

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**SESSION LAW 2005-1  
SENATE BILL 7**

AN ACT TO ENACT THE HURRICANE RECOVERY ACT OF 2005, MAKING FINDINGS AS TO DAMAGE CAUSED BY THE HURRICANES THAT STRUCK NORTH CAROLINA IN 2004, CONCERNING ESTABLISHMENT OF THE DISASTER RELIEF RESERVE FUND, MAKING APPROPRIATIONS TO THE DISASTER RELIEF RESERVE FUND, DIRECTING THE REESTABLISHMENT AND MODIFICATION OF HURRICANE FLOYD RECOVERY PROGRAMS, AUTHORIZING ESTABLISHMENT OF NEW PROGRAMS, EXPANSION OF EXISTING PROGRAMS, AND MODIFICATION OF EXISTING PROGRAMS TO IMPLEMENT THIS ACT, AUTHORIZING TRANSFER OF FUNDS TO FEDERAL AGENCIES AND LOCAL GOVERNMENTS, AUTHORIZING TIME-LIMITED POSITIONS TO IMPLEMENT THIS ACT, PROVIDING FOR SUBROGATION BY THE STATE OF CERTAIN INSURANCE CLAIMS, AUTHORIZING ADVISORY COUNCILS TO ADVISE STATE AGENCIES ON RECOVERY EFFORTS, PROVIDING FOR TAX EXEMPTION OF BENEFITS, DIRECTING THE MAPPING OF FLOOD PLAINS AND THE IDENTIFICATION OF POTENTIAL LANDSLIDE AREAS AND STREAM BANK EROSION, DIRECTING THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE CAUSES OF FLOODING IN CERTAIN AREAS AND DETERMINE MEASURES TO PREVENT OR MITIGATE FUTURE FLOODING, DIRECTING THE GOVERNOR TO MAINTAIN THE REDEVELOPMENT OFFICE IN WESTERN NORTH CAROLINA, APPROPRIATING FUNDS TO RESTORE AND REPAIR CERTAIN PUBLIC BUILDINGS IN HYDE COUNTY DAMAGED BY HURRICANE ISABEL AND ESTABLISHING REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

**PART I. TITLE OF ACT**

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

**PART II. LEGISLATIVE FINDINGS**

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

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

**SECTION 2.(b)** The General Assembly finds that Hurricanes Frances and Ivan wrought havoc upon Western North Carolina impacting the region on a scale not experienced before in that area of the State. Flooding and landslides destroyed infrastructure, roads, bridges, homes, businesses, farmland, and crops, damaging the civil, social, economic, and environmental well-being of Western North Carolina. The

economic base of the region has been undermined as the result of business closures, crop and aquaculture losses, and revenue losses to the extent that many individuals' ability to support themselves and their families is threatened and may be lost completely without assistance from the State. A disaster of this magnitude affects the entire State. Extraordinary assistance to the region is necessary if Western North Carolina, and with it the economic well-being of the State, is to recover from the effects of the damage inflicted by Hurricanes Frances and Ivan.

