

STATE OF NORTH CAROLINA

REVIEW OF

**RESERVE FUNDS IN THE 2004-2005 REVISED
CERTIFIED BUDGET**

RALEIGH, NORTH CAROLINA

JUNE 2005

OFFICE OF THE STATE AUDITOR

LESLIE W. MERRITT, JR., CPA, CFP

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LETTER OF TRANSMITTAL

June 28, 2005

The Honorable Roy Cooper
Attorney General of North Carolina
114 W. Edenton Street
Raleigh, North Carolina 27612

Dear Attorney General Cooper:

Enclosed please find the Auditor's report to the Attorney General relevant to the Reserve Funds in the 2004-2005 Revised Certified Budget.

We trust the information provided will enable the Attorney General to consider and render legal opinion as deemed appropriate. Our report strives to be objective, thorough and professional.

If further information or documentation is required, the Office of the State Auditor offers further assistance at the request of the Attorney General.

Respectfully submitted,

Leslie W. Merritt, Jr.

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State Auditor

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AUDITOR'S REPORT TO THE ATTORNEY GENERAL RELEVANT TO THE RESERVE FUNDS.

BACKGROUND/OBJECTIVE

At the request of both private citizens and elected officials the Office of the State Auditor has investigated and gathered information and facts related to the Reserve Funds in the 2004-2005 Revised Certified Budget (BD-307). These Reserve Funds are characterized as "Human Service Grants" at the Department of Health and Human Services (DHHS), as "Reserve for Grants" at the Office of State Budget and Management (OSBM) and as "Grants Reserve" at the Department of Cultural Resources (DCR). This report uses the general term "Reserve Funds" for purposes of identification when referring to these specific funds.

The creation, allocation and expenditure of Reserve Funds has occurred from time to time in recent North Carolina history. These Reserve Funds raise overlapping political, legal, budgetary and policy issues. It is worthwhile to note that this is an atypical report in that the Office of the State Auditor typically evaluates the State's financial records and public program performance, etc. Our focus in this report is to provide the Attorney General of North Carolina information, facts and documents relevant to these specific Reserve Funds. The Office of the State Auditor, after consultation with the Attorney General's Office, provides this report and information, facts and documents related to Constitutional, Statutory, State Personnel and other issues the Attorney General may consider appropriate for review and to render legal opinion(s) as deemed necessary.

This document is intended for the use and information of the Attorney General and other appropriate governmental bodies. However, this document is a matter of public record and its distribution is not limited.

SCOPE

Our review focused primarily on the origination of the various Reserve Funds in the 2004 Continuation, Expansion and Capital Budgets, and the allocation, control and disbursement of the Reserve Funds. We also reviewed within the limits of presently available information the current status of the remaining balances in the various Reserve Funds. This report does not undertake at this time to examine the specific expenditures of the numerous organizations receiving grants from the various Reserve Funds. Review of these expenditures is subject to audit oversight by the State Auditor as well as statutory oversight by the agencies through which the grants were processed. The Office of the State Auditor plans to review the organizations receiving grants from the Reserve Funds as considered appropriate.

METHODOLOGY

Our review included the gathering of numerous documents (schedules, budget documents, communications, ledgers, e-mails, etc.) from various state agencies and legislative offices and the review of each of these documents. Extensive face-to-face interviews were conducted with management at DHHS, OSBM, and DCR and with legislative staff and with legislative leadership. We sought to conduct these interviews with candor and respect and the responses were forthcoming and cooperative.

I. ORIGINATION OF THE RESERVE FUNDS

Once the Senate and the House produce their respective budget reports, the two separate budgets are reconciled into one budget. The Joint Conference Committee exercises broad authority to reconcile the Senate budget and the House budget to arrive at an agreed upon Joint Committee Report. This report becomes the final budget bill that is then voted on by each chamber and if passed, presented to the Governor for his signature or veto or inaction. If signed into law the budget then goes through a certification process and budgetary codes are assigned.

Based on information in documents and numerous interviews, the process of reconciling the Senate version of the budget and the House version of the budget came to a near if not actual impasse. Various offers and attempts were made to negotiate an agreement and reconcile the House and Senate versions of the budget. Late in the reconciliation process the concept of placing certain amounts in Reserve Funds without specifying the recipients by line item was proposed. Thus particular agreement on each line item was not necessary in order to reach a budget agreement. The exact origin of this concept during this particular negotiation was not specified, but the concept was agreed upon, incorporated into the Joint Committee Report and the negotiations were concluded. The Reserve Funds were included in the final bill as published and voted on by the separate chambers and then signed into law by the Governor. The Senate version and the House version were reconciled with \$6,507,500 going into the Reserve Funds at DCR to the Senate under the direction of President Pro Tempore Basnight. Reserve Funds were designated to the

House at all three agencies (DHHS, OSBM, DCR) with \$4,606,250 under the direction of Speaker Black and \$2,891,250 under the direction of Speaker Morgan.

The final negotiations concluded on the evening of Friday, July 16, and into the early morning of Saturday, July 17. The 2004 Appropriations Act was reported to both the Senate and House on Saturday, July 17, 2004. The Senate convened at 11 a.m., and the House at 12 noon that same day. The 2004 Appropriations Act was calendared, voted on, and passed Saturday July 17, and then signed into law by the Governor on Tuesday, July 20, 2004, at 3:09 p.m.

The limited time in which the budget was finalized, printed and then voted on by the legislature limited budget transparency, especially as related to the Reserve Funds. It was difficult for members of the General Assembly to adequately process the detailed information in the complex multipage final budget in a restricted time frame.

II. APPROPRIATION AND ALLOCATION OF RESERVE FUNDS

Appropriation of Reserve Funds

The 2004-2005 Revised Certified Budget (BD-307) obtained from the North Carolina Office of State Budget and Management reflects the following Reserve Fund appropriations.

Office of State Budget and Management (OSBM)

The appropriation to Reserve for Grants at OSBM totaled \$1,338,382.

Department of Cultural Resources (DCR)

The appropriation to Grants Reserve at DCR totaled \$9,161,618. There was also a \$925,000 appropriation to the line item Historical, Cultural and Arts Organizations

increasing the original line-item budget from \$180,000 to \$1,105,000 to bring the total aid and public assistance amount to \$10,266,618.

Department of Health and Human Services (DHHS)

The appropriation to Human Service Grants at DHHS totaled \$2,400,000.

Allocation of Reserve Funds

Based on documents obtained from agency and legislative personnel as well as numerous interviews of agency and legislative personnel, the reserve funds were allocated at each agency as follows:

Office of State Budget and Management

Speaker Black	\$	1,000,000
Speaker Morgan		338,382
Total	\$	1,338,382

Department of Cultural Resources

Senator Basnight	\$	6,507,500
Speaker Black		2,706,250
Speaker Morgan		1,052,868
Total	\$	10,266,618

Department of Health and Human Services

Speaker Morgan	\$	1,500,000
Speaker Black		900,000
Total	\$	2,400,000

Summary of Allocations

	OSBM	DCR	DHHS	TOTALS
Senator Basnight	\$ 0	\$ 6,507,000	\$ 0	\$ 6,507,500
Speaker Black	1,000,000	2,706,250	900,000	4,606,250
Speaker Morgan	338,382	1,052,868	1,500,000	2,891,250
Total	\$1,338,382	\$10,266,618	\$2,400,000	\$14,005,000

STATUTORY ISSUES

The following statute entitled “*No expenditure for purposes for which the General Assembly has considered but not enacted an appropriation.*” is included below for reference.

§ 143-16.3. *No expenditures for purposes for which the General Assembly has considered but not enacted an appropriation.*

Notwithstanding any other provision of law, no funds from any source, except for gifts, grants, funds allocated from the Repair and Renovations Account in accordance with G.S. 143-15.3A, and funds allocated from the Contingency and Emergency Fund in accordance with G.S. 143-12(b), may be expended for any new or expanded purpose, position, or other expenditure for which the General Assembly has considered but not enacted an appropriation of funds for the current fiscal period; provided, however, that in the event the Director of the Budget declares that it is necessary to deviate from this provision, he may do so after prior consultation with the Joint Legislative Commission on Governmental Operations. For the purpose of this section, the General Assembly has considered a purpose, position, or other expenditure when that purpose is included in a bill, amendment, or petition and when any committee of the Senate or the House of Representatives deliberates on that purpose. (1985 (Reg. Sess., 1986), c. 1014, s. 177; 1987 (Reg. Sess., 1988), c. 1086, s. 50; 1989, c. 752, s. 47; 1991 (Reg. Sess., 1992), c. 812, s. 6(b); 1996, 2nd Ex. Sess., c. 18, s. 7.4(j); 1997-443, s. 7.8(a).)

