



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

BEVERLY EAVES PERDUE
GOVERNOR

CHARLES E. PERUSSE
STATE BUDGET DIRECTOR

July 21, 2010

MEMORANDUM

TO: Department Heads and Chief Fiscal Officers

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

SUBJECT: Summary of General Provisions in the Appropriations Act of 2010 (Senate Bill 897)

The General Assembly enacted, and Governor signed into law Senate Bill 897, the Appropriations Act of 2010 (Session Law 2010-31). This act contains appropriations and special provisions that affect all State agencies. Senate Bill 1202 makes technical, clarifying and other modifications to Senate Bill 897. 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 does not summarize agency specific provisions. It is also not intended to replace an agency's responsibility for reviewing all the general and statewide special provisions.

Section numbers and titles are provided to assist you in reviewing the budget bill. If you have any questions about the information outlined in this memorandum, please contact your OSBM budget analyst at (919) 807-4700.

Introduction

Section 1.2

This section specifies that appropriations made in Senate Bill 897 represent the maximum funding available to provide the services and accomplish the purposes described in the budget. It further directs that savings shall occur where the total amounts appropriated are not required to perform these services and accomplish the purposes outlined in Senate Bill 897. Except as allowed by the State Budget Act or Senate Bill 897, savings shall revert to the appropriate fund at the end of each fiscal year as provided in G.S. §143C-1-2(b).

Extraordinary Measures to Address the Potential Loss of Federal Funds

Section 2.3

This provision outlines the budget adjustments that the Director of Budget must take in the event that Congress does not act to authorize all or part of the enhanced federal Medical Assistance Percentage (FMAP) prior to January 1, 2011. Specifically, the Director of the Budget, in conjunction with the State Treasurer, State Controller, and other State officials must effectuate the following actions in priority order:

(1) Transfer from the Disaster Relief Reserve Fund	\$30,000,000
(2) Transfer of unclaimed lottery prize money and excess receipts	\$35,000,000
(3) Use of interest from all other funds	\$50,000,000
(4) Use of balance in General Fund Availability	\$22,768,282
(5) Reduction of Medicaid Provider rates	\$26,618,975
(6) Use of funds from the Savings Reserve Account	\$38,008,589
(7) Reduction in Retirement System contributions	\$139,000,000
(8) One percent (1%) Management Flexibility Reduction	<u>\$177,500,000</u>
TOTAL	\$ 518,895,846

Additional instructions on how to implement items (7) and (8) are outlined below.

(7) Reduction in Retirement System contributions: Section 2.3(h) amends Section 6(c) of S.L. 2009-16, as amended by Section 26.20(b) of S.L. 2009-451, by revising the employer contribution rates for the various components of the Retirement System for the FY 2010-11 as follows:

	<u>Retirement Rate</u>	<u>Special Reserve</u>
Teachers and State Employees (TSERS)	9.15%	1.36%
Law Enforcement Officers (LEO)	14.15%	1.36%
University Employees Optional Retirement	12.26%	N/A
Community College Optional Retirement	12.26%	N/A
Consolidated Judicial Retirement	20.01%	N/A
Legislative Retirement	4.90%	N/A

Agencies, universities and institutions affected by the TSERS and LEO rates indicated above, should only remit to the Retirement System the retirement rate amounts shown above; not the additional 1.36%. The special reserve of 1.36% will be established in the Office of State Budget

and Management (OSBM), to be transferred to the Retirement System only if not needed as an adjustment to cover a loss of enhanced FMAP funds.

For General Fund sources: OSBM will notify each agency, universities and institution of the appropriation amount to be transferred to the OSBM reserve by August 2, 2010. Agencies, universities, and institutions should submit to OSBM a Type 11 budget revision transferring funds to Budget Code 19047 by Friday, August 27, 2010.