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

- (1) The President of the United States issued two federal disaster declarations for the Western region of the State.
- (2) Eleven people lost their lives.
- (3) People lost their loved ones, their homes, sources of livelihood, and, in some instances, their communities. During Hurricane Ivan, the community of Peeks Creek was devastated by a debris flow triggered by the heavy rains. The debris flow traveled speeds as great as 33 miles per hour for two and a quarter miles from the top of Fishhawk Mountain. Five persons were killed, and 15 homes destroyed by the flow that was estimated to be several hundred feet wide and up to 40 feet high. Other communities that were particularly hard hit by landslides include the Starnes Creek area in Buncombe County, the Little Pine area in Madison County, the White Laurel community in Watauga County, and Bear Rock Estates in Henderson County.
- (4) Sixty-two homes were destroyed, and 11,107 homes suffered damage in Hurricane Frances. Another 78 homes were destroyed, and 5,127 homes damaged in Hurricane Ivan. Eighty-five landslides were reported as a result of the 27+ inches of rain that fell on the region. Many persons did not have flood insurance, as they did not know that there was a danger of flooding where they lived. Further, people could not know the landslide risks associated with their housing location because such maps are not readily available. The State needs to update current flood mapping for and prepare landslide zone mapping for the region so that homes may be rebuilt in safe areas. Homes lying within flood and landslide zones need to be relocated to mitigate the possibility of further damage to life and property should subsequent events occur. Additional State assistance to homeowners is necessary to accomplish these goals and to assure that there is safe and adequate housing for the citizens of the affected area.
- (5) The region also lost rental properties that provided needed housing for those who cannot afford to purchase their own homes. The impact of the hurricanes on the regional economy is such that sufficient rental housing at affordable prices may not be built to replace the property damaged or destroyed, leaving persons who were forced from their homes unable to obtain adequate housing.
- (6) Landslides and flooding damaged or destroyed at least 272 private roads, culverts and bridges, cutting off numerous families from access to emergency services and access to State roads.
- (7) The Small Business Administration reported receiving 10,113 referrals for business loan applications from the Federal Emergency Management Agency to cover physical damage to businesses. Of these requests for applications, however, only 2,080 (around twenty percent (20%)) were returned to the SBA for processing. The numbers suggest both the numbers of businesses that suffered physical damage as a result of the hurricane and the inability of many businesses in the

- region to take on additional debt. Without additional assistance, many businesses may not be able to reopen, and jobs will be lost.
- (8) Reports from the region indicated that the town of Canton lost forty percent (40%) of its business district in the floods attending Ivan. Blue Ridge Paper, the largest manufacturing employer in Western North Carolina, reportedly suffered several million dollars in flood damages from Hurricane Frances alone. The flooding a week later from Hurricane Ivan was two to three feet above the level experienced by the plant during Frances. Biltmore Village, a community near the Biltmore Estate, was almost completely inundated by floodwaters of the Swannanoa.
  - (9) According to North Carolina Department of Commerce reports, the region lost an estimated eighty-seven million dollars (\$87,000,000) in tourism revenue during the three-week period after the hurricanes struck.
  - (10) The agricultural economy of the region was seriously affected. Early estimates of crops and acreage affected included thousands of acres of fruits and vegetables, hay, corn, soybeans, and tobacco. In Henderson County alone, approximately 90,000 of the county's 1,000,000 apple trees were downed. Greenhouse and nursery crops were also seriously affected. At least five trout farms reported extensive physical damage and losses of over 160,000 pounds of fish. In addition to crop and fish losses, there was extensive damage to farmland through erosion and flooding, and many farms suffered damage to farm structures. Most farmers cannot afford to take on additional debt to rehabilitate damaged fields, rebuild and repair farm structures, purchase new equipment, replant trees, or replace inventory. Many farmers may be unable to continue farming without assistance from the State. It is therefore necessary to provide State assistance to farmers to preserve the agricultural sector of the economy in Western North Carolina and the economic stability of the region.
  - (11) Impacts on the environment have yet to be calculated. In addition to the stream damage from flooding, there was also contamination from sewage overflows and chemical spills. It was reported that over 100,000 gallons of petroleum products were spilled into the French Broad River system.
  - (12) Local governments have suffered loss of infrastructure, damage to public buildings, roads, wastewater treatment plants, and other facilities. One thousand four hundred and forty specific public assistance projects have been authorized to repair facilities and roads, remove debris, and otherwise effect cleanup and repair of local government facilities. In addition, the damage from the storms to property and businesses has eroded the tax base of the counties affected. These counties must bear a loss of revenue at the same time they are shouldering the costs of replacing and repairing the infrastructure and meeting the additional needs of the population struggling to recover from the effects of the hurricanes.

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

- (1) A State Type I Disaster Declaration was issued for Dare and Hyde Counties after Hurricane Alex which provided individual assistance to 22 applicants who failed to qualify for SBA loans and substantial public assistance to the two counties for debris removal.
- (2) Hurricanes Bonnie and Charlie impacted Beaufort, Bladen, Brunswick, Craven, Columbus, Dare, Duplin, Harnett, Hyde, Jones, Lenoir, New

Hanover, Pamlico, Pasquotank, Pender, Pitt, Onslow, Tyrrell, and Washington Counties. A federal disaster declaration has been requested but denied. According to the Division of Emergency Management, 2,860 homes and 65 businesses were affected by the two hurricanes. Three hundred six of the affected homes were destroyed or suffered major damage.

