



**STATE OF NORTH CAROLINA
OFFICE OF STATE BUDGET AND MANAGEMENT**

BEVERLY EAVES PERDUE
GOVERNOR

CHARLES E. PERUSSE
STATE BUDGET DIRECTOR

September 17, 2009

MEMORANDUM

TO: Department Heads and Chief Fiscal Officers

FROM: Charles E. Perusse *Charles E. Perusse*

SUBJECT: Summary of General Provisions and Statewide Reserves in Senate Bill 202 (Budget Bill)

The General Assembly enacted Senate Bill 202 (Session Law 2009-451), which contains general provisions and statewide reserves affecting all State agencies. It may also contain items that specifically affect your agency's budget. This bill was subsequently modified by House Bill 836 (Session Law 2009-575). Copies of these bills may be obtained from the Printed Bills area in the Legislative Building or downloaded and printed from the General Assembly's website (<http://www.ncleg.net>). The purpose of this memorandum is to advise you of special provisions and monetary items that have statewide implications. It is not intended to replace agencies' responsibility for reviewing all the general and statewide special provisions. The information is summarized in two parts:

Part I: General Provisions in Senate Bill 202 (as modified by House Bill 836); and

Part II: Statewide Reserves included in The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated August 3, 2009.

Section references, as well as item and page numbers in the Joint Conference Committee Report, are provided to assist you in reviewing the budget bill.

Part I: General Provisions in Senate Bill 202

Introduction

Section 1.1

The appropriations made in Senate Bill 202 represent the maximum funding available to provide the services and accomplish the purposes described in the budget. Savings shall occur where the total amounts appropriated are not required to perform these services and accomplish the purposes outlined in Senate Bill 202. Except as allowed by the State Budget Act or Senate Bill 202, savings shall revert to the appropriate fund at the end of each fiscal year as provided in G.S. §143C-1-2(b).

Appropriation of Cash Balances and Receipts

Section 5.4

State funds are appropriated and authorized for the FY 2009-11 biennium as follows:

1. For all budget codes listed in the Base Budget and Performance Management Information sections of "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," and in the Budget Support Document, cash balances and receipts are appropriated up to the amounts specified in Volumes 1 through 6, as adjusted by the General Assembly.
2. For all budget codes that are not listed in "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," or in the Budget Support Document, cash balances and receipts are appropriated for each year of the 2009-11 fiscal biennium up to the level of actual expenditures for the 2008-09 fiscal year, unless otherwise provided by law.
3. Receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the fiscal years 2009-10 and 2010-11.
4. Cash balances and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for fiscal years 2009-10 and 2010-11.

Receipts collected in a fiscal year in excess of the amounts authorized by this section shall remain unexpended and unencumbered. However, if authorized under the State Budget Act and approved by OSBM, overrealized receipts may be expended in the year in which they are collected.

Receipts from Pending Grant Awards

Section 5.6

Notwithstanding G.S. §143C-6-4, State agencies may, upon approval of the Director of the Budget and after consultation with the Joint Legislative Commission on Governmental

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Operations, spend funds received from grants awarded subsequent to the enactment of Senate Bill 202. OSBM shall work with agencies to budget grants according to program needs, and such grants shall be incorporated into the agencies' certified budgets. Agencies shall submit to OSBM a completed "Notification of Application for Grants/Awards" form (http://www.osbm.state.nc.us/files/forms/grants_osbm.xls) to initiate the process for budgeting and reporting on such grants.

Budget Code Consolidations

Section 6.2

Notwithstanding G.S. §143C-6-4, OSBM may adjust the enacted budget by making transfers among purposes or programs for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund codes. The authorized budget shall be changed to reflect these adjustments.

Budget Realignment

Section 6.3

Notwithstanding G.S. §143C-6-4, OSBM, in consultation with the Office of State Controller (OSC) and the Fiscal Research Division (FRD), may adjust the enacted budget by making transfers among purposes or programs for the sole purpose of correctly aligning positions and operating costs with the appropriate purposes or programs as defined in G.S. §143C-1-1(d)(23). OSBM shall change the certified budget to reflect these adjustments only after reporting to the Joint Legislative Commission on Governmental Operations and FRD. Under no circumstances shall total General Fund expenditures for a department exceed the amount appropriated from the General Fund to the department for the fiscal year.

Establishing or Increasing Fees Pursuant to Senate Bill 202

Section 6.4

Notwithstanding G.S. §12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee that is authorized or anticipated in Senate Bill 202. Notwithstanding G.S. §150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. §150B-21.1A to establish or increase a fee as authorized by Senate Bill 202 if the adoption of a rule would otherwise be required under Article 2A of Chapter 39 150B of the General Statutes.