For Non-General Fund sources: Agencies, universities, and institution should remit to the Retirement System only the retirement rates reflected above; not the additional 1.36%. Non-General Funds will not be held in the OSBM reserve for appropriations, but should be held in an agency reserve(s) specifically for this purpose. OSBM will provide further instructions by January 2011 or as soon as there is a determination regarding the FMAP funds.

(8) One percent (1%) Management Flexibility Reduction: Section 2.3(i) directs that all agency heads take immediate steps to prepare a potential 1% reduction to implement the management flexibility reduction in this act. Management flexibility is defined as “cuts made at the discretion of the agency head with the understanding that agencies are encouraged to implement all administrative and other operating efficiencies including the reduction of vacant positions which do not affect public safety or staffing ratios at State institutions, prior to the dismissal of employees,” except that Medicaid provider reimbursement rates may not be used to comply with this section.

Consistent with this section, OSBM encourages agencies to continue following the general budget management strategies implemented over the last two years (holding positions vacant where appropriate; limiting the issuance of purchase orders for goods or services; and restricting travel and compensation adjustments to the maximum extent possible).

To ensure the State achieves the total amount of the Management Flexibility Reduction identified in the provision, OSBM will notify each State agency of the appropriation amount that needs to be moved to an internal budget reduction reserve by August 2, 2010. By Friday, August 27, 2010, each State agency shall submit the following to OSBM: 1) a Type 11 budget revision that establishes an internal 1% management flexibility reduction budget reserve; and 2) an Excel spreadsheet that summarizes the amount of reduction by budget code, fund, and account with a brief explanation of each reduction item.

Appropriation of Cash Balances and Receipts

Section 5.3

This provision appropriates State funds for the FY 2010-11 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 2009-10 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 provision 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. Overrealized receipts approved for expenditure must be report to the Joint Legislative Commission on Governmental Operations on a quarterly basis. The report shall include the source of the receipt, the amount overrealized, the amount authorized for expenditure, and the rationale for expenditure. OSBM will develop and submit this quarterly overrealized report.

Other Receipts from Pending Grant Awards

Section 5.4

This provision amends Section 5.6 of S.L. 2009-451 by directing that funds received from grants awarded subsequent to the enactment of the act shall be incorporated into the authorized budget, not the certified budget, of the recipient State agency. Prior to budgeting and expending funds received from such grants, State agencies must seek approval of the Director of the Budget and consult with the Joint Legislative Commission on Governmental Operations.

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 consulting on such grants.

Expenditures of Funds in Reserves Limited

Section 6.1

This provision directs that all funds appropriated by the act into reserves may be expended only for the purposes for which the reserves were established.

Budget Code Consolidations

Section 6.2

This section permits OSBM to 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

This section permits OSBM, in consultation with the Office of State Controller (OSC) and the Fiscal Research Division (FRD), to 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). It further directs OSBM to change the authorized 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 this Act

Section 6.5

This section specifies that 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 897. 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 897 if the adoption of a rule would otherwise be required under Article 2A of Chapter 39 150B of the General Statutes.

Amend ARRA Funds

Section 6.7

This section amends Section 6.6C(b) of S.L. 2009-451 by replacing the consultation requirement on ARRA grants and receipts not expressly delineated in the act with a reporting requirement. Specifically, OSBM and State agencies are required to report to the Joint Legislative Commission on Governmental Operations within 30 days after the notification of federal funds.

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 consulting on such grants.

Information Technology Operations

Section 6.8

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 or contract. 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, (2) transfer the agreed-upon funds to the Office of Information Technology Services (ITS) in sufficient time for ITS to meet contract requirements and (3) ensure that enterprise project costs are allocated to participating agencies in an equitable manner. 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.

This provision amends Section 6.7 of S.L. 2009-451 to require that (1) when a service level agreement between ITS and an agency is not met by either party, a report will be submitted to OSBM and the Fiscal Research Division of the General Assembly with details about the shortfall and a corrective action plan, (2) the Office of Information Technology Procurement will assist agencies by identifying the most cost effective and least expensive source for purchase of ITS goods and services as well as ensure the agencies receive the available discounts for those goods and services, (3) ITS must provide agencies with bills that are easily understood and transparent for all received services, and (4) if an agency fails to pay its ITS bills within 30 days, OSBM may transfer the funds to cover the cost of the bill to ITS.