- (3) Hurricane Jeanne impacted Cabarrus, Moore, Rowan, and Stokes Counties. Reports from Moore County indicated that over 100 homes and businesses were damaged, primarily in Southern Pines. Public Assistance needs were limited to Stokes and Moore Counties.
- (4) In addition to the damage reports for individuals and local governments, the North Carolina Department of Agriculture and Consumer Services reported early estimates of over 900,000 acres of corn, soybeans, tobacco, cotton, peanuts, and fruits and vegetables were lost as a result of Hurricane Charlie and Hurricane Bonnie.

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

#### CRITICAL NEEDS NOT MET BY EXISTING STATE AND FEDERAL PROGRAMS AND FUNDS

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

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

- (1) Many people in uninsured, damaged homes will either not qualify for federal housing assistance or not have the resources to take advantage of federal housing assistance.
- (2) Local governments already overwhelmed with storm-related expenses may not have the resources to repair damaged infrastructure and provide the new infrastructure necessary for families relocating out of the flood and landslide zones and for businesses that are in the process of rebuilding.
- (3) Jobs may be permanently lost because many cannot qualify for Small Business Administration loans.
- (4) Many farmers who suffered significant losses may find it difficult to continue farming.
- (5) Resources for drinking water protection, solid waste cleanup, hazardous waste cleanup, and remediation of high-risk storage tanks will be inadequate.
- (6) The tourism industry will continue to suffer due to negative publicity about the storm.

**SECTION 2.1.(b)** It is the intent of the General Assembly that the benefits of the projects and programs authorized by this act are for the common good and collective recovery of the people of this State following a devastating natural disaster directly affecting a large portion of the State and indirectly affecting the entire State.

The entire State faces a major loss if the counties that bore the major impact of the hurricanes and tropical storms of 2004 are not offered the assistance provided by this act. The purpose of this act is to provide an ultimate net public benefit to the State through a successful hurricane recovery initiative in Western North Carolina and other affected counties.

**PART III. SCOPE OF ACT  
COUNTIES COVERED BY THIS ACT**

**SECTION 3.** Sections 2 through 5.2 of this act apply as follows:

- (1) This act applies to the 19 counties designated by the Federal Emergency Management Agency (FEMA) as eligible for Individual Assistance and Public Assistance as a result of damages sustained from Hurricane Frances or Ivan. Those counties are eligible for all programs and assistance provided under this act. Those counties are: Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, and Yancey.
- (2) This act applies to the additional 26 counties that were designated by FEMA as eligible only for individual assistance as a result of damages sustained from Hurricane Frances or Ivan. Those counties are eligible for all programs and assistance provided under this act for individual assistance. Those counties are: 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.
- (3) In addition, a number of counties were not included in a federal disaster declaration but were included in a State disaster declaration issued under Article 1 of Chapter 166A of the General Statutes as a result of the damages sustained by one of the hurricanes that occurred in 2004. The Governor shall also extend the coverage of the programs and assistance provided under this act to those counties.

**PART IV. THE DISASTER RELIEF RESERVE FUND  
ESTABLISHMENT OF THE DISASTER RELIEF RESERVE FUND**

**SECTION 4.** The Governor has established the Disaster Relief Reserve Fund in the Office of State Budget and Management. The purpose of this fund is to provide necessary and appropriate relief and assistance from the effects of natural disasters. Consistent with the provisions of this act, the Governor shall spend monies appropriated to or otherwise transferred to the Disaster Relief Fund by this act to assist the counties referenced in Section 3 of this act. The monies shall be used to implement programs as provided by this act.