Consultation Required Before Creation of Special Fund

Section 6.6B

Notwithstanding G.S. §143C-1-3 or any other provision of law to the contrary, OSBM and OSC shall consult with the Joint Legislative Commission on Governmental Operations prior to the establishment of a new special fund budget code as defined in G.S. §143C-1-3.

**American Recovery and Reinvestment Act of 2009 (ARRA) Funds Appropriated
Section 6.6C**

For all ARRA grants and receipts not expressly delineated in Senate Bill 202, this section appropriates such funds in the amounts provided in the notification of award from the federal government or any entity acting on behalf of the federal government to administer federal ARRA funds. Prior to the allocation of funds not expressly delineated in Senate Bill 202, OSBM and affected state agencies shall consult with the Joint Legislative Commission on Governmental Operations.

State agencies shall not use federal ARRA funds for recurring purposes unless provided for in Senate Bill 202. Depending on the nature of the award, additional State personnel may be employed on a temporary or time-limited basis.

**Establish Severance Expenditure Reserve
Section 6.6F**

This section establishes the Severance Expenditure Reserve for the purpose of funding severance-related obligations to State employees subject to the State Personnel Act, and employees exempt from the State Personnel Act, who are separated from service due to a reduction-in-force action. This includes employees of state agencies, departments or institutions; The University of North Carolina; the Community College System Office; or a local school administrative unit. Severance-related expenditures that shall be covered from this Reserve include salary continuation with age adjustment factor as authorized in G.S. 126-8.5 and noncontributory health premiums for up to 12 months as authorized by G.S. 135-45.2(a)(8). The Director of the Budget shall allocate funds from this Reserve to public agencies to fund severance-related obligations.

[See Item Number 1 on page 9 of this memorandum for the accompanying money item]

**Information Technology Operations
Section 6.7**

This section requires the State Chief Information Officer (SCIO) to consult the respective State agency chief information officers to identify specific State agency requirements prior to the initiation of any enterprise project. State agency requirements shall be incorporated into any enterprise agreement signed by the SCIO. Enterprise projects shall not exceed the participating State agencies' ability to financially support the contracts.

In addition, the SCIO shall not enter into any information technology contracts without obtaining written agreements from participating State agencies regarding apportionment of funding. State agencies agreeing to participate in a contract shall: (1) ensure that sufficient funds are budgeted to support their agreed shares of enterprise agreements throughout the life of the contract, and (2) transfer the agreed-upon funds to the Office of Information Technology Services (ITS) in sufficient time for ITS to meet contract requirements.

This section also requires OSBM to ensure that State agencies have an opportunity to adjust their budgets based on any rate changes proposed by ITS.

BEACON Data Integration

Section 6.9

This section requires OSC, in coordination with the SCIO, to report on future costs for implementing the BEACON Data Integration Program, including a detailed explanation of potential costs and the efforts participating agencies are making to reduce these costs. This report shall be presented by October 1, 2009, to the Joint Legislative Oversight Committee on Information Technology.

Joint Legislative Oversight Committee on Information Technology/Review and Report on Current Law

Section 6.12

This section requires the Joint Legislative Oversight Committee on Information Technology to review current State information technology-related legislation and provide interested parties the opportunity to offer testimony on: (1) issues associated with current legislation; (2) the impact of information technology laws on specific entities; and (3) recommendations for improving information technology organization and operations within the State.

Upgrade State Portal

Section 6.14

OSBM, in coordination with the SCIO, shall develop a plan to upgrade the State portal. Prior to developing the plan, OSBM shall obtain the advice and assistance of State and local government agencies, businesses operating within the State, and private citizens to ensure that potential users have the opportunity to submit recommendations for inclusion in the final plan. With the assistance of State agencies, OSBM shall prioritize potential capabilities and develop a phased implementation plan. By December 1, 2009, OSBM shall submit the upgrade plan to the Joint Legislative Oversight Committee on Information Technology and to FRD.

Implement General Services Administration Schedules for State Information Technology

Purchases

Section 6.14A

This section requires ITS to establish procedures to permit State agencies and local government agencies to use the General Services Administration (GSA) Cooperative Purchasing Program to purchase information technology awarded under General Services Administration Supply Schedule 70 Information Technology. Procedures shall also be established for the purchase of information technology from contracts under the GSA's Consolidated Schedule containing information technology special item numbers.

Use of Electronic Forms and Digital Signatures

Section 6.16

This section requires OSBM and the SCIO to develop a plan to increase the use of electronic forms and digital signatures throughout State government. In developing the plan, OSBM shall conduct an inventory of paper or electronic forms currently in use by executive branch agencies. OSBM and

the SCIO shall submit the plan to the Joint Legislative Oversight Committee on Information Technology by March 1, 2010.

