(d)** The General Assembly finds that as a result of the storms
32 that hit Eastern North Carolina:

33 (1) A State Type I Disaster Declaration was issued for Dare and Hyde
34 Counties after Hurricane Alex which provided individual assistance to
35 22 applicants who failed to qualify for SBA loans and substantial
36 public assistance to the two counties for debris removal.

37 (2) Hurricanes Bonnie and Charlie impacted Beaufort, Bladen, Brunswick,
38 Craven, Columbus, Dare, Duplin, Harnett, Hyde, Jones, Lenoir, New
39 Hanover, Pamlico, Pasquotank, Pender, Pitt, Onslow, Tyrrell, and
40 Washington Counties. A federal disaster declaration has been
41 requested but denied. According to the Division of Emergency
42 Management, 2,860 homes and 65 businesses were affected by the two
43 hurricanes. Three hundred and six of the affected homes were
44 destroyed or suffered major damage.

1 (3) Hurricane Jeanne impacted Cabarrus, Moore, Rowan, and Stokes
2 Counties. Reports from Moore County indicated that over 100 homes
3 and businesses were damaged, primarily in Southern Pines. Public
4 Assistance needs were limited to Stokes and Moore Counties.

5 (4) In addition to the damage reports for individuals and local
6 governments, the North Carolina Department of Agriculture and
7 Consumer Services reported early estimates of over 900,000 acres of
8 corn, soybeans, tobacco, cotton, peanuts, and fruits and vegetables
9 were lost as a result of Hurricane Charlie and Tropical Storm Bonnie.

10 **SECTION 2.(e)** The General Assembly further finds that the devastation
11 caused by the 2004 hurricanes in Western North Carolina continues to affect all aspects
12 of the economy, the environment, public health and safety, infrastructure, public and
13 private institutions, and the general welfare of the region and, indirectly, of the entire
14 State. Immediate short-term responses and long-term responses are necessary to
15 preserve a way of life in those Western North Carolina counties, to preserve the
16 economic condition of the entire State, and to preserve the reputation North Carolina
17 has, nationally and internationally, as a great place to live and a great place to do
18 business.

19
20 **CRITICAL NEEDS NOT MET BY EXISTING STATE AND FEDERAL**
21 **PROGRAMS AND FUNDS**

22 **SECTION 2.1.(a)** The General Assembly finds that State and federal disaster
23 relief initiatives are not intended to make individuals whole after a loss; they are
24 intended to assist the affected areas in recovering from the damage caused by the six
25 hurricanes that struck North Carolina.

26 Without significant additional State assistance to the area damaged by
27 Hurricanes Alex, Bonnie, Charlie, Frances, Ivan, and Jeanne, further deterioration of the
28 economy, the environment, public health and safety, and quality of life in the State is
29 likely to occur. Without additional State assistance:

- 30 (1) Many people in uninsured, damaged homes will either not qualify for
31 federal housing assistance or not have the resources to take advantage
32 of federal housing assistance.
- 33 (2) Local governments already overwhelmed with storm-related expenses
34 may not have the resources to repair damaged infrastructure and
35 provide the new infrastructure necessary for families relocating out of
36 the flood and landslide zones and for businesses that are in the process
37 of rebuilding.
- 38 (3) Jobs may be permanently lost because many cannot qualify for Small
39 Business Administration loans.
- 40 (4) Many farmers who suffered significant losses may find it difficult to
41 continue farming.
- 42 (5) Resources for drinking water protection, solid waste cleanup,
43 hazardous waste cleanup, and remediation of high-risk storage tanks
44 will be inadequate.

- 1 (6) The tourism industry will continue to suffer due to negative publicity
2 about the storm.

3 **SECTION 2.1.(b)** It is the intent of the General Assembly that the benefits of
4 the projects and programs authorized by this act are for the common good and collective
5 recovery of the people of this State following a devastating natural disaster directly
6 affecting a large portion of the State and indirectly affecting the entire State. The entire
7 State faces a major loss if the counties that bore the major impact of the hurricanes and
8 tropical storms of 2004 are not offered the assistance provided by this act. The purpose
9 of this act is to provide an ultimate net public benefit to the State through a successful
10 hurricane recovery initiative in Western North Carolina and other affected counties.