**APPROPRIATION TO THE DISASTER RELIEF RESERVE FUND AND  
COMMITTEE REPORT**

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

**SECTION 4.1.(b)** The fund availability upon which appropriations in this act are based is as follows:

Estimated unappropriated General Fund over collections, fiscal year 2004-2005	\$0.0
Estimated General Fund reversions, fiscal year 2004-2005	\$91.0 million
North Carolina Community Development Initiative, Inc. – Reversion of unused Hurricane Floyd Recovery funds to the General Fund	\$3.0 million
Savings Reserve Account balance, February 15, 2005	\$267.0 million

**SECTION 4.1.(c)** Of the funds allocated to the North Carolina Community Development Initiative, Inc., for Hurricane Floyd Recovery programs pursuant to S.L. 1999-463 Extra Session, the sum of three million dollars (\$3,000,000) in unused grant and loan funds for home relocation and repairs shall revert to the General Fund.

**SECTION 4.1.(d)** The Governor shall transfer from unexpended General Fund appropriations for fiscal year 2004-2005 to the Office of State Budget and Management, Disaster Relief Reserve Fund, the sum of ninety-one million dollars (\$91,000,000) which shall be used to aid the counties referenced in Section 3 of this act in their efforts to recover from the effects of the 2004 hurricanes. The funds shall be used for the purposes set out in Part V, Part VI, and Part VII of this act. These funds shall remain available to implement the provisions of this act until the General Assembly directs the reversion of the unexpended funds.

**SECTION 4.1.(e)** There is appropriated from the General Fund to the Office of State Budget and Management, Disaster Relief Reserve Fund, the sum of three million dollars (\$3,000,000) for the 2004-2005 fiscal year to aid the counties referenced in Section 3 of this act in their efforts to recover from the effects of the 2004 hurricanes. The funds shall be used for the purposes set out in Part V, Part VI, and Part VII of this act. These funds shall remain available to implement the provisions of this act until the General Assembly directs the reversion of the unexpended funds.

**SECTION 4.1.(f)** There is appropriated from the Savings Reserve Account to the Office of State Budget and Management, Disaster Relief Reserve Fund, the sum of one hundred twenty-three million five hundred forty-one thousand four hundred forty-seven dollars (\$123,541,447) for the 2004-2005 fiscal year to aid the counties referenced in Section 3 of this act in their efforts to recover from the effects of the hurricanes of 2004. The funds shall be used for the purposes set forth in Part V, Part VI, and Part VII of this act. The funds appropriated by this section shall be transferred to the Disaster Relief Reserve Fund and shall remain available to implement the provisions of this act until the General Assembly directs the reversion of the unexpended funds.

**SECTION 4.1.(g)** The allocation of funds in the Report of the House Appropriations Committee on The Hurricane Recovery Act of 2005, dated February 17, 2005, are intended as guidance for the Governor. Notwithstanding the provisions of Section 5.1 of this act, if the Governor determines in accordance with Chapter 166A of the General Statutes that allocations should be made to programs other than those set forth in the Committee Report or that reallocations should be made among programs set forth in the Committee Report, the Governor may make the changes except as funds are otherwise specifically allocated by this act. The Governor shall report to the Joint Legislative Commission on Governmental Operations before implementing any changes in the allocations.

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

#### PART V. IMPLEMENTATION OF ACT

#### DIRECTIVE TO REESTABLISH AND MODIFY, AS NECESSARY, RELIEF PROGRAMS DEVELOPED AFTER HURRICANE FLOYD, ESTABLISH NEW PROGRAMS, AND EXPAND OR MODIFY EXISTING PROGRAMS TO IMPLEMENT THIS ACT

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

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

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

**SECTION 5.1.(c)** The Department of Crime Control and Public Safety shall modify the Crisis Housing Assistance Fund (CHAF) to provide money to persons who do not qualify for CHAF assistance solely because they failed to apply for federal assistance through the Small Business Administration's (SBA) Real Property Disaster loan program. The Department shall review these persons' applications for CHAF assistance using the same criteria employed by the SBA to determine eligibility for an SBA Real Property Disaster loan. The applicants shall be eligible for CHAF assistance if it is determined that they would have failed to qualify for assistance under the SBA Real Property disaster loan criteria and that they otherwise meet the criteria for CHAF.