Coordination of Information Technology Requirements and Geographical Information System Efforts

Section 6.9

This section tasks the SCIO, through the Enterprise Program Management Office (EPMO) with adopting measures to avoid the duplication of information technology capabilities across State agencies. When duplication or the potential for duplication is found, the SCIO will designate one State agency as the lead. This agency will coordinate, support, and manage the capability for all agencies that require it. The SCIO will maintain oversight of this effort.

In addition, the EPMO will (1) review all ongoing and future projects to determine whether their requirements can be met by a planned, ongoing, or completed information technology project, (2) determine if an agency's project has transferable applicability to current or future capabilities required by another agency, (3) assist agencies in determining how to access existing projects, (4) identify all instances of duplication and work with affected agencies to create and implement integration plans for their efforts.

Furthermore, all State agencies shall coordinate any Geographic Information System (GIS) initiatives through the Center for Geographic Information and Analysis (CGIA) to ensure that they are not duplicating existing function. CGIA will not be required to monitor and approve all new GIS-related projects and expansion budget requests.

Information Technology Contracted Personnel

Section 6.12

This provision 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 written 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, 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. The spreadsheet that was created and used last fiscal year will continue to be used in this fiscal year.

Funding for Data Integration Enterprise Licensing Agreements

Section 6.14

This section asserts that if the State's data integration enterprise licensing agreements cost more than \$2,000,000 in 2010-11 then the remaining balance will be recovered by charging participating agencies. The SCIO will develop a plan for the equitable distribution of costs to the participating agencies for these contracts. Beginning with the 2011-2012 fiscal year, all of the costs associated with these contracts will be allocated to the participating agencies.

Network Security Assessments

Section 6.15

This section moves the statutory responsibility of conducting network vulnerability assessments from the State Auditor to the State Chief Information Officer.

Enterprise Electronic Forms and Digital Signatures

Section 6.17

This section requires the SCIO plan, develop, and implement a coordinated enterprise electronic forms and digital signature capability. The SCIO will conduct a thorough assessment of all forms used by the executive branch, determine the cost of converting these forms to an electronic format, and prioritize the conversion. The SCIO will present to the Joint Legislative Oversight Committee on Information Technology quarterly starting October 1, 2010 on the progress of this initiative.

Smart Cards for Efficiency, Enhanced Services, and Reduced Fraud

Section 6.19

This section allows up to \$1,000,000 in E-procurement receipts to be used toward the development of "smart cards." These cards will have the capability to support financial and health services transactions. The development of this system will be coordinated by the State Chief Information Officer and other State agencies including the Department of Health and Human Services.

Teacher Salary Schedules

Section 29.2

This section contains the monthly salary schedules that shall apply for the 2010-11 fiscal year to certified personnel of the public schools who are classified as teachers.

School-Based Administrator Salary Schedule

Section 29.3

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 2010-11 fiscal year.

Monitor Compliance with Freeze on Most Salary Increases

Section 29.5

This section requires OSBM and the Office of State Personnel (OSP) to monitor jointly the compliance of State agencies, departments, institutions, authorities, boards, commissions, the judicial branch, and the University of North Carolina and its constituent institutions with provisions of Section 26.1A of S.L. 2009-451.

It also requires OSBM and OSP to submit quarterly reports of their monitoring activities, beginning September 1, 2010, to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division. OSBM and OSP will issue separate instructions on how this information will be gathered and reported.