For each of the following departments, Office of State Budget and Management, Department of Cultural Resources, and Department of Health and Human Services, we reviewed The House Appropriations Committee Report on the Continuation, Expansion and Capital Budgets dated June 5, 2004 (The House Budget Bill), The Senate Appropriations/Base Budget Committee Report on the Continuation, Expansion and Capital Budgets dated June 22, 2004 (The Senate Budget Bill), and the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated July 17, 2004 (The Budget Bill) to identify budgeted expenditures commonly referred to as special appropriations. Then, we reviewed documents provided by OSBM, DCR, and DHHS supporting grant expenditures to identify any grant recipients that were not specifically identified in the final budget bill but were included in either the House or Senate budget bills finalized in June 2004.

The following special appropriations were included in either the House or Senate Budget Bills, excluded from the Final Budget Bill, then ultimately funded with Reserve Funds through OSBM, DCR, or DHHS:

Name of Organization	House / Senate – Dept Budget	Actual Source of Funds	
Historic Bath Foundation (Bath Tricentennial)	H & S - OSBM	DCR	\$ 150,000
Exploris Museum	S – OSBM	DCR	500,000
Graveyard of the Atlantic	S - OSBM	DCR	400,000
Marine Corp Museum of the Carolinas	S – OSBM	DCR	1,500,000
Penland School of Crafts	S – OSBM	DCR	400,000
Turnage Theater Foundation	S – OSBM	DCR	500,000
Rutherford County – 225-year Anniversary	S – OSBM	DCR	50,000
Embassy Square Project	H – DCR	DCR	475,000
Old Salem	S – DCR	DCR	1,000,000
Cleveland County Arts Council	S- DCR	DCR	25,000
Sit-In Movement, Inc. (International Civil Rights Museum	S- DCR	DCR	1,500,000
Total			\$ 6,500,000

Each of the grants to the organizations listed above was made at the direction of the leadership of the General Assembly and included in either the House or Senate Budget Bills by name but excluded from the final budget bill voted on by the General Assembly and signed by the Governor.

III. DISBURSEMENTS FROM RESERVE FUNDS

The Reserve Fund appropriations at the Office of State Budget and Management, the Department of Cultural Resources, and the Department of Health and Human Services were disbursed to organizations throughout North Carolina. The disbursements were

made in the form of grants at the request of staff from Senator Basnight's office, Speaker Black's office, and Speaker Morgan's office. Members of the General Assembly initiated many of these requests for grants to various organizations. The General Assembly leadership approved these requests before forwarding them to the departments for processing.

Detailed lists of disbursements by department and by Legislative leader are included as Schedules 1–3 (Schedule 1 – OSBM; Schedule 2 – DCR; Schedule 3 – DHHS). The schedules were maintained at each department to manage the disbursement of these appropriations. This appropriation management ensured that the grant requests from the General Assembly leadership did not exceed the agreed upon allocations. The amounts included in these schedules have been reconciled with accounting records at OSBM, DCR, and DHHS for accuracy and completeness.

IV. REGULATORY AND MONITORING REQUIREMENTS

During the 2004 session of the North Carolina General Assembly, House Bill 1414 (Session Law 2004-124) amended North Carolina General Statute 143-6.1 (Report on use of State Funds by non-State entities)

The State Budget Officer notified Department Heads and Chief Fiscal Officers of the changes to the reporting requirements in a letter dated August 26, 2004.

General Statute 143-6.1 is included herein for reference.

§ 143-6.1 – Report on use of State funds by non-State entities.

(a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly or collected by the State. For purposes of this section, the term "non-State entity" means a firm, organization, corporation, partnership, association, institution, unit of local government, or any other organization that is not a State agency, department, or institution. State funds include federal funds that flow through the State. For the purposes of this section, the term "grantee" means a non-State entity other than a unit of local government that receives a grant of State funds from a State agency, department, or institution.

The State shall not disburse State funds appropriated by the General Assembly to any grantee or collected by the State for use by any grantee unless that grantee:

- (1) Provides all reports and financial information required under this section to the appropriate State agencies and officials; and
- (2) Provides any additional information that the Office of State Budget and Management deems necessary demonstrating that such grantee is capable of managing the funds in accordance with law and has established adequate financial procedures and controls.

All financial statements furnished to the State Auditor pursuant to this section, and any audits or other reports prepared by the State Auditor, are public records.

(a1) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, the Director shall take appropriate administrative action to ensure that no further irregularities occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds.

(b) State Agency Responsibilities. – A State agency that receives State funds and then disburses the State funds to a grantee shall:

- (1) Submit documents to the State Auditor in a prescribed format describing standards of compliance and suggested audit procedures sufficient to give adequate direction to independent auditors performing audits.
- (2) Annually, at the time the grant is made, notify each grantee, in writing, of the reporting requirements set forth in this section and that the State agency is not authorized to disburse funds to grantees that fail to comply with the reporting requirements for funds received during the prior fiscal year.
- (3) Provide each grantee with the accounting form and other requirements prescribed by the State Auditor.
- (4) Submit a list to the State Auditor by October 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year, the amount disbursed to each grantee, the funding source of each grant, and other such information as required by the State Auditor to comply with the requirements set forth in this section.
- (5) Submit a list to the Office of State Budget and Management by January 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year and, for each grantee, whether that grantee has filed the sworn accounting required by subsection (c) of this section and whether the sworn accounting is in compliance with subsection (c) of this section.
- (6) Ensure funds are spent in accordance with the purposes for which they were granted and hold the grantees accountable for the legal and appropriate expenditure of State grant funds.
- (7) Provide for adequate oversight and monitoring to prevent the misuse of State funds.

- (b1) Grantee Responsibilities. – A grantee that receives a grant of State funds shall:
- (1) Ensure funds are spent in accordance with the purposes for which they were granted and be accountable for the legal and appropriate expenditure of State grant funds.
 - (2) Maintain reports, records, and other information to properly account for the expenditure of all State grant funds received by the grantee and to make the reports, records, and other information available to the grantor State agency or the State Auditor for oversight, monitoring, and evaluation purposes.
 - (3) Hold any non-State entity to which the grantee provides a grant of State funds accountable for the legal and appropriate expenditure of State grant funds.
 - (4) Adhere to the reporting requirements mandated by this section.

(c) Grantee Receipt and Expenditure Reports. – A grantee that receives, uses, or expends between fifteen thousand dollars (\$15,000) and three hundred thousand dollars (\$300,000) in State funds annually must file annually with the State Auditor and the State agency that disbursed the funds a sworn accounting of receipts and expenditures of the State funds and a description of activities and accomplishments undertaken by the grantee with State funds. This accounting must be attested to by the treasurer of the grantee and one other authorizing officer of the grantee. The accounting must be filed within six months after the end of the grantee's fiscal year in which the State funds were received. The accounting and the description of activities and accomplishments shall be in the formats, including electronic filings, required by the State Auditor and provided to the grantee by the disbursing agency.

(d) Grantee Audit Reports. – A grantee that receives, uses, or expends State funds in the amount of three hundred thousand dollars (\$300,000) or more annually must file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. These audit reports shall be filed no later than nine months after the close of the grantee's fiscal year. The financial statement must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.

A grantee that receives, uses, or expends State funds in the amount of three hundred thousand dollars (\$300,000) or more annually must file annually with the State Auditor and the State agency that disbursed the funds a description of activities and accomplishments undertaken by the grantee with State funds. This description must be filed within 90 days after the end of the grantee's fiscal year in which the State funds were received. The description of activities and accomplishments shall be in a format, including electronic filings, required by the State Auditor.

(d1) State Auditor's Responsibilities. – The State Auditor shall:

- (1) Review each audit submitted pursuant to subsection (d) of this section and determine that it has been conducted in accordance with generally accepted audit standards and that the grantee has received a clean audit opinion.
- (2) Notify disbursing agencies by January 31 each year of all grantees that are not in compliance with the reporting requirements set forth in this section.
- (3) Notify disbursing agencies of any material audit findings in the audits of their grantees.
- (4) Submit a list to the Office of State Budget and Management by January 31 each year of every grantee that received State funds in the prior fiscal year and, for each grantee, whether that grantee has complied with this subsection.

(d2) Before a State agency disburses any funds for the fourth quarter of a fiscal year, the agency shall, in consultation with the Office of State Budget and Management, verify that the grantee has complied with the reporting requirements of this section. A State agency shall not disburse funds during the fourth quarter of the fiscal year to any grantee that has not complied with this section by March 31 of each year.

(d3) The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by May 1 of each year on all grantees that failed to comply with this section for the prior fiscal year, the amount of State funds that were disbursed to each of those grantees during that fiscal year, and the amount of State funds that were withheld.

(e) Federal Reporting Requirements. – Federal law may require a grantee to make additional reports with respect to funds for which reports are required under this section. Notwithstanding the provisions of this section, a grantee may satisfy the reporting requirements of subsection (c) of this section by submitting a copy of the report required under federal law with respect to the same funds or by submitting a copy of the report described in subsection (d) of this section.

(f) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or expends State funds. Such a grantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State funds. The grantee must furnish any additional financial or budgetary information requested by the State Auditor. Grantees shall ensure that work papers in the possession of their auditors are available to the State Auditor and provide the work papers upon request. Audit work papers furnished by an auditor of a grantee are not public records and are exempt from G.S. 132-1. (1989, c. 752, s. 54; 1991, c. 689, ss. 12, 190(a); 1993, c. 321, s. 45; 1995 (Reg. Sess., 1996), c. 748, s. 2.1; 1997-443, s. 34.11; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-284, s. 6.21; 2004-123, 6.24.)