**SECTION 5.1.(d)** The Governor shall expend funds appropriated to or otherwise transferred to the Disaster Relief Reserve Fund by this act to provide for the following programs and activities:

- (1) Required matching funds for federal funds for disaster relief.
- (2) Crisis housing assistance, which may include, but shall not be limited to, direct housing assistance to homeowners and renters, grants to local governments for water, sewer, and other infrastructure needs for housing in new areas, predevelopment activities, housing counselors, and housing recovery efforts. It is the intent of the General Assembly that housing assistance includes providing renters with assistance to purchase affordable housing. The General Assembly therefore encourages the Governor to use funds appropriated in this act to implement a program that provides assistance to renters in affected areas to purchase affordable housing (preferably permanent homes and not manufactured housing) by providing State resources, including grants and low-interest loans, for that purpose.
- (3) Economic recovery assistance, including, but not limited to, assistance to the agriculture, aquaculture, forestry, commercial, and industrial sectors of the economy which may include, but shall not be limited to, grants and loans to businesses, grants and loans to farmers, and grants and loans for aquaculture.
- (4) Public health, public safety, social services, and environmental restoration measures that may include, but shall not be limited to, drinking water protection, water quality monitoring, solid waste and hazardous waste cleanup, assessment and remediation of high-risk storage tank sites, and emergency and maintenance dredging.
- (5) Support to local governments, by grants for public infrastructure, for the repair, renovation, and relocation of facilities, and to offset revenue losses resulting from storm damage from natural disasters covered by federal disaster declarations as to any storm between August 1, 2004, and the date this act becomes law. The amount of the grants shall be based on loss of taxable property in the jurisdiction.
- (6) Mapping and studies authorized by this act.

**SECTION 5.1.(e)** Of the funds appropriated by this act to the Disaster Relief Reserve Fund for the 2004-2005 fiscal year, the sum of four million five hundred thousand dollars (\$4,500,000) shall be allocated to the Town of Canton as a grant to repair and upgrade the flood levees, flood gates and pumps, for levee penetration mitigation, erosion control, elevating electrical controls, and repairing sewer lines for the purpose of protecting the wastewater treatment plant owned by Blue Ridge Paper Products and used by the Town of Canton.

**SECTION 5.1.(f)** Notwithstanding Part III and Part IV of this act, of the funds allocated by this act to local governments for repairs and renovations to public facilities damaged by the storms, the sum of eight million dollars (\$8,000,000) shall be allocated to Hyde County for the 2004-2005 fiscal year to be used 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.

**SECTION 5.1.(g)** Of the funds appropriated by this act to the Disaster Relief Reserve Fund for the 2004-2005 fiscal year, the sum of five million dollars (\$5,000,000) shall be allocated to the Rural Economic Development Center to be used for economic infrastructure through the Small Town Building Reuse and Restoration Program established in S.L. 2004-88. The funds allocated by this subsection shall be used to provide grants to local governments in counties covered under this act for economic recovery and redevelopment activities in business areas that sustained storm damage. These activities may include all of the following:

- (1) Grants to repair public and private buildings damaged by flooding and deemed necessary to retain existing businesses or provide for new businesses.
- (2) Repairs and improvements to public infrastructure.
- (3) Other technical and design assistance to redevelop business properties and business areas.

Recipients shall certify that assistance received under this subsection does not duplicate other State or federal assistance or replace insurance proceeds.

**SECTION 5.1.(h)** Of the funds appropriated by this act to the Disaster Relief Reserve Fund for the 2004-2005 fiscal year, the sum of three million dollars (\$3,000,000) shall be allocated to the North Carolina Community Development Initiative, Inc., to be used for housing programs and assistance.

**SECTION 5.1.(i)** Of the funds appropriated in this act to the Disaster Relief Reserve Fund for the 2004-2005 fiscal year, the sum of five hundred thousand dollars (\$500,000) may be allocated to the Department of Environment and Natural Resources, Division of Forest Resources, for the purposes of forestland restoration and fire prevention activities needed due to hurricane damage.