Authorize Supplementation by Local Governments of the Salaries of Nonelected Judicial Department Officers and Employees in Order to Attract and Retain the Best Qualified Officers and Employees for the Judicial Branch of Government
Section 29.7

This section authorizes the Administrative Officer of the Courts to contract with the governing body of a city or county for the provision of local funds to supplement the salaries of Judicial Department employees, other than elected officials and magistrates, who serve the superior court district, district court district, or prosecutorial district containing that unit of local government. This section only applies to cities with a population of 300,000 or more, or counties with population of 300,000 or more, according to the most recent estimates of OSBM.

This section also stipulates that 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 (i) faculty using funds from the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or the University Cancer Research Fund in the case of faculty involved in cancer research supported by that fund; and (ii) faculty, non-faculty, and other employee adjustments funded from non-state funding sources.
- 3a. For Judicial Department employees for local supplements as authorized under G.S. 7A-300.1.
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.

Reduction in Force/Extend State Employee Priority Rights
Section 9.3 of HB 1202

This provision amends Section 26.14D of S.L. 2009-451 by extending the priority afforded to State employees pursuant to G.S. 126-7.1(c1) for an additional 12-month period for those employees who receive notification, on or after May 1, 2009, but on or before June 30, 2011, of a prospective separation of employment by reduction in force provided the employee was subsequently separated by a reduction in force.

Repairs and Renovations Reserve Allocation

Section 30.4

This section specifies the allocation of special indebtedness funds provided for repairs and renovations of State buildings. Specifically, for the 2010-11 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 first shall consider allocating funds for the installation of fire sprinklers in university residence halls. In addition, OSBM shall allocate \$500,000 to be transferred to Crime Control and Public Safety for Armory repair and renovation.

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

Special Indebtedness Projects

Section 30.7

This section authorizes, in accordance with G.S. 142-83, the issuance of one hundred twenty million dollars (\$120,000,000) in special indebtedness for the repair and renovation of capital facilities as outlined in Section 30.4 of this act.

In addition, this section authorizes fifty-five million dollars (\$55,000,000) to finance capital facility costs of acquiring equipment and completing related capital improvements for use by The University of North Carolina System and the North Carolina Community College System, to be allocated in accordance with Section 30.11 of this act.

Statutorily Define “Scope”

Section 30.8

This section amends the State Budget Act by adding a definition for “scope” with respect to a capital improvement project. It defines “scope” as either increasing the square footage of a capital improvement project by more than ten percent (10%) of the amount authorized or programming new functions into the project.

State Budget Act Applies

Section 32.1

This section reenacts the provisions of the State Budget Act, Chapter 143C of the NC General statutes and incorporates them in the budget act by reference.

Committee Report

Section 32.2

This provision specifies that the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010 shall be used to construe the budget act and be considered part of the act and printed as part of the Session Laws. It further specifies that the enacted budget shall be interpreted in accordance with G.S. 143C-5-5, the special provisions of the budget act and other appropriate legislation. In the event there is a conflict between line-item budget certified by the Director of the Budget and the enacted budget, then the budget enacted by the General Assembly shall prevail.

Most Text Applies Only to the 2010-2011 Fiscal Year

Section 32.3

This section explains that except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2010-2011 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2010-2011 fiscal year.

Effect of Headings

Section 32.4

This section clarifies that the headings to the parts and sections of the budget bill are a convenience to the reader and are for reference only. The headings do not expand, limit or define the text of this act, except for effective dates referring to a part.

Appropriations Limitations and Directions Apply

Section 32.5

This provision specifies that unless expressly repealed or amended by this act the provisions of S.L. 2009-451 and S.L. 2009-575 remain in effect. It further clarifies that except for modifications to the amounts appropriated, the limitations and directions for the 2010-2011 fiscal year in S.L. 2009-451 and S.L. 2009-575 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes, unless specifically repealed or amended.

Severability Clause

Section 32.6

This section clarifies that if any section or provision of the budget bill is declared unconstitutional or invalid by the courts, it does not affect the validity of the budget bill as a whole or any part other than the part declared to be unconstitutional or invalid.

Effective Date

Section 32.7

Except as otherwise provided, the budget bill becomes effective July 1, 2010.