Review of Monitoring at Office of State Budget and Management, Department of Cultural Resources, and Department of Health and Human Services

Information was reviewed at the Office of State Budget and Management, the Department of Cultural Resources, and the Department of Health and Human Services concerning procedures to monitor the use of the grants. Tests were also performed to determine if certain required documents were obtained prior to the disbursement of the grants. Our findings for each department are as follows:

Office of State Budget and Management (OSBM)

Award Notification and Eligibility Determination – The OSBM notified grant recipients of the discretionary grant awards and limitations on the use of the funds. Required documents, such as conflict of interest statements, corporate bylaws and tax-exempt notices were obtained to establish recipient eligibility.

During-the-award Monitoring – Our inquiries indicate that the agency has no plans to perform monitoring activities for these grants beyond obtaining the eligibility documents discussed above and the legally required financial reports at year-end.

Award Audits – The agency has developed a compliance supplement for use by auditors if an audit is necessary. Since the grants are being disbursed in the current year, compliance with reporting requirements cannot be determined until after the fiscal year-end.

Department of Cultural Resources

Award Notification and Eligibility Determination – The Department of Cultural Resources notified grant recipients of the discretionary grant awards and limitations on the use of the funds. Required documents, such as conflict of interest statements, corporate bylaws, and tax-exempt notices were obtained to establish recipient eligibility.

During the Award Monitoring – Department personnel indicated that the grants had not been monitored through site visits or other means to ensure proper use of state funds. Department personnel have now developed a standard letter to send to grant recipients requesting information about the use of grant proceeds.

Award Audits – Department personnel had not prepared documents describing standards of compliance and suggested audit procedures sufficient to give adequate direction to independent auditors performing audits of these grants. This “compliance supplement” has now been completed. Compliance with requirements such as the performance of independent audits can only be determined after the end of the current fiscal year.

Department of Health and Human Services (DHHS)

Award Notification and Eligibility Determination – The DHHS notified grant recipients of the discretionary grant awards and limitations on the use of the funds. Required documents, such as conflict of interest statements, corporate bylaws and tax-exempt notices were obtained to establish recipient eligibility.

During-the-award Monitoring – The agency required grantees to submit a summary description of how the grants will be used and compared the description to the designated purpose of the grant. At year-end, the description will be compared to final financial reports. Otherwise, no specific monitoring procedures have been developed.

Award Audits – The agency has developed a compliance supplement for use by auditors if an audit is necessary. Since the grants are being disbursed in the current year, compliance with reporting requirements cannot be determined until after the fiscal year-end.

Awarding and Monitoring of Grants

The awarding and monitoring of grants to non-state entities requires considerable time and effort for state agencies to ensure compliance with the provisions of G.S. 143-6.1. For the fiscal year ending June 30, 2005, the General Assembly did not appropriate any additional funds to OSBM, DCR, or DHHS for the administration of the grants from the Reserve Funds.

V. COMMUNITY DEVELOPMENT SPECIALIST I POSITION AT DCR.

In January and February 2005, communications occurred between Alan Rogers, Assistant for Special Projects in Speaker Black's office, and officials at the Department of Cultural Resources concerning a position to be created in that agency. Mr. Rogers prepared a draft job description; draft vacancy announcement, salary and fringe cost information and indicated that Speaker Black's office had a "desired employee", Michael Decker, Sr., and that he was recommended for the position. Management at Dept. of Cultural Resources was aware that Michael Decker was the desired employee and that the proposed funding of \$45,000 would come from Reserve Funds at Cultural Resources under the direction of Speaker Black's office. Mr. Rogers indicated that the position "should be edited to include any specific qualifications of the desired employee," and later requested that the language "*Management prefers candidate with NC history background & public policy experience*" be added to the position description to tailor the position to Mr. Decker, the desired employee. Between the dates of February 2, 2005 and February 15, 2005 the position was posted, applications accepted and interviews conducted. On February 16, 2005 a formal offer letter was issued to Mr. Decker for the "Time-Limited Full-Time" position. For details on the flow and disposition of the \$45,000 funding, the attached Chronology for the Community Development Specialist Position Occupied by Michael Decker, Sr. is provided along with supporting documentation. (This chronology was

prepared by DCR at the request of OSA in order to provide detail and to aid in a more complete understanding of budgetary matters relevant to this position.)

VI. CONTROL OF THE RESERVE FUNDS

As previously noted in this report, the Reserve Funds were placed at DHHS, OSBM, and DCR with specific amounts allocated to and between the legislative leadership. The legislative leadership functioned through their various legislative staff exercising substantial acts of control and direction over the Reserve Funds at the agencies. Examples of acts of control and direction include:

- Detailed accountings were maintained at DHHS, OSBM, and DCR for each legislative leader by name.
- Detailed accountings were maintained by the legislative staff of each legislative leader concerning funds allocated to their direction and control.
- Only organizations that the legislative leadership designated as recipients received grants. Various members of the Senate and House made their preferences and recommendations known to the legislative leadership.
- Applications were neither sought from nor received from organizations in general, but only from those designated by the legislative leadership.
- The legislative leadership determined the dollar amounts of the grants.
- The agencies (DHHS, OSBM, and DCR) did not determine the recipient of the grant(s).
- The agencies (DHHS, OSBM, and DCR) did not determine the dollar amount of the grant(s).

- Once designated by the respective legislative office, any deviation or change to a grant was effectuated only after the concurrence of the legislative leadership was obtained. The agencies made no alterations or changes without such concurrence.
- Management at DHHS and DCR explicitly stated that they understood that the Reserve Funds were not to be dispersed at agency discretion, but that the agency would be directed from the legislative leadership concerning the distribution of the Reserve Funds.

VII. STATUS OF THE RESERVE FUNDS

Detailed schedules for the Reserve Funds were maintained at DHHS, OSBM and DCR as well as in the offices of the legislative leadership. According to recent information (as of June 1, 2005) as provided from those sources the following balances remain in the Reserve Funds as unawarded.

DCR	Speaker Black.....	\$ 174,250
	Speaker Morgan	462,868
	Senator Basnight.....	<u>2,500</u>
	Total unawarded "Grants Reserve" at DCR.....	<u>\$ 639,618</u>
OSBM	Speaker Black.....	\$ 121,500
	Speaker Morgan.....	<u>40,382</u>
	Total unawarded "Reserve for Grants" at OSBM.....	<u>\$ 161,882</u>
DHHS	Speaker Black.....	\$ 50,000
	Speaker Morgan.....	<u>380,700</u>
	Total unawarded "Human Service Grants" at DHHS...	<u>\$ 430,700</u>
	Grand total of unawarded Reserve Funds at DHHS, OSBM and DCR.....	<u>\$ 1,232,200</u>

Inquiry to the Office of the Governor indicates, “the funds have not been frozen and the Governor has given no directive to freeze the funds.” The final resolution and disposition of remaining Reserve Funds is unknown at this time.

Items the Attorney General may wish to consider:

1. Based on the information and documentation herein provided, what is the application of NCGS 143-16.3 and any other relevant NC statute to the Reserve Funds and their origination, allocation, control and disbursement and other surrounding circumstances?
2. Based on the information and documentation herein provided, what Constitutional and/or separation of powers issues are raised in relation to the Reserve Funds and their origination, allocation, control and disbursement and other surrounding circumstances?
3. Based on the information and documentation herein provided, please review relevant to any NC personnel issues.
4. Please address these or any other matters you deem appropriate.