11
12 **PART III. SCOPE OF ACT**

13 **COUNTIES COVERED BY THIS ACT**

14 **SECTION 3.** Sections 2 through 5.2 apply as follows:

- 15 (1) This act applies to the 19 counties designated by FEMA as eligible for
16 Individual Assistance and Public Assistance as a result of damages
17 sustained from Hurricane Frances or Ivan. Those counties are eligible
18 for all programs and assistance provided under this act. Those counties
19 are: Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Haywood,
20 Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk,
21 Rutherford, Swain, Transylvania, Watauga, and Yancey.
- 22 (2) This act applies to the additional 26 counties that were designated by
23 FEMA as eligible only for individual assistance as a result of damages
24 sustained from Hurricane Frances or Ivan. Those counties are eligible
25 for all programs and assistance provided under this act for individual
26 assistance. Those counties are: Alamance, Alexander, Bladen,
27 Cabarrus, Caswell, Catawba, Cleveland, Columbus, Cumberland,
28 Davidson, Forsyth, Gaston, Graham, Guilford, Hoke, Iredell, Lincoln,
29 Mecklenburg, Randolph, Robeson, Rockingham, Rutherford, Scotland,
30 Stokes, Union, and Wilkes.
- 31 (3) In addition, a number of counties were not included in a federal
32 disaster declaration but were included in a State disaster declaration
33 issued under Article 1 of Chapter 166A of the General Statutes as a
34 result of the damages sustained by one of the hurricanes that occurred
35 in 2004. The Governor may extend the coverage of the programs and
36 assistance provided under this act to those counties, as he deems
37 appropriate.

38
39 **PART IV. THE DISASTER RELIEF RESERVE FUND**

40 **ESTABLISHMENT OF THE DISASTER RELIEF RESERVE FUND**

41 **SECTION 4.** The Governor has established the Disaster Relief Reserve
42 Fund in the Office of State Budget and Management. The purpose of this fund is to
43 provide necessary and appropriate relief and assistance from the effects of natural
44 disasters. Consistent with the provisions of this act, the Governor shall spend monies

1 from the Disaster Relief Reserve Fund to assist the counties listed in Section 3 of this
2 act. The monies shall be used to implement programs as provided in Section 5.1 of this
3 act.

4 **APPROPRIATION TO THE DISASTER RELIEF RESERVE FUND**

5 **SECTION 4.1.(a)** The appropriation made in this section is for the
6 maximum amount necessary to implement this act. Savings shall be effected where the
7 total amount appropriated is not required to implement the act.

8 **SECTION 4.1.(b)** The fund availability upon which this appropriation made
9 in this act is based is as follows:

10	Estimated unappropriated General Fund credit balance,	
11	fiscal year 2004-2005	\$0.0
12	Savings Reserve Account credit balance January 1, 2005.....	\$267.1 million
13	Estimated General Fund reversions, fiscal year 2004-2005	\$ 91.0 million

14 **SECTION 4.1.(c)** The Governor shall transfer from unexpended General
15 Fund appropriations for fiscal year 2004-2005 to the Disaster Relief Reserve Fund the
16 sum of ninety-one million dollars (\$91,000,000) which shall be used to aid the counties
17 listed in Section 3 of this act in their efforts to recover from the effects of the 2004
18 hurricanes. The funds shall be used for the purposes set out in Section 5.1 of this act.
19 These funds shall remain available to implement the provisions of this act until the
20 General Assembly directs the reversion of the unexpended funds.

21 **SECTION 4.1.(d)** There is appropriated from the Savings Reserve Account
22 to the Office of State Budget and Management, Disaster Relief Reserve Fund, the sum
23 of two hundred twenty-five million dollars (\$225,000,000) for the 2004-2005 fiscal year
24 to aid the counties listed in Section 3 of this act in their efforts to recover from the
25 effects of the hurricanes of 2004. The funds shall be used for the purposes set forth in
26 Section 5.1 of this act. The funds appropriated by this section shall be transferred to the
27 Disaster Relief Reserve Fund and shall remain available to implement the provisions of
28 this act until the General Assembly directs the reversion of the unexpended funds.

29 **SECTION 4.1.(e)** The Governor shall, to the extent practicable, ensure that
30 assistance to victims provided from the Disaster Relief Reserve Fund is prioritized
31 towards those areas and individuals least able to afford the losses as a result of the
32 hurricanes and tropical storms of 2004.

33
34 **PART V. IMPLEMENTATION OF ACT**
35 **DIRECTIVE TO REESTABLISH AND MODIFY, AS NECESSARY, RELIEF**
36 **PROGRAMS DEVELOPED AFTER HURRICANE FLOYD, ESTABLISH NEW**
37 **PROGRAMS, AND EXPAND OR MODIFY EXISTING PROGRAMS TO**
38 **IMPLEMENT THIS ACT**

39 **SECTION 5.** The General Assembly finds that the relief efforts and
40 programs implemented after Hurricane Floyd hit Eastern North Carolina were critical in
41 assisting Eastern North Carolina's recovery. The General Assembly further finds that
42 the recovery of Eastern North Carolina has provided statewide benefits. It is the intent
43 of the General Assembly to provide the same type of support and assistance to the
44 counties affected by the 2004 hurricanes and tropical storms.