#### AUTHORIZATION TO TRANSFER FUNDS TO FEDERAL AGENCIES AND TO LOCAL GOVERNMENTS

**SECTION 5.2.** The Governor may:

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

#### AUTHORIZATION TO ESTABLISH TIME-LIMITED POSITIONS TO IMPLEMENT THIS ACT

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

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

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

#### AUTHORIZATION TO ESTABLISH ADVISORY COUNCILS TO ADVISE STATE AGENCIES ON RECOVERY EFFORTS

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

#### TAX EXEMPTION

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

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

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

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

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

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

#### INVOLVEMENT OF HISTORICALLY UNDERUTILIZED BUSINESSES

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

#### LEGISLATIVE REVIEW OF FEDERAL FUNDING AND REMAINING UNMET NEEDS

**SECTION 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 any remaining unmet needs, especially in the area of economic recovery.

#### LIMITATION ON USE OF STATE FUNDS

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

**SECTION 5.10.(b)** Homeowners in the 100-year floodplain who receive homeowner's housing assistance pursuant to this act shall have in effect federal flood insurance, if available, as a precondition to receipt of State homeowner's housing assistance for losses resulting from future flooding.

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

#### PART VI. MAPPING OF FLOOD PLAINS AND LANDSLIDE ZONES

**SECTION 6.** The Department of Crime Control and Public Safety shall proceed immediately to update Flood Insurance Rate Maps for all of the counties included in federal disaster declarations for Hurricanes Frances and Ivan. The Department of Environment and Natural Resources, in cooperation with the Department of Crime Control and Public Safety, shall act to ensure that (i) streambed maps and (ii) maps indicating areas vulnerable to landslides are made available for the same multicounty area. Streambed maps shall be annotated to show areas of significant actual or potential stream bank erosion.

#### PART VII. STUDY PREVENTIVE AND PROTECTIVE MEASURES THAT MAY PREVENT OR MITIGATE POTENTIAL FLOODING IN CERTAIN AREAS AND FUNDING TO IMPLEMENT THE STUDY AND ITS FINDINGS

**SECTION 7.(a)** The Department of Environment and Natural Resources shall study the causes of the flooding in Canton, Biltmore Village, the City of Newland, Clyde, and other affected areas as deemed necessary to determine what measures can be taken to prevent or mitigate the flooding potential in those areas. The Department may request the assistance of the Army Corps of Engineers in this study. The Department of Environment and Natural Resources shall report its findings to the 2005 General Assembly, 2006 Regular Session.

**SECTION 7.(b)** Of the funds appropriated by this act to the Disaster Relief Reserve Fund an amount of up to three million dollars (\$3,000,000) shall be transferred by the Office of State Budget and Management to the Department of Environment and Natural Resources to conduct the study. The funds shall be transferred upon the request of the Secretary of Environment and Natural Resources.

**SECTION 7.(c)** In accordance with G.S. 143-15.3, the General Assembly authorizes the Director of the Budget to transfer up to thirty million dollars (\$30,000,000) from the Savings Reserve Account to the Office of State Budget and Management, Disaster Relief Reserve Fund, to implement the recommendations of the studies authorized in this section. Prior to the transfer of funds under this subsection, the Governor shall consult with the Joint Legislative Commission on Governmental Operations on his plans to implement any recommendations for flood remediation and mitigation including anticipated expenditures. Funds to be transferred pursuant to this subsection are appropriated from the Savings Reserve Account for the fiscal year in which the consultation is made to implement this subsection.

#### PART VIII. MAINTAIN REDEVELOPMENT CENTER

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

**PART IX. REPORTING REQUIREMENTS**

**SECTION 9.** The Governor shall report to the Appropriations Committees of the Senate and the House of Representatives regarding the implementation of this act no later than 30 days after the date this act becomes law and shall report monthly thereafter until the adjournment of the 2005 Regular Session. The Governor shall report on the implementation of this act to the Joint Legislative Commission on Governmental Operations by October 15, 2005, and quarterly thereafter.

**PART X. EFFECTIVE DATE**

**SECTION 10.** This act 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.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of February, 2005.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 12:29 p.m. this 25<sup>th</sup> day of February, 2005