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SCHEDULE 1

Office of State Budget and Management				
2004 SPECIAL APPROPRIATIONS				
	Entity	Amount	Paid	Check #
Morgan	Brunswick County Schools	18,000.00	11/5/2004	10294850
Black	Chamber of Commerce	4,000.00	10/28/2004	10294803
Morgan	City of Asheboro	100,000.00	11/5/2004	10294851
Black	City of Eden	50,000.00	1/5/2005	10295257
Morgan	Cleveland Community College	15,000.00	1/26/2005	10295354
Black	Durham Communities Penalties Program	5,000.00	12/8/2004	10295138
Black	Durham's Family Drug Treatment	5,000.00	2/3/2005	10295369
Black	Eastern Carolina Agriculture & Educ Ctr	50,000.00	1/26/2005	10295356
Black	El Centro Hispano Inc	5,000.00	2/23/2005	10295648
Black	Eno River Association	5,000.00	12/16/2004	10295182
Black	Greater Enrichment Program Bldg	150,000.00	11/23/2004	10295087
Morgan	Health Adventure	50,000.00	10/21/2004	10294790
Black	Help Center of Matthews	25,000.00	12/16/2004	10295169
Black	Historically Minority Colleges	5,000.00	12/23/2004	10295205
Morgan	Humane Society of Davie Co	10,000.00	2/16/2005	10295444
Morgan	Iredell Children's Museum	18,382.00	11/18/2004	10294910
Morgan	Iredell Children's Museum	2,618.00	12/29/2004	10295236
Black	Liberty Community Development Corp	25,000.00	12/29/2004	10295232
Black	Lincoln CommunityHealth Center	5,000.00	12/8/2004	10295149
Black	Louisburg College	25,000.00	11/5/2004	10294835
Morgan	Moore County Bd of Education	6,000.00	5/15/2005	10296026
Black	NC Dare Drug Abuse Resistance Educ	50,000.00	5/25/2005	10296226
Black	NC National Guard Association	10,000.00	2/3/2005	10295393
Black	Public Library of Charlotte	50,000.00	10/14/2004	10294740
Black	Rowland Rural Fire Dept	25,000.00	10/14/2004	10294741
Black	Scotland Co Redevelopment Corp	20,000.00		
Morgan	State Line & Collinstown Comm Ctr	8,000.00		
Black	Surry County Commissioners	14,500.00	10/14/2004	10294738
Black	The Duke Mansion	100,000.00	1/5/2005	10295247
Black	The Lee Institute	100,000.00	1/5/2005	10295248
Black	Town of Garysburg	15,000.00	12/8/2004	10295158
Morgan	Town of Snow Hill	5,000.00	12/16/2004	10295193
Morgan	UNC-W Ctr for Marine Science	40,000.00	1/26/2005	10295354
Morgan	Upper Cleveland Rescue Squad	20,000.00	10/21/2004	10294773
Black	Urban Ministries of Durham	5,000.00	12/16/2004	10295198
Black	Walltown Children's Theatre	5,000.00	12/16/2004	10295170
Morgan	Westfield Boosters Club	5,000.00		
Black	Wilson Co Residential Services	25,000.00	10/28/2004	10294802
Black	WNC Communities, Inc	50,000.00	11/5/2004	10294820
Black	YWCA Central Carolinas Of Charlotte	50,000.00	2/3/2005	10295393
		1,176,500.00		

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African American Cultural Center	Wake	\$25,000	Outdoor drama and arch. renderings for exhibits and facility	Dr. Elliott B. Palmer, Sr., President & CEO	119 Sunnybrook Road	Raleigh 27610	919-250-9336	1/6/05	2/8/05	Dec. 30	9.1M	HB	6/30/06	
African American Heritage Committee	Scotland	\$4,000	Cultural programs for youth	Bettie McNair, President	PO Box 253	Laurinburg 28353	910-276-4345	2/10/05	3/29/05	Dec. 31	925K	HB	None	
Alamance Arts Council	Alamance	\$7,000	After school arts project & art in public places	Cary Worthy	213 S. Main St.	Graham 27253	336-226-4495	11/24/04	12/15/04	June 30	9.1M	HB	None	
Alamance Co. Library	Alamance	\$11,000	Computer equipment and software	Margaret Blanchard	342 S. Spring Street	Burlington 27215	336-513-4753	11/24/04	12/15/04	June 30 Gov't.	9.1M	HB	None	
Alamance County Historical Association	Alamance	\$10,000	Update orientation film at Alamance Battleground	George W. Troxler	2748 Amick Road	Elon 27244	366-278-5607	2/14/05	3/18/05	May 1	9.1M	HB	None	
Albert Carlton-Cashiers Library	Jackson	\$1,500	Gen. Op. support	Dottie Burnette	PO Box 2127	Cashiers 28717	828-743-0215	10/4/04	10/28/04	June 30 Gov't..	9.1M	HB	None	
Anson Co. Arts Council	Anson	\$14,000	Equipment-3 theater projects	Nancy Willingham	PO Box 332	Wadesboro 28170	704-694-4950	12/8/04	1/13/05	June 30	9.1M	HB	None	
Arts Council of Fayetteville/Cumberland	Cumberland	\$15,000	Programmin g support	Deborah Mintz	PO Box 318	Fayetteville 28302	910-323-1776	10/4/04	10/28/04	June 30	9.1M	HB	12/30/05	
Bennett College	Guilford	\$50,000	Restore & renovate Steele Hall	Andrena Coleman	900 East Washington St.	Greensboro 27401	336-273-4431	10/15/04	11/23/04	June 30	9.1M	HB	12/30/05	
Bethel Library (Sheppard Memorial Library)	Martin	\$6,000	Enhance learning center	Willie Nelms, Dir.	530 Evans St.	Greenville 27858	252-329-4585	10/27/04	11/8/04	June 30 Gov't.	9.1M	HB	None	
Burgaw, Town of	Pender	\$20,000	Assess condition and drawings of historic Burgaw Train Depot	Martin Beach, Town Manager	109 N. Walker Street	Burgaw 28425	910-259-2151	1/25/04	3/18/05	June 30 Gov't.	9.1M	HM	12/30/05	

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Burning Coal Theater	Wake	\$7,000	Renovation of Murphy School	Simmie Kastner, Managing Dir.	PO Box 90904	Raleigh 27675	919-834-4001	11/24/04	1/13/05	June 30	9.1M	HB	None	
Capital Area Preservation (Ivey House)	Wake	\$3,500	National register nomination	Gary Roth, President & CEO	PO Box 28072	Raleigh 27611	919-833-6404	9/20/04	10/8/04	June 30	9.1M	HB	None	
Capital Area Preservation (Blalock House)	Wake	\$3,500	National register nomination	Gary Roth, President & CEO	PO Box 28072	Raleigh 27611	919-833-6404	9/20/04	10/8/04	June 30	9.1M	HB	None	
Carson House	McDowell	\$10,000	Repair porch and back wall	Sam Gray	1805 Highway 70 West	Marion 28752	828-668-9259	10/26/04	11/23/04	Dec. 31	9.1M	HM	None	
Charlotte MOH (Hezekiah Alexander Fdn., Inc.)	Mecklenberg	\$50,000	Educational programming and activities	Pam Meister	3500 Shamrock Drive	Charlotte	704-568-1774	10/11/04	10/28/04	June 30	9.1M	HB	12/30/05	
Charlotte MOH (Hezekiah Alexander Fdn., Inc.)	Mecklenberg	\$45,000	Support historic and cultural tourism initiatives	Pam Meister	3500 Shamrock Drive	Charlotte	704-568-1774	12/23/04	2/8/05	June 30	9.1M	HB	12/30/05	
Cherokee Co. Historical Museum	Cherokee	\$10,000	Publish book on county heritage	Walda Stalcup	87 Peachtree St.	Murphy 28906	828-837-6792	10/11/04	10/28/04	June 30	9.1M	HM	None	
Cherokee Hist. Assn.	Jackson	\$5,000	Gen. Op. support	J. Barry Hipps	PO Box 398	Cherokee 28719	828-497-2111	10/4/04	10/28/04	Dec. 31	9.1M	HB	None	
Cherryville, Town of	Gaston	\$15,000	Cherry Blossom Festival & museum shelving	David Hodgkins	116 S. Mountain Street	Cherryville 28021	704-435-1702	9/15/04	10/20/04	June 30 Gov't.	9.1M	HM	12/30/05	
Children's Museum of Iredell County	Iredell	\$30,000	Op. support for combined children's and arts/heritage museum	Patrice Reynolds, Director	PO Box 223	Statesville 28687	704-872-7508	12/8/04	1/13/05	June 30	9.1M	HM	12/30/05	
Cleveland Co. Arts Council	Cleveland	\$25,000	Programming support	Shearra Miller	111 South Washington St.	Shelby 28150	704-484-2787	9/10/04	9/29/04	June 30	9.1M	S	12/30/05	
Cleveland Co. Mem. Library in Lawndale	Cleveland	\$75,000	Op. support	Carol Wilson	104 Howie Drive	Shelby 28150	704-487-9069	9/15/04	10/28/04	June 30	9.1M	HM	12/30/05	

