

**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2005**

**Legislative Fiscal Note**

**BILL NUMBER:** Senate Bill 7 (Fourth Edition)

**SHORT TITLE:** Hurricane Recovery Act of 2005.

**SPONSOR(S):**

<b>FISCAL IMPACT</b>					
	<b>Yes (x)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2005-06</u></b>	<b><u>FY 2006-07</u></b>	<b><u>FY 2007-08</u></b>	<b><u>FY 2008-09</u></b>	<b><u>FY 2009-10</u></b>
<b>REVENUES:</b>	(\$1,575,000)				
	See assumptions and methodology.				
<b>EXPENDITURES:</b>					
General Fund	\$94,000,000				
Savings Reserve Account	\$153,541,447				
<b>POSITIONS</b> (cumulative):					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
<b>EFFECTIVE DATE:</b> The bill becomes law, except that Section 5.7 of this act is effective for taxable years beginning on or after January 1, 2004.					

**BACKGROUND:**

North Carolina was struck by six hurricanes during the 2004 season. Hurricanes Alex, Bonnie, Charlie, and Jeanne brought flooding and wind damage to the Eastern Region of the State. Hurricanes Frances and Ivan dumped heavy rains on Western North Carolina resulting in landslides, flooding, and at least 11 dead. Forty-five counties in Western North Carolina were included in federal disaster declarations in Western North Carolina as a result of Hurricanes Frances and Ivan. Nineteen of those counties were designated by FEMA as eligible for Individual Assistance and Public Assistance. Another twenty-six counties were designated as eligible for Individual Assistance. The damage in the Eastern Region resulted in State Disaster Declarations.

## **BILL SUMMARY:**

**PART I** of the bill sets forth the title of the act as "The Hurricane Recovery Act of 2005."

**PART II** of the bill sets forth detailed findings regarding the impacts of the many hurricanes on individuals, businesses, and local government in the affected areas. One of the findings states that further deterioration of the economy, environment, public health and safety, and quality of life in the State is likely to occur unless significant additional State assistance is allocated to the areas damaged.

**PART III** establishes the 47 counties that would be eligible to receive assistance under the Act. These counties include the 19 counties that were designated as eligible for federal individual assistance and public assistance: Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, and Yancey; the 26 counties that were eligible for federal public assistance: Alamance, Alexander, Bladen, Cabarrus, Caswell, Catawba, Cleveland, Columbus, Cumberland, Davidson, Forsyth, Gaston, Graham, Guilford, Hoke, Iredell, Lincoln, Mecklenburg, Randolph, Robeson, Rockingham, Rutherford, Scotland, Stokes, Union and Wilkes; and the two counties that were not included in a federal disaster declaration but were included in a State disaster declaration as a result of the damages sustained by one of the hurricanes that occurred in 2004: Hyde and Dare.

**PART IV** notes that the Governor has established the Disaster Relief Reserve Fund for the purpose of providing necessary and appropriate assistance and relief needed as a result of natural disasters. \$247,541,447 million dollars is appropriated to the Disaster Relief Reserve Fund in Part IV. This amount comes from the following sources:

- \$94 million from unexpended General Fund appropriations for fiscal year 2004-2005
- \$153,541,447 million from the Savings Reserve Account

**PART V** deals with the implementation of the Act.

- 5.1(a) The Governor is directed to reauthorize the programs established for the Hurricane Floyd relief effort. He may modify and expand these programs and create new programs as he deems appropriate.
- 5.1(b) The Governor is directed to modify the State Hazard Mitigation Grant Program to provide housing buyout and relocation assistance to those persons whose homes were damaged or destroyed by debris slides or whose homes are located in a landslide zone
- 5.1(c) The Department of Crime Control and Public Safety is directed to modify the Crisis Housing Assistance Fund to provide assistance to persons who otherwise would be eligible but did not file an application for a SBA Real Property disaster loan.
- 5.1(d) Lists the programs and activities on which the Governor may expend the hurricane funds.
- 5.1(e) The sum of \$4.5 million dollars is allocated to the Town of Canton for repairs and upgrades to flood levees, flood gates and pumps, levee penetration mitigation, erosion control, elevation of electrical controls and sewer line repair for the purpose of protecting the wastewater treatment plant owned by Blue Ridge Paper Products and used by the Town of Canton.