Position Transfer Reports/ITS/OSC/OSBM
Section 6.17

By November 1, 2009, OSBM, in coordination with ITS, shall submit a report to the General Assembly on the transfer of information technology (IT) positions associated with IT consolidation. This report shall include the total cost and justification for each position moved to ITS, as well as for each position remaining with each State agency. OSBM shall also report on the positions established and eliminated as a result of IT consolidation.

By November 1, 2009, OSBM, in coordination with OSC, shall submit a report to the General Assembly on the transfer of positions associated with the implementation of the BEACON HR/Payroll project. This report shall include the total cost and justification for each position moved to OSC, as well as for each position remaining with each State agency. OSBM shall also report on the positions established and eliminated as a result of the implementation of the BEACON HR/Payroll project.

Information Technology Contracted Personnel
Section 6.18

This section places several restrictions on establishing or renewing contracts for information technology personal services, such as limitations on the duration of a personal services contract, reporting requirements prior to renewing a contract, and review and approval by the Statewide Information Technology Procurement Office on all contracted information technology personnel. OSBM is authorized to terminate the funding for any information technology position that is filled without following defined procedures in this section.

In addition, beginning October 1, 2009, agencies are required to report monthly to OSBM, OSP, ITS, the Joint Legislative Oversight Committee on Information Technology and FRD. The report shall include detailed information about each contracted information technology position; the total annual cost for information technology contractors; the total annual salary and benefits cost for filling the contract positions with State employees; and a determination of whether the information technology functions performed by contractors can be performed by State employees.

State Information Technology Infrastructure Consolidation
Section 6.19

OSBM, in conjunction with the SCIO, shall continue to consolidate State government's information technology infrastructure where a statewide approach would be more economical, reduce security risks, or minimize potential disruption to services. As part of the consolidation effort, OSBM shall review contractor positions and identify any cost savings or other benefits that could be achieved by using State employees to carry out the same duties and responsibilities. Furthermore, in setting consolidation priorities, OSBM and the SCIO shall target IT infrastructure issues that pose significant risk to agency operations or data, or that provide opportunities for immediate cost savings to the State.

Study Consolidation of Law Enforcement Agencies

Section 17.4

OSBM shall study the feasibility of consolidating the law enforcement agencies of State government for the purpose of coordinating the activities of these agencies and reducing duplication and overlapping of law enforcement responsibilities, training, and technical assistance among State law enforcement agencies. OSBM may consider law enforcement functions within any State government agency where consolidation with other functions in other agencies, departments, or institutions can generate efficiencies and economies and improve the coverage of the required enforcement function. OSBM shall report its findings and recommendations by February 1, 2010, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

Public Employee Salaries

Section 26.1A

The salaries of those officers and employees, whose salaries for the 2008-09 fiscal year were set or increased in Sections 26.1, 26.2, 26.3, 26.4, 26.5, 26.6, 26.7, 26.8, 26.9, 26.10, 26.11, 26.11A, 26.12, 26.12D, 26.13, 26.14, 26.18, and 26.19 of Session Law 2008-107, and in effect on June 30, 2009, or the last date in pay status during the 2008-09 fiscal year if earlier, shall remain in effect and shall not increase for the 2009-10 and 2010-11 fiscal years, except:

1. As provided for by Section 29.20A of Session Law 2005-276.
2. For Community College faculty as otherwise provided in Section 8.1 of Senate Bill 202.
3. For University of North Carolina faculty as otherwise provided by the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or retention adjustments from available non-state funding sources.
4. Salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this subsection.

All other salary increases are prohibited. Additional guidance on this provision will be addressed in a forthcoming memo from OSBM and the Office of State Personnel.

Reduction in Force/Extend State Employee Priority Rights

Section 26.14D

For the 2009-11 biennium, the priority consideration afforded to State employees pursuant to G.S. §126-7.1(c1) shall remain in effect for an additional 12-month period.

Benefits Protection for Furloughed State Government Employees and Public School Personnel

Section 26.14E

If necessary economies in public agency expenditures must be effected by a furlough of public employees, the impacted employees shall be held harmless as to their retirement and other benefits that normally accrue as a result of employment.

Teacher Salary Schedules

Section 26.15

This section contains the monthly salary schedules that shall apply for the 2009-10 fiscal year to certified personnel of the public schools who are classified as teachers.

School-Based Administrator Salary Schedule

Section 26.16

This section contains the base salary schedule for school-based administrators and applies only to principals and assistant principals. The base salary schedule is for the 2009-10 fiscal year.