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Community Council for the Arts	Lenoir	\$25,000	Improve HVAC equip. at offices in Kinston	Sandy Landis, Executive Director	400 N. Queen St.	Kinston 28501	252-527-2517	12/8/04	2/8/05	Dec. 31	9.1M	HM	6/30/06	
Cooleemee (Textile Heritage Center)	Davie	\$50,000	50% gen. Op. support; 50% match endowment	Lynn Rumley	PO Box 667	Cooleemee 27014	336-284-6040	9/15/04	9/29/04	Dec. 31	9.1M	HM	6/30/05	
Delta Fine Arts	Forsyth	\$100,000	Gen. Support	Dianne Caesar	1511 East 3 rd St.	Winston-Salem 27101	336-722-2625	9/10/04	9/29/04	June 30	925K	S	12/30/05	
Department of Cultural Resources/Archives and History	Wake	\$45,000							Tranferred 3/10/05		925K	HB		
Eastern Music Festival	Guilford	\$25,000	Student scholarships	Tom Phillion	PO Box 22026	Greensboro 27420	336-333-7450, x24	10/4/04	10/28/04	Sep. 30	9.1M	HB	3/30/06	
Embassy Square Project (Embassy Cultural Center Foundation Inc.)	Vance	\$475,000	Embassy Square Project	Kathy Powell, Exec. Dir.	112 Winder Street	Henderson 27536	252-431-6050 (6052)	9/15/04	9/29/04-1 st check	Dec. 31	9.1M	HB	6/30/05 ; 6/30/06	
Exploris Museum	Wake	\$500,000	Op. support and educational programming	Anne Bryan	201 East Hargett Street	Raleigh 27601	919-857-1107	9/10/04	9/29/04-1 st check	June 30	9.1M	S	3/30/06	
Farmville Comm. Arts Council	Pitt	\$6,000	Educational programming support	Eraine Oakley	PO Box 305	Farmville 27828	252-753-3832	10/15/04	10/28/04	June 30	9.1M	HB	None	
Federation of NC Historical Societies	Wake	\$5,000	Support National History Day in NC	JoAnn Williford	4610 Mail Service Center	Raleigh 27699	919-807-7284	1/25/05	2/8/05	Dec. 31	9.1M	HM	None	
Fontana Reg. Library	Swain	\$1,500	Gen. Op. support	Gail Findlay	33 Frymond Road	Bryson City 28713	828-488-2382	10/4/04	10/28/04	June 30 Gov't.	9.1M	HB	None	
Fort Dobbs Alliance	Iredell	\$25,000	Improvements & programming and for archaeological report	C. Chandler Bryan, Chair	PO Box 241	Statesville 28687	704-873-5866	12/8/04	1/13/05	Dec. 31	9.1M	HM	6/30/05	
Friends of Old Martin Co. Courthouse	Martin	\$6,000	Capital repairs	Elizabeth Brandon	304 Vance St.	Williamston 27892	252-792-3562	10/27/04	11/23/04	Oct. 31	9.1M	HB	None	
Graveyard of the Atlantic Museum	Dare	\$400,000	Gen. support	Joseph Schwarzer, Director	P O Box 191	Hatteras 27943	252-986-2995	9/10/04	10/8/04-1 st check	Dec. 31	9.1M	S	9/30/05 ; 9/30/06	

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Greater Shelby Comm. Theater	Cleveland	\$5,000	Renovate Historic Rogers Theater	Joseph Hurdt	PO Box 1754	Shelby 28151	704-480-8495	9/15/04	11/23/04	June 30	9.1M	HM	None	
Greene Co. Arts & Historical Society	Greene	\$10,000	Repair & renovate Elaney Wood House	Mary Betty Kearney	PO Box 266	Snow Hill 28560	252-747-2650 (cell)	10/11/04	10/28/04	Dec. 31	9.1M	HM	None	
Greensboro Symphony Society	Guilford	\$25,000	Student education concerts	Lisa Crawford	200 N. Davie St. Suite 328	Greensboro 27401	336-335-5456, x222	10/4/04	10/28/04	May 31	9.1M	HB	11/30/05	
Hawkeye Indian Cultural Center	Robeson	\$10,000	Cultural programming and infrastructure development	Gwen Locklear	PO Box 99	Shannon 28386	910-843-9484	2/10/05	3/18/05	June 30	925K	HB	No	
Haywood Co. Arts Council	Haywood	\$1,000	Gen. Op. support	Kay Waldrop	PO Box 306	Waynesville 28786	828-452-0593	10/4/04	12/22/04	Dec. 31	9.1M	HB	None	
Haywood Co. Library	Haywood	\$1,500	Gen. Op. support	Jennifer Pratt	678 S. Haywood Street	Waynesville 28786	828-452-5169	10/4/04	10/28/04	June 30 Gov't.	9.1M	HB	None	
Henderson County Genealogical & Historical Society	Henderson	\$25,000	Preserve, index, & catalogue historic documents	Dr. George A. Jones	400 N. Main St.	Hendersonville 28792	828-693-1531	9/15/04	9/29/04	Dec. 31	9.1M	HM	6/30/05	3/14/05
Historic Bath Foundation (Bath Tricentennial)	Beaufort	\$150,000	Tricentennial commemoration	Wayland Sermons, Pres.	Historic Bath Commission PO Box 148	Bath 27808	252-946-0871	9/10/04	10/8/04 – 1 st check	Dec. 31	9.1M	S	6/30/05; 6/30/06	
Historic Halifax Restoration Assn.	Halifax	\$10,000	Old Jail site restoration	Doris Wilson, Secretary	PO Box 407	Halifax 27839	252-583-7191	9/20/04	9/29/04	Dec. 31	9.1M	HB	None	
Historic Hamilton Commission	Martin	\$6,000	Reprint arch. Book	Irene Nelson	PO Box 219	Hamilton 27840	252-798-4481	10/27/04	11/23/04	Dec. 31	9.1M	HB	None	
Hooper House Preservation Fdn.	Jackson	\$1,000	Gen. Op. support	Julie Spiro	773 Main Street	Sylva 28779	828-586-2155	10/4/04	12/15/04	June 30	9.1M	HB	None	
Jackson Co. Arts Council	Jackson	\$1,500	Gen. Op. support	Perry Kelly	PO Box 755	Cullowhee 28723	828-293-5458	10/4/04	10/28/04	June 30	9.1M	HB	None	3/23/05
Jackson Co. Historical Assn.	Jackson	\$1,000	Gen. Op. support	Joe Rhinehart	PO Box 356	Webster 28788	828-586-0921	10/11/04			9.1M	HB	None	
Jackson Co. Library	Jackson	\$2,500	Gen. Op. support	Michael Cartwright	755 W. Main St.	Sylva 28779	828-586-2016	10/4/04	10/28/04	June 30 Gov't.	9.1M	HB	None	

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KidSenses	Rutherford	\$35,000	Gen. Op. support	Steve Saucier	PO Box 150	Rutherfordon 28139	828-286-2120	10/15/04	11/23/04	June 30	9.1M	HB	12/30/05	
Lakeland Cultural Arts	Halifax	\$25,000	Gen. Op. support	Wally Hurst	PO Box 130	Littleton 27850	252-586-3124	9/21/04	9/29/04	Dec. 31	9.1M	HB	6/30/05	
Levine Museum of the New South	Mecklenberg	\$50,000	Operation of arts programs	Sally Robinson	8229 Bonwood Drive	Charlotte 28211	704-364-6828	12/10/04	1/13/05	June 30	9.1M	HB	12/30/05	
Lincoln County Museum	Lincoln	\$100,000	Renovate jail for museum	Leon Harmon	115 West Main St.	Lincolnton 28092	704-736-8634	9/15/04	10/5/04	June 30 Gov't.	9.1M	HM	12/30/05	
Lumbee Nation Tribal Programs Inc.	Robeson	\$30,000	Hist. & genealogical research	Jimmy Goins, Tribal Chair	PO Box 2709	Pembroke 28372	910-522-1998	9/20/04	10/20/04	Sep. 30	9.1M	HB	3/30/06	
Macon Co. Arts Council	Macon	\$1,000	Gen. Op. support	Bobbie Contino	PO Box 726	Franklin 28744	828-524-7683	10/4/04	10/28/04	June 30	9.1M	HB	None	
Macon Co. Library	Macon	\$1,500	Gen. Op. support	Karen Wallace	108 Wayah Street	Franklin 28734	828-524-3600	10/4/04	10/28/04	June 30 Gov't.	9.1M	HB	None	
Marianna Black Library	Swain	\$2,500	Gen. Op. support	Gail Findlay	33 Frymond Road	Bryson City 28713	828-488-2382	10/4/04	10/28/04	June 30 Gov't.	9.1M	HB	None	
Marine Corps Museum of the Carolinas, Inc.	Onslow	\$1,500,000	Planning Funds for Museum	Sgt. Joe Houle, Director	PO Box 1046	Jacksonville 28541	910-545-9995 (cell); 910-937-0033	9/10/04	9/29/04 – 1 st check	Dec. 31	9.1M	S	9/30/05; 9/30/06	
MLK Culture Center (Fayetteville-Cumb. Co. Dr. MLK Com.)	Cumberland	\$200,000	Renovate bldg. For MLK Center	Lula Crenshaw, Chairman	PO Box 111	Fayetteville 28302	910-488-5549	9/20/04	10/20/04 – 1 st check	June 30	9.1M	HB	12/30/05 12/30/06	
Murphy Public Library	Cherokee	\$10,000	Equip. and books for genealogy room	Jeffrey Murphy	9 Blumenthal St.	Murphy 28906	828-837-2417	10/11/04	10/28/04	June 30 Gov't.	9.1M	HM	None	
Museum of the Cherokee Indian	Jackson	\$5,000	Gen. Op. support	Kenny Blankenship	Highway 441 North, Drama Road	Cherokee 28719	828-497-3481	10/4/04	11/8/04	Dec. 31	9.1M	HB	None	
NC Dance Theater	Mecklenberg	\$50,000	Gen. Op. Support	LaRue Allen	800 N. College St.	Charlotte 28206	704-372-0101, x100	11/24/04	12/15/04	June 30	9.1M	HB	12/31/05	
NC Museum of Art Foundation	Wake	\$200,000	Museum expansion and enhancement	Joyce Fitzpatrick, Chair	234 Fayetteville Street Mall, Suite 600	Raleigh 27601	247-4400 (cell)	12/23/04	2/8/05	June 30	9.1M	HB		
NC Museum of History Associates (Mtn. Gateway)	McDowell	\$15,000	Museum signage, stonework, out-building	Dorothea Bittler	PO Box 25937	Raleigh 27611	919-807-7855	10/26/04	11/15/04	June 30	9.1M	HM	12/30/05	