- 5.1(f) Allocates, from the funds allocated by this Act to local governments for repairs and renovations to public facilities, the sum of \$8 million dollars to Hyde County for the 2004-2005 fiscal year for the reconstruction of the Hyde County Courthouse and repair of other county buildings in the Courthouse annex that were damaged as a result of Hurricane Isabel in 2003.
- 5.1(g) The sum of \$5 million dollars is allocated to the Rural Economic Development Center to be used through the Small Town Building Reuse and Restoration Program for grants to local governments for economic recovery and redevelopment activities in business areas that sustained storm damage.
- 5.1(h) Allocates \$3 million dollars to the NC Community Development Initiatives, Inc. to be used for housing programs and assistance.
- 5.1(i) Allocates to DENR, Division of Forest Resources, the sum of \$500,000 for forestland restoration and fire prevention activities needed as a result of hurricane damage.
- 5.2 The Governor is authorized to use funds in the Disaster Relief Reserve Fund to match federal funds, provide grants to local governments, and transfer funds to federal agencies and local governments under cooperative agreements whereby they administer programs on behalf of the State.
- 5.3 The Governor may establish time-limited positions to implement the act.
- 5.4 The Disaster Relief Reserve Fund is subrogated to a person's insurance rights for damage to their home if the home has been purchased or relocated under the Hazard Mitigation Grant Program or through the State Acquisition and Relocation Fund.
- 5.5 The Governor shall establish advisory councils to advise State agencies on hurricane efforts.
- 5.6 Each agency disbursing funds or property from the Disaster Relief Reserve Fund for hurricane relief, other than payments for goods or services provided by the recipient, must provide a written statement of the federal and State tax treatment of the disbursement.
- 5.7 State income tax deductions are provided for individuals and businesses for amounts paid to the taxpayer during the taxable year from the Disaster Relief Reserve Fund. The deduction does not apply to amounts received as payments for goods and services provided by the taxpayer.
- 5.8 The General Assembly sets forth its express intent that in the relief efforts each State agency should try to increase the amount of goods and services obtained from historically underutilized businesses.
- 5.9 It is the intent of the General Assembly to review in 2005 and 2006 the funds appropriated by Congress and to consider actions needed to address remaining unmet needs, especially in the area of economic recovery.
- 5.10 No State funds may be used for the construction of any new residence within the 100-year flood plain unless the construction is in an area regulated by a local floodplain management ordinance. Homeowners in the 100-year floodplain who receive help under this act must have federal flood insurance, if available, in place to receive future assistance for flooding losses.
- 5.10 Loans to small and mid-sized businesses shall be used only for eligible purposes under the Small Business Administration disaster assistance loan program. Economic loss payments shall be limited to documented business expenses needed for continued operations.

## **PART VI**

Directs the Department of Crime Control and Public Safety to proceed immediately to update the flood insurance rate maps for all of the counties included in federal disaster declarations for Hurricanes Frances and Ivan. DENR, in cooperation with the Department of Crime Control and Public Safety shall insure that streambed maps and maps showing areas vulnerable to landslides are available for the same multicounty area. Streambed maps should be annotated to show areas of actual and potential stream bank erosion.

## **PART VII**

Directs DENR to study the causes of flooding in Canton, Biltmore Village, Newland, Clyde and other affected areas as deemed necessary to determine what can be done to prevent or mitigate future floods. DENR may request assistance from the US Army Corps of Engineers in conducting the study. Up to \$3 million dollars may be transferred from the Disaster Relief Reserve Fund to the DENR for the study. The Governor shall consult with the Joint Legislative Commission on Governmental Operations on any plans to implement the recommendations of the study prior to any transfer of funds for such implementation. \$30 million dollars is appropriated from the Savings Reserve Account for the fiscal year in which the consultation is made to implement the recommendations of the study.

## **PART VIII**

Directs the Governor to maintain the redevelopment center in Western North Carolina for the entire period needed to implement the act.

## **PART IX**

Requires the Governor to report monthly to the Appropriations Committees of the Senate and House on the implementation of the act no later than 30 days after the enactment of this act and then monthly until the adjournment of the 2005 Regular Session. The governor shall report to the Joint Legislative Commission on Governmental Operations by October 15, 2005 and quarterly thereafter.

## **PART X**

The bill is effective when it becomes law, except that Section 5.7 of this act is effective for taxable years beginning on or after January 1, 2004.

## **ASSUMPTIONS AND METHODOLOGY:**

Section 5.7 Income Tax: Under current state and federal law, payments received to replace property lost in a federally declared disaster are exempt from tax. This includes state and federal assistance payments, as well as insurance payments. However, payments received to replace income are not exempt. Payments to farmers for crop losses are therefore taxable under current law. This bill exempts payments made to replace lost income. Payments to farmers are expected to be \$22.5 million. Exempting these payments from tax, assuming an average tax rate of 7.0%, creates a one-time loss of \$1,575,000.

The remaining non-revenue related fiscal impacts are included in the relevant portions of the bill summary.

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** February 22, 2005

**Signed Copy Located in the NCGA Principal Clerk's Offices**