1 **SECTION 5.1.(a)** The Governor shall reestablish and may modify, as
2 necessary, all of the programs implemented as part of the Hurricane Floyd Recovery
3 Act of 1999 under S.L. 99-463 (Extra Session) and the Report of the House
4 Appropriations Committee on Hurricane Floyd Recovery dated December 15, 1999, as
5 amended by S.L. 99-463 (Extra Session). The Governor shall also establish new
6 programs and expand or modify, as necessary, existing programs to provide necessary
7 and appropriate relief and assistance from the effects of the hurricanes that hit the State
8 in 2004.

9 **SECTION 5.1.(b)** The Governor shall establish the following new
10 programs:

- 11 (1) Grants to qualified businesses that shall provide compensation for
12 uninsured losses of equipment, structure, and inventory at the same
13 rate that farmers are compensated for loss of equipment and structures.
- 14 (2) Grants to qualified trout farmers that shall provide compensation for
15 uninsured losses of equipment, structure and fish at the same rate that
16 farmers are compensated for loss of equipment and structures and for
17 crop loss.

18 **SECTION 5.1.(c)** The Governor shall modify the State Hazard Mitigation
19 Grant Program to provide housing buyout and relocation assistance for those persons
20 whose homes were destroyed or damaged by debris flows or whose homes are located
21 in a landslide zone.

22 **SECTION 5.1.(d)** The Governor shall expend funds from the Disaster Relief
23 Reserve Fund to implement these programs. These expenditures and programs shall be
24 used only for:

- 25 (1) Required matching funds for federal funds for disaster relief.
- 26 (2) Crisis housing assistance, which may include, but shall not be limited
27 to, direct housing assistance to homeowners and renters, grants to local
28 government for water, sewer, and other infrastructure needs for
29 housing in new areas, predevelopment activities, housing counselors,
30 and housing recovery efforts. It is the intent of the General Assembly
31 that housing assistance includes providing renters with assistance to
32 purchase affordable housing. The General Assembly therefore
33 encourages the Governor to use funds appropriated in this act to
34 implement a program that provides assistance to renters in affected
35 areas to purchase affordable housing (preferably permanent homes and
36 not manufactured housing) by providing State resources, including
37 grants and low-interest loans, for that purpose.
- 38 (3) Economic recovery assistance, including, but not limited to, assistance
39 to the agriculture, aquaculture, forestry, commercial, and industrial
40 sectors of the economy which may include, but shall not be limited to,
41 grants and loans to businesses, grants and loans to farmers, and grants
42 and loans for aquaculture.
- 43 (4) Public health, public safety, social services, and environmental
44 restoration measures that may include, but shall not be limited to,

1 drinking water protection, water quality monitoring, solid waste and
2 hazardous waste cleanup, assessment and remediation of high-risk
3 storage tank sites, dam safety, and emergency and maintenance
4 dredging.

- 5 (5) Support to local governments, by grants to local governments to offset
6 revenue losses resulting from storm damage from natural disasters
7 covered by federal disaster declarations as to any storm between
8 August 1, 2004, and the date of enactment of this act. The amount of
9 the grants shall be based on loss of taxable property in the jurisdiction.
10

11 **AUTHORIZATION TO TRANSFER FUNDS TO FEDERAL AGENCIES AND TO**
12 **LOCAL GOVERNMENTS**

13 **SECTION 5.2.** The Governor may:

- 14 (1) Use funds from the Disaster Relief Reserve Fund to match federal
15 funds in accordance with this act.
16 (2) Provide grants to local governments in accordance with this act.
17 (3) Transfer funds to local governments pursuant to cooperative
18 agreements under which they administer programs or provide services
19 on behalf of the State.
20 (4) Transfer funds to federal agencies pursuant to cooperative agreements
21 under which they administer agriculture programs or provide services
22 on behalf of the State.
23

24 **AUTHORIZATION TO ESTABLISH TIME-LIMITED POSITIONS TO**
25 **IMPLEMENT THIS ACT**

26 **SECTION 5.3.** The Governor may establish part-time and full-time
27 personnel positions to implement this act. All such positions shall be time-limited and
28 shall be exempt from the State Personnel Act.
29