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NC Museum of History Associates (Black History programming)	Wake	\$10,000	African American Day and Black History Month educational programming	Dorothea Bitler	PO Box 25937	Raleigh 27611	919-807-7855	12/15/04	12/22/04	June 30	9.1M	HB	12/30/05	
NC Symphony Society	Wake	\$200,000	Gen. Op. support	David Worters, President	2 East South Street	Raleigh 27601	919-733-2750, x223	9/20/04	9/29/04 – 1 st check	June 30	9.1M	HB	12/30/05 12/30/06	
NC Transportation Museum Foundation	Rowan	\$25,000	Track repairs and passenger coach restoration	Chuck Hotchkiss	PO Box 69	Spencer 28159	704-636-2889, x231	11/24/04	12/15/04	June 30	9.1M	HB	12/30/05	
NC Veterans Memorial, Inc.	Lee	\$10,000	Construct Memorial Wall at NC Veterans' Memorial in Broadway	Dr. Eldon F. Sloan, Jr.	PO Box 700	Broadway 27505	919-258-6083	1/31/05			9.1M	HM	None	
Norlina Public Library	Warren	\$5,000	Operating expenses	Rupert Jenkins	PO Box 684	Norlina 27563	252-456-9804	11/15/04	2/8/05	Dec. 31 Gov't.	9.1M	HB	None	
Old Salem, Inc.	Forsyth	\$1,000,000	Gen. support	Paul Reber	Post Office Box F, Salem Station	Winston-Salem 27104	336-721-7327	9/10/04	9/29/04 – 1 st check	Feb. 28	9.1M	S	8/28/05 ; 8/28/06	
Pasquotank Arts Council	Pasquotank	\$500,000	Renovate bldg. for cult. arts. center	Lisa Winslow	PO Box 11	Elizabeth City 27907	252-338-6997	9/20/04	10/8/04 – 1 st check	June 30	9.1M	HB	3/30/06	
Penland School of Crafts	Mitchell	\$400,000	Campus repairs, renovations and restoration	Jean McLaughlin	PO Box 37	Penland 28765	828-765-2359	9/10/04	9/29/04 – 1 st check	Apr. 30	9.1M	S	1/30/06 ; 10/30/06	
Pinehurst Historic Preservation Fdn.	Moore	\$5,000	Estab. Village Arboretum in Rassie Wicker Park	Bill Smith, President	PO Box 398	Pinehurst 28370	910-692-8765	12/8/04	12/22/04	Dec. 31	9.1M	HM	None	
QAR (NC Maritime History Council)	Pitt	\$100,000	QAR artifact program at ECU	Paul Fontenoy	315 Front Street	Beaufort 28516	252-728-7317	10/12/04	11/15/04	June 30	9.1M	HB	12/30/05	
Raeford-Hoke Museum	Hoke	\$20,000	Op. support & improve.	Joyce Monroe	PO Box 1383	Raeford 28376	910-875-2279	9/10/04	9/29/04	Dec. 31	180K	S	6/30/05	

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Railroad House Historical Assn.	Lee	\$25,000	Restore Endor Iron Furnace	Paul Barringer	PO Box 1023	Sanford 27331	919-776-7479	9/15/04	10/8/04	Dec. 31	9.1M	HM	6/30/05 ; 6/30/06	4/13/05
Red Springs Hist. Commission	Robeson	\$10,000	Museum ops & improve.	Dr. Charles Johnson, Chairman	Post Office Box 232	Red Springs 28377	910-843-4952	9/10/04	9/29/04	June 30	925K	S	None	
Robersonville Library (BHM Reg.)	Martin	\$6,000	Enhance learning center	Madge Partin	119 S. Main St.	Robersonville 27871	252-946-6401	10/27/04	11/23/04	June 30	9.1M	HB	None	
Robeson African American Cultural Center	Robeson	\$25,000	Center renovations	John D. Jones	1731 Highway 41 South	Lumberton 28358	910-739-3715	12/23/04	2/8/05	Dec. 31	9.1M	HB	6/30/06	
Rutherford 225 th Anniversary (County)	Rutherford	\$50,000	225 th anniversary commemoration	Robert Bole, Finance Dir.	Rutherford County, 289 N. Main Street	Rutherfordton 28139	828-287-6087	9/10/04	9/29/04	June 30 Gov't.	9.1M	S	12/30/05	
Sandhills Little Theatre	Moore	\$5,000	Op. support	Sandra Epperson, Director	107 N. Poplar St.	Aberdeen 28315	910-944-7853	12/8/04	1/13/05	June 30	9.1M	HM	None	
SciWorks	Forsyth	\$50,000	Gen. support	Dr. Beverly Sanford	400 W. Hanes Mill Road	Winston-Salem 27105	336-767-6730	9/10/04	9/29/04	June 30	180K	S	12/30/05	
Scotland Co. Historical Properties	Scotland	\$5,000	John Blue project restoration	John Stewart	16100 Fieldcrest Road	Laurinburg 28352	910-276-7238	11/24/04	12/15/04	June 30 Gov't.	9.1M	HB	None	
Sit-In Movement, Inc. (Int'l. Civil Rights Museum)	Guilford	\$1,500,000	Museum construction	Melvin Alston, President	301 N. Elm Street, Suite 303	Greensboro 27401	336-274-9199 –Amelia Parker	9/10/04	9/29/04 – 1 st check	Dec. 31	9.1M	S	9/30/05 ; 9/30/06	
Smoky Mountain Community Theatre	Swain	\$1,000	Gen. Operating support	Theresa Maynard	PO Box 1366	Bryson City 28713	828-488-8227	10/11/04	11/23/04	Dec. 31	9.1M	HB	None	
South Rowan Historical Society	Rowan	\$25,000	Classroom at Roller Mill for ed. activities	Barbara Doby, Pres.	805 N. Main Street	China Grove 28023	704-855-8329	10/11/04	11/8/04	Dec. 31	9.1M	HM	6/30/05	
Southern Appalachian Historical Assn. (Horn in the West)	Watauga	\$20,000	Op. support for Horn in the West	Tom Turner	PO Box 295	Boone 28607	828-264-2120 (w); 828-264-3022 (h)	9/15/04	9/29/04	Sep. 30	9.1M	HM	3/30/05	
St. Joseph's Historic Foundation	Durham	\$5,000	Youth Arts Education Programming	Dianne Pledger	804 Old Fayetteville Road	Durham 27701	919-683-1709	12/10/04	12/22/04	June 30	9.1M	HB	None	
Swain Co. Center for the Arts (Swain Co Public Schools)	Swain	\$1,500	Gen. Op. support	Eugenia Johnson	1415 Fontana Road	Bryson City 28713	828-488-7843	10/4/04	10/28/04	June 30	9.1M	HB	None	3/23/05