Salary-Related Contributions/Employer

Section 26.20

The General Assembly adopted revised employer contribution rates for the various components of the Retirement System for the FY 2009-11 biennium. They are as follows:

	<u>FY 2009-10</u>	<u>FY 2010-11</u>
Teachers and State Employees	8.75%	10.51%
Law Enforcement Officers	13.75%	15.51%
University Employees Optional Retirement	11.86%	12.26%
Community College Optional Retirement	11.86%	12.26%
Consolidated Judicial Retirement	19.61%	20.01%
Legislative Retirement	4.50%	4.90%

[See Item Number 3 and 4 on page 9 of this memorandum for the accompanying money item]

Repairs and Renovations Reserve Allocation

Section 27.5

This section specifies the allocation of funds provided for repairs and renovations of State buildings. Specifically, for the 2009-10 fiscal year, 50% of the funds shall be allocated to the Board of Governors of the University of North Carolina, and 50% shall be allocated to OSBM for other statewide needs. Notwithstanding G.S. §143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if sufficient funds are not available from other sources.

Prior to allocating funds for the repair and renovation of facilities, the Board of Governors and OSBM first shall consider allocating funds to restore cash balances transferred to the State Controller to be deposited in the General Fund pursuant to Section 27.11 of Senate Bill 202.

The Board of Governors and OSBM shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of funds.

Procedures for Disbursement of Capital Funds
Section 27.6

This section governs the expenditure of funds for capital improvements authorized by the 2009 General Assembly. Capital improvement appropriations shall be disbursed as provided for in Senate Bill 202 and may not be expended until an allotment has been approved by the Director of the Budget. In addition, prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. If the Director of the Budget approves the method of financing for a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations.

Transfer of Unencumbered Cash Balances in Various Capital Funds
Section 27.11

Notwithstanding any other provision of law to the contrary, effective July 1, 2009, unencumbered cash balances remaining in Capital Funds shall be transferred to the State Controller to be deposited in the General Fund according to the schedule contained in this section. These funds shall be used to support General Fund appropriations for the 2009-10 fiscal year.

Part II: Statewide Reserves included in The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated August 3, 2009

Severance Expenditure Reserve (Budget Code 19042)
Item Number 1, Page L1

The General Assembly established the Severance Expenditure Reserve for the purpose of funding severance-related obligations to State employees subject to the State Personnel Act, and employees exempt from the State Personnel Act, who are separated from service due to a reduction-in-force action. Agencies and universities shall provide calculations for severance requirements in writing (preferably in Excel format) to their OSBM budget analyst by October 15, 2009. OSBM will notify each agency of the appropriation amount to be distributed to your agency by November 13, 2009. Agencies shall submit to OSBM a Type 11 budget revision, Budget Code 19042, no later than November 30, 2009. Any unused funds will revert back to the reserve.

[See Section 6.6F on page 4 of this memorandum for the accompanying special provision]

Retirement System Contributions (Budget Code 19047)
Item Number 3 and 4, Page L1

The General Assembly revised the employer contribution rates to the various Retirement Systems for FY 2009-11. OSBM will notify each agency of the appropriation amount to be distributed to your agency by September 30, 2009. Agencies shall submit to OSBM a Type 11 budget revision, Budget Code 19047, no later than October 30, 2009.

[See Section 26.20 on page 8 of this memorandum for the accompanying special provision]

State Health Plan (Budget Code 19043)

Item Number 5, Page L1

Session Law 2009-16 revised the employer contribution to the State Health Plan for Teachers and State Employees. The revised annual rates, which are provided below, are effective July 1, 2009, for the 2009-10 fiscal year and July 1, 2010, for the 2010-11 fiscal year.

	<u>FY 2009-10</u>	<u>FY 2010-11</u>
Medicare Eligible Employees and Retirees	\$3,447	\$3,753
Non-Medicare Eligible Employees and Retirees	\$4,527	\$4,929

OSBM will notify each agency of the appropriation amount to be distributed to your agency by September 30, 2009. Agencies shall submit to OSBM a Type 11 budget revision, Budget Code 19043, no later than October 30, 2009.

Convert Some Contract Employees to State Employees (Budget Code 19056)

Item Number 7, Page L1

The General Assembly established a reserve to reflect savings created by converting some contract employees to State positions effective July 1, 2009. OSBM will notify each agency of the General Fund reduction amount that is to be submitted by October 30, 2009. Funds shall be submitted to OSBM by Type 11 budget revision, Budget Code 19056, no later than December 31, 2009.

Administrative Support Reduction (Budget Code 19055)

Item Number 8, Page L2

The General Assembly established a reserve to reflect savings created by eliminating some administrative support positions across State government effective July 1, 2009. OSBM will notify each agency of the General Fund reduction amount that is to be submitted by October 30, 2009. Funds shall be submitted to OSBM by Type 11 budget revision, Budget Code 19055, no later than December 31, 2009.

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If you have any questions about the information outlined in this memorandum, please contact your OSBM budget analyst at (919) 807-4700.