30 **SUBROGATION BY STATE OF RIGHT TO INSURANCE COVERAGE FOR**
31 **DAMAGED HOMES PURCHASED OR RELOCATED UNDER THE HAZARD**
32 **MITIGATION GRANT PROGRAM**

33 **SECTION 5.4.** If a person's home is relocated or purchased under the
34 Hazard Mitigation Grant Program, the Disaster Relief Reserve Fund is subrogated to the
35 person's rights under any insurance coverage for the damage to the home, and any
36 monies received from the insurance coverage shall be paid to the Disaster Relief
37 Reserve Fund.
38

39 **AUTHORIZATION TO ESTABLISH ADVISORY COUNCILS TO ADVISE STATE**
40 **AGENCIES ON RECOVERY EFFORTS**

41 **SECTION 5.5.** The Governor shall establish advisory councils to advise
42 relevant State agencies on hurricane relief and recovery efforts and to ensure input from
43 representatives of affected communities and groups.
44

1 TAX EXEMPTION

2 **SECTION 5.6.** Each agency disbursing funds or property under this act from
3 the Disaster Relief Reserve Fund for hurricane relief or assistance, other than payments
4 for goods or services provided by the recipient, shall include with the disbursement a
5 written statement of the State and federal income tax treatment of the funds or property
6 disbursed.

7 **SECTION 5.7.(a)** G.S. 105-134.6(b) is amended by adding the following
8 new subdivision to read:

9 "(18) The amount paid to the taxpayer during the taxable year from the
10 Disaster Relief Reserve Fund in the Office of State Budget and
11 Management for hurricane relief or assistance, but not including
12 payments for goods or services provided by the taxpayer."

13 **SECTION 5.7.(b)** G.S. 105-130.5(b) is amended by adding the following
14 new subdivision to read:

15 "(22) To the extent included in federal taxable income, the amount paid to
16 the taxpayer during the taxable year from the Disaster Relief Reserve
17 Fund in the Office of State Budget and Management for hurricane
18 relief or assistance, but not including payments for goods or services
19 provided by the taxpayer."

20 **SECTION 5.7.(c)** This section is effective for taxable years beginning on or
21 after January 1, 2004.

22
23 INVOLVEMENT OF HISTORICALLY UNDERUTILIZED BUSINESSES

24 **SECTION 5.8.** It is the intent of the General Assembly that, during this time
25 of rebuilding and hurricane relief efforts, each State agency should strive to increase the
26 total amount of goods and services acquired by it from historically underutilized
27 business vendors, whether directly as principal contractors or indirectly as
28 subcontractors or otherwise.

29
30 LEGISLATIVE REVIEW OF FEDERAL FUNDING AND REMAINING UNMET
31 NEEDS

32 **SECTION 5.9.** It is the intent of the General Assembly to review in 2005
33 and 2006 the funds appropriated by Congress and to consider actions needed to address
34 any remaining unmet needs, especially in the area of economic recovery.

35
36 LIMITATION ON USE OF STATE FUNDS

37 **SECTION 5.10.(a)** No State funds used to implement this act, including any
38 funds in the Disaster Relief Reserve Fund, may be expended for the construction of any
39 new residence within the 100-year floodplain unless the construction is in an area
40 regulated by a unit of local government pursuant to a floodplain management ordinance,
41 and the construction complies with the ordinance. As used in this section, "100-year
42 floodplain" means any area subject to inundation by a 100-year flood, as indicated on
43 the most recent Flood Insurance Rate Map prepared by the Federal Emergency
44 Management Agency under the National Flood Insurance Program.

1 **SECTION 5.10.(b)** Homeowners in the 100-year floodplain who receive
 2 homeowner's housing assistance pursuant to this act shall have in effect federal flood
 3 insurance, if available, as a precondition to receipt of State homeowner's housing
 4 assistance for losses resulting from future flooding. As used in this section "100-year
 5 floodplain" means that area defined in Section 5.10(a) of this act.

6 **SECTION 5.10.(c)** Funds loaned to small and mid-sized businesses shall be
 7 used only for eligible purposes under the Small Business Administration disaster loan
 8 assistance program. Payments for economic losses shall be limited to documented
 9 business expenses necessary for the continued operation of the business.