Recipient Org.	County	Amount Awarded	Purpose	Contact Person	Address	City/zip	Phone	Date letter sent	Date check (or 1 st pay.) sent	FY ending date	Fund	Via	1 st report due	1 st report rec'd.
Triad Stage	Guilford	\$50,000	Gen. Op. support	Richard Whittington	232 South Elm Street	Greensboro 27401	336-274-0067, x213	9/15/04	9/29/04	Aug. 31	180K	S	2/28/06	
Troutman, Town of	Iredell	\$15,000	Build public library	Donald E. Duncan, Jr.	PO Box 26	Troutman 28166	704-528-7600	10/26/04	11/23/04	June 30 Gov't.	9.1M	HM	None	
Trustees of the Schiele Museum, Inc.	Gaston	\$250,000	Cap. Improve. & ed. Program.	Randy Vinson, VP	1500 East Garrison Boulevard	Gastonia 28054	704-866-6903	9/10/04	9/29/04 – 1 st check	Dec. 31	925K	S	6/30/05 ; 6/30/06	
Turnage Theaters Foundation	Beaufort	\$400,000; +\$100,000	Thtr. renovation & restoration	Jerry Smyre, President	Main Street, PO Box 276	Washington 27889	252-975-3495	9/10/04; 9/21/04	10/8/04 – 1 st check	Dec. 31	9.1M 9.1M	S HB	9/30/05 ; 9/30/06	
United Arts Council of Gaston County	Gaston	\$15,000	Pops in the Park Concert	Van Noblett	PO Box 242	Gastonia 28053	704-853-2787	9/15/04	9/29/04	June 30	9.1M	HM	12/30/05	
Valleytown Cult. Arts & Historical Society	Cherokee	\$10,000	Renovations	Dedra Davis	PO Box 399	Andrews 28901	828-321-4414 (w)	10/11/04	11/8/04	Dec. 31	9.1M	HM	None	
Village Conservancy (Cashiers Historical Society)	Jackson	\$1,000	Gen. Op. support	Ed Henson, Secretary	PO Box 184	Cashiers 28717	828-743-2453	10/4/04	12/22/04	Mar. 31	9.1M	HB	None	
Vineland Station, Inc. (Whiteville Depot)	Columbus	\$100,000	Depot restoration	Les High	PO Box 707	Whiteville 28472	910-642-4104, x223	9/10/04	9/29/04	Dec. 31	925K	S	6/30/05	
Wadesboro Rotary Club Charitable Foundation	Anson	\$12,000	Sandhills Planetarium Project	Henry Morton	PO Box 110	Wadesboro 28170	704-694-3363 (Don A.)	12/8/04	1/13/05	June 30	9.1M	HB	None	
Watauga Co. Arts Council	Watauga	\$10,000	Blue Ridge Artspace project	Cherry Johnson	PO Box 366 DTS	Boone 28607	828-264-1789	10/25/04	11/15/04	June 30	9.1M	HB	None	
Weymouth Center (Paul Green Fdn.)	Moore	\$5,000	Bust of Sam Regan	Marsha Warren	PO Box 939	Southern Pines 28388	919-968-1655	10/11/04	11/23/04	June 30	9.1M	HM	None	
Wilmington Children's Museum	New Hanover	\$25,000	Operating support	Meban Boyd, Exec. Dir.	1020 Market Street	Wilmington 28401	910-254-3534	1/25/05			9.1M	HM		
YMI Cultural Center	Buncombe	\$50,000	Gen. Op. support	Rita DelCarmen Martin	39 South Market Street	Asheville 28801	828-252-4614	9/21/04	10/20/04	June 30	9.1M	HB	12/30/05	

Name	Contact	Telephone No.	Address	City	State	Zip Code	Amount		Purpose	Award Letter	Paid
Human Resources Grants											
Speaker Morgan											
Affordable Housing Coalition of Asheville and Buncombe County, Inc	Sarah Uminski, Executive Director	828-259-9216	34 Wall Street, Suite 607	Asheville	NC	28801	\$10,000		Operating support for Interlace, which is an 18-month transitional housing program for women and children who are homeless due to domestic violence	2-Dec	22-Dec
Blue Ridge Community Health Services	John Snow, Executive Director	828-696-8264	P. O. Box 5151	Hendersonville	NC	28793	\$14,000		To purchase medical equipment for the facility	24-Jan	24-Feb
Cabarrus Community Health	David Miller, Executive Director	704-721-2075	270 Copperfield Blvd	Concord	NC	28025	\$50,000		To purchase medical equipment for the facility	24-Jan	4-Mar
Carousel Center	Dianna Wooley, Executive Director	910-254-9898	2805 Market Street	Wilmington	NC	28403-1219	\$45,000		Operating support for the clinic and for education on and prevention of child abuse and neglect	28-Sep	2-Nov
FirstHealth Dental Care Center	Dr. Sharon Nicholson Harrell, Director	910-692-5111	105 Perry Drive	Southern Pines	NC	28387	\$177,300		To expand the Southern Pines dental facility and provide dental and other equipment	28-Dec	17-Feb
FirstHealth of the Carolinas (Moore county) *TRF to Aging Budget	Lisa Hartsock, Administrative Director for Ch	910-215-1992	P. O. Box 3000	Pinehurst	NC	28374	\$500,000			26-Jan	TRF AAS
Gaston Family Health Services	Robert Spencer, Executive Director	704-853-5261	991 West Hudson Blvd	Gastonia	NC	28052-6430	\$35,000		To purchase medical equipment for the facility	24-Jan	14-Feb
Greene County Health Care	Doug Smith, Executive Director	252-747-8162	P.O. Box 658	Snow Hill	NC	28580	\$35,000		To purchase medical equipment for the facility	24-Jan	8-Feb
Hope Pregnancy Care Center	Linda Carmichael, Executive Director David R. Coburn, Board Chairman'	336-978-3328	P. O. Box 604	King	NC	27021	\$82,000		Acquire a facility in which the center will operate	15-Oct	10-Nov
Kinston Community Health Center	Anthony Mullen, Executive Director	252-522-9800	P. O. Box 2278	Kinston	NC	28502	\$30,000		To purchase medical equipment for the facility	24-Jan	8-Feb

Name	Contact	Telephone No.	Address	City	State	Zip Code	Amount		Purpose	Award Letter	Paid
Lee County Health Department	R. Michael Hanes, Director	919-718-4640	P. O. Box 1528	Sanford	NC	27331	\$20,000		For outreach efforts by the Lee County Primary Care Clinic to identify and serve the working men and women in Lee County who are substantially uninsured.	16-Feb	2-May
Metropolitan Community Health Services	Lynn E Bolden, General Manager	252-948-0710	P. O. Box 1886	Washington	NC	27889	\$35,000		To purchase medical equipment for the facility	26-Jan	24-Feb
New Hanover Community Health Center*	Alfred Thomas, Executive Director		925 North Fourth Street	Wilmington	NC	28404	\$0			24-Jan	
Wake Health Services	Penny Washington, Executive Director	919-250-2920	2620 New Bern Avenue	Raleigh	NC	27610	\$35,000		To purchase medical equipment for the facility	24-Jan	17-Feb
Western Medical Group	Shannon Brown, Executive Director	910-893-5402	Drawer B, Highway 421	Mamers	NC	27552	\$16,000		To purchase medical equipment for the facility	24-Jan	8-Feb
Wilmington Health Access for Teens	Dr. Jorge Figueroa, Deputy Director	910-790-9949	4005 Oleander Drive	Wilmington	NC	28403	\$35,000		For operating support for the center.	16-Feb	2-Mar
* Rescinded by Speaker Morgan January 31, 2005 grant to Wilmington Health Access for Teens is replacement.											
						1,500,000	\$1,119,300	\$380,700			
Speaker Black											
ACTS of Vance County	Anthony Young Melvin Green Ex. Dir.	252-492-8231	912 Hargrove Street	Henderson	NC	27536	\$5,000		For operational expense to address hunger, homelessness and domestic violence	16-Nov	15-Dec
Allegro Foundation	Pat Farmer, Founder/Executive Director	704-412-5229	6600 Kirkstall Ct.	Charlotte	NC	28226	\$10,000		To support of Allegro Foundation's programs that serve children with disabilities in Mecklenburg County	9-Dec	11-Jan
Anita Stroud Foundation	Geraldine Powe, Executive Director	704-394-8868	PO Box 16490	Charlotte	NC	28297-6490	\$25,000		Operating Expense	28-Sep	5-Jan

Name	Contact	Telephone No.	Address	City	State	Zip Code	Amount		Purpose	Award Letter	Paid
Black Child Development Institute of Greensboro, Inc	June Swanston-Valdes, Executive Director	336-230-2138	1200 East Market St	Greensboro	NC	27401	\$5,000		Operating Expense to the organization dedicated to improving and protecting the quality of life of children, youth and families in the greater Greensboro community and to champion for causes of children by providing numerous services.	13-Dec	28-Dec
Black Creek Family Enrichment Center	Lynn Medeiros, Director	252-291-0045	P.O.Box 488	Black Creek	NC	27813	\$10,000		To provide picnic area and storage area for the Center. The Center will be able to serve more senior citizens with this facility.	8-Oct	4-Nov
Bladen County Health Department	Myra Johnson, Health Director	910-862-6900	P. O. Box 189	Elizabethtown	NC	28337	\$100,000		For Health Fairs and Screenings for Cholesterol, Triglycerides, Blood Pressure, PSA and other health problems.	8-Oct	17-Dec
Carl Chavis Memorial Branch YMCA	Carlvena Foster, Branch Director	336-434-4072	2757 Granville St.	High Point	NC	27263	\$12,000		For operating expense to help build strong kids, strong families and communities.	2-Dec	22-Dec
Children's Home Society of NC	Ken Tutterow, President	336-274-1538	PO Box 14608	Greensboro	NC	27415	\$50,000		Operating requirements		16-Dec
Communities in Schools	Linda Harrill, President	919-832-2700	222 N Person Street	Raleigh	NC	27601	\$75,000		Operating requirements	28-Sep	18-Oct
Council for Durham Senior Citizens	Nancy Love, Executive Director	919-688-8247	807 South Duke Street	Durham	NC	27701	\$10,000		Operating expense	16-Nov	11-Jan

Name	Contact	Telephone No.	Address	City	State	Zip Code	Amount		Purpose	Award Letter	Paid
Cumberland County Education Foundation for Communities in Schools	Cindy Kowal, Executive Director	910-221-8800	P. O. Box 2882	Fayetteville	NC	28302	\$10,000		\$5,000: Communities In Schools (CIS) – Will provided funds to continue to expand this program serving at-risk 6 th graders with tutoring, mentoring, and social services. By providing role models, enrichment activities and academic support, students are more likely to stay in school and promote to the next grade level. In NC, 91% of CIS students stay in school and 94% promote to the next grade level. In our first 3 months, CIS of Cumberland County has offered a “jump start” day camp during the summer, taken students to the theatre, provided counseling, social service referrals, and tutoring. An E-mentoring program with IBM begins in November 2004.	2-Dec	2-Feb
Dunbar Community Development Center	Forrest Pittman, Jr., President	252-446-6098	Route 2, Box 80	Battleboro	NC	27809	\$70,000		To construct new kitchen facility to serve more meals to senior citizens in Dunbar area of Edgecombe County.	8-Oct	4-Nov
Durham Literacy Center	Lucy Haagen, Executive Director	919-489-8383	1410 W. Chapel Hill Street	Durham	NC	27701	\$5,000		Operating expense	9-Dec	4-Jan
Durham Nativity School	Troy K. Weaver,	919-680-3790	1608 Liberty Street	Durham	NC	27701	\$10,000		For after school programs, basic office and school supplies as well as equipment	16-Nov	*
Durham Rescue Mission	Ernie Mills	919-688-9641	P. O. Box 11858	Durham	NC	27703	\$10,000		Operating expense	16-Nov	*

Name	Contact	Telephone No.	Address	City	State	Zip Code	Amount		Purpose	Award Letter	Paid
Edgecombe Family Dental Clinic	Lorenzo Carmen, County Manager	252-641-7834	201 St Andrew Street, P. O. Box 10	Tarboro	NC	27886	\$20,000		For new dental equipment to serve indigent children in Edgecombe County.	8-Oct	22-Dec
Florence Crittenton Services	Marilyn Thompson, CEO	704-372-4663	PO Box 36392	Charlotte	NC	28236	\$50,000		Operating requirements	28-Sep	20-Oct
Friends of Residents in Long Term Care	June Brotherton, Executive Director William E Lamb, Board Chair	919-834-4280	883-C Washington Street	Raleigh	NC	27605	\$20,000		Operating expense	2-Dec	8-Feb
Greensboro Lifeskills Center	Shirley Foster, Executive Director	336-574-0079	3009 S. Elm-Eugene St	Greensboro	NC	27406	\$8,000		For operating expense to support the well-being of all children who walk through the door and to complete the mission of the organization which is to develop productive and emotionally stable boys and girls for the betterment of our society.	2-Dec	26-Jan
Happy Times Club, Inc. (Senior Center)	Iris Devore, Board Chairman	704-847-9912	3221 Chipwood Lane	Mathews	NC	28105	\$50,000		Operating requirements	28-Sep	6-Dec
Hope Haven	Alice Harrison, Executive Director	704-372-8809	2815 North Tryon Street	Charlotte	NC	28206	\$50,000		Operating requirements	28-Sep	13-Oct
Hunger Coalition, Inc	Compton Fortuna, Executive Director	828-262-1628	417 Meadowview Drive	Boone	NC	28607	\$20,000		To provide assistance for the Food Pantry and Free Pharmacy.	25-Oct	1-Dec
New Hanover Community Health Center	Alfred Thomas, Executive Director	910-254-4690	925 4th Street	Wilmington	NC	28401	\$50,000		Operating Expense	Feb 10 R	17-Feb
New Zion Missionary Baptist Church	Donald N. Brown, Pastor	704-394-7722	619 Ledbetter Road	Spindale	NC	28160	\$25,000		For the Soup Kitchen is to provide a balanced hot meal to the homeless, shut in and elderly in our community	15-Oct	1-Dec
Project Reach, Inc.	Naomie Miller	910-655-4111	7916 Old State Road	Rieglewood	NC	28756	\$35,000		Operating Expense	7-Feb	7-Apr

Name	Contact	Telephone No.	Address	City	State	Zip Code	Amount		Purpose	Award Letter	Paid
Sampson Regional Medical Center Foundation	Brenda S. Warren, Executive Director	910-596-4269	P. O. Box 260	Clinton	NC	28326	\$25,000		Purpose: Human Resources Grant to Sampson Regional Medical Center Foundation, Inc Funds for a new Center For Health and Wellness in Clinton, NC. The purpose of the center will be to provide a place for the entire community to focus on not only shaping their bodies, but also their minds and spirits. Sampson Regional Medical Center wishes to take this proactive approach to the health and wellness of our county and surrounding communities. This is vital to the healthcare of our citizens due to:	15-Oct	7-Dec
									The facility will contain the following areas:		
									(1)The average life expectancy of Sampson County citizens is 4.5 years less than the national average.		
									(2)We exceed the national average for heart disease, stroke and some forms of cancer.		
									Construction is underway for the 28,000 square foot facility which will be the only such facility of its kind in Sampson County. It is a \$4.5 million capital project, of which contributions and pledges have been received through the SRMC Foundation for \$3,025,000.00 for up to five years.		
									· Six-lane 25-yard indoor swimming pool · Indoor walking track		

Name	Contact	Telephone No.	Address	City	State	Zip Code	Amount		Purpose	Award Letter	Paid
									· Cardiovascular and Strength Equipment areas		
									· Racquetball Court		
									· Basketball/ Volleyball Court		
									· Aerobics and Spinning Rooms		
									· Massage Therapy		
									· Locker rooms with Steam		
									· Child Care Area		
									· Community Health Education Center, including a medical library and community meeting room		
									· Working kitchen for cooking classes		
									Emphasis will also include a coordination of services to address the child obesity issue with our schools. A youth swim team will also be formed, since this will be the first indoor pool in Sampson County.		
									Construction will be completed by January 1, 2005 for operating requirements.		
									\$5,000: The remainder of the funds will be designated for a program called Excellence in Schools that provides support and enrichment activities to the ten lowest income schools in the county. (poverty rates of 84% and up as determined by those on free and reduced lunch). These schools often don't have PTAs or financial partners. This grant program, now in its second year, provides principals with additional resources for their students including books, support for parent homework nights, field trips, software, assemblies, etc. for operating expense.		
Scarborough Nursery	Myra Scott Wanda Davis, Director	919-682-5037	309 N. Queen Street	Durham	NC	27702	\$10,000		Operating expense	16-Nov	10-Mar

Name	Contact	Telephone No.	Address	City	State	Zip Code	Amount		Purpose	Award Letter	Paid
The Children's Law Center	William E. Underwood, Jr.	704-331-9474	601 East 5th Street Suite 480	Charlotte	NC	28202	\$10,000		To develop the model for more effective practices that improve quality of statewide representation.	9-Dec	*
Thompson Children's Home	Virginia Amedum, President	704-536-0375	6800 St. Peter's Lane	Matthews	NC	28105	\$50,000		Operating requirements	28-Sep	1-Dec
Weldon Halifax Community Center, Inc	Doek Brown Joseph P. Cotton, Board Chairman	252-536-4661	314 Meadow Lane	Weldon	NC	27890	\$10,000		To complete inside facility for after school youth programs and other youth development programs for before school.	20-Oct	1-Dec
Women in Action for the Prevention of Violence and its Causes	Grace Marsh, Executive Director	919-682-1431	112 North Queet Street	Durham	NC	27701	\$10,000		For assistance in providing information, referrals, advocacy and strategic counseling for people in crisis situations. Limited food and emergency assistance through participation in the Emergency Energy Fund and with the support of local congregations.	16-Nov	15-Dec
						900,000	\$850,000	\$50,000			
				Total HR Grants		2,400,000	\$1,969,300	\$430,700			
* To Date Documentation for payment has not been received or is incomplete.											
*S Date Submitted for payment											
			Funds Transferred to Division of Aging/Adult Svcs			(500,000)	(500,000)				
						1,900,000	1,469,300				
			Payments Pending Submission of Grantee								

Name	Contact	Telephone No.	Address	City	State	Zip Code	Amount		Purpose	Award Letter	Paid
			The Children's Law Center				(10,000)				
			Durham Rescue Mission				(10,000)				
			Durham Nativity School				(10,000)				
			Subtotal Pending Submissions				(30,000)				
			Expenditures				\$1,439,300				
			Unexpended Balance				\$460,700				

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Chronology for the Community Development Specialist Position Occupied by Michael Decker Sr.

On December 22, 2004, the Personnel Office of the Department of Cultural Resources (“DCR”) received a State Application for Employment from Michael Decker Sr. for a posted position, Information and Communication Specialist II, to be located in Goldsboro, NC.

In early to mid-January, Donna Rosefield, Legislative Liaison for DHR, received a call from Rita Harris, Budget Assistant to Speaker Black. Rita discussed with Donna the possibility of directing discretionary funding in the amount of \$45,000 to DCR in order to fund promotional work by assisting local communities in business and economic development planning around historic sites, local resources and attractions. Donna Rosefield had previously spoken with Speaker Black’s office about DCR’s heritage tourism initiatives across the state.

Around mid January, 2005, Staci Meyer, Chief Deputy Secretary for DHR, received a call from Allen Rogers, Deputy Chief