10
 11 **LOW-INCOME HOUSING TAX CREDIT**

12 **SECTION 5.11.(a)** G.S. 105-129.42(c) reads as rewritten:

13 "(c) **Developments and Amounts.** – The following table sets out the housing
 14 developments that are qualified North Carolina low-income housing developments and
 15 are allowed a credit under this section. The table also sets out the percentage of the
 16 development's qualified basis for which a credit is allowed. The designation of a county
 17 or city as Low Income, Moderate Income, or High Income and determinations of
 18 affordability are made by the Housing Finance Agency in accordance with the Qualified
 19 Allocation Plan in effect as of the time the federal credit is allocated. A change in the
 20 income designation of a county or city after a federal credit is allocated does not affect
 21 the percentage of the developer's qualified basis for which a credit is allowed. The
 22 affordability requirements set out in the chart apply for the duration of the federal tax
 23 credit compliance period. If in any year a taxpayer fails to meet these affordability
 24 requirements, the credit is forfeited under subsection (h) of this section.

Type of Development	Percentage of Basis for Which Credit Is Allowed
<p>25 26 27 28 29 <u>The qualified residential units are in one of the 19</u> 30 <u>counties designated by FEMA as eligible for Individual</u> 31 <u>Assistance and Public Assistance as a result of damages</u> 32 <u>sustained from Hurricane Frances or Ivan. Those counties</u> 33 <u>are: Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell,</u> 34 <u>Haywood, Henderson, Jackson, Macon, Madison, McDowell,</u> 35 <u>Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga,</u> 36 <u>and Yancey.</u></p>	<p>37 38 39 40 41 42 43 44 <u>Thirty percent</u> <u>(30%)</u></p>
<p>40 41 42 43 44 Forty percent (40%) of the qualified residential units are affordable to households whose income is fifty percent (50%) or less of area median income and the units are in a Low-Income county or city.</p>	<p>Thirty percent (30%)</p>
<p>41 42 43 44 Fifty percent (50%) of the qualified residential units are affordable to households whose income is fifty percent (50%) or less of the area median income and the units are in a Moderate-Income county or city.</p>	<p>Twenty percent (20%)</p>

1 Fifty percent (50%) of the qualified residential units
2 are affordable to households whose income is forty Ten percent
3 percent (40%) or less of the area median income and (10%)
4 the units are in a High-Income county or city.

5 Twenty-five percent (25%) of the qualified residential
6 units are affordable to households whose income is Ten percent
7 thirty percent (30%) or less of the area median income (10%)
8 and the units are in a High-Income county or city."

9 **SECTION 5.11.(b)** This section is effective for taxable years beginning on
10 or after January 1, 2005, applies to buildings to which federal credits are allocated on or
11 after January 1, 2005, and expires for taxable years beginning on or after January 1,
12 2009.

13 14 PART VI. MAPPING OF FLOOD PLAINS AND LANDSLIDE ZONES

15 **SECTION 6.** The Department of Crime Control and Public Safety shall
16 proceed immediately to provide the National Flood Insurance Program of the Federal
17 Emergency Management Agency the information necessary to update Flood Insurance
18 Rate Maps for all of the counties included in federal disaster declarations for Hurricanes
19 Frances and Ivan. The Department of Environment and Natural Resources, in
20 cooperation with the Department of Crime Control and Public Safety, shall act to ensure
21 that (i) streambed maps and (ii) maps indicating areas vulnerable to landslides are made
22 available for the same multicounty area. Streambed maps shall be annotated to show
23 areas of significant actual or potential stream bank erosion.

24 25 PART VII. STUDY PREVENTIVE AND PROTECTIVE MEASURES THAT MAY 26 PREVENT OR MITIGATE POTENTIAL FLOODING IN CERTAIN AREAS

27 **SECTION 7.** The Department of Environment and Natural Resources
28 shall study the causes of the flooding in Canton, Biltmore Village, Blue Ridge Paper
29 Company, and the City of Newland to determine what measures can be taken to prevent
30 or mitigate the flooding potential in those areas. The Department may request the
31 assistance of the Army Corps of Engineers in this study. The Department of
32 Environment and Natural Resources shall report its findings to the 2005 General
33 Assembly, 2006 Regular Session.

34 35 PART VIII. MAINTAIN REDEVELOPMENT CENTER

36 **SECTION 8.** The Governor has established a redevelopment center in
37 Western North Carolina. The Governor shall maintain that redevelopment center for the
38 entire period required to implement the provisions of this act.

39 40 PART IX. REPORTING REQUIREMENTS

41 **SECTION 9.** The Governor shall report to the Joint Legislative Commission
42 on Governmental Operations on the implementation of this act on a monthly basis
43 during the first quarter of the 2005-2006 fiscal year and on a quarterly basis thereafter.
44 The Governor shall report more frequently at the request of the Commission.

1

2 PART X. EFFECTIVE DATE

3 **SECTION 10.** This act is effective when it becomes law, except that Section

4 5.7 of this act is effective for taxable years beginning on or after January 1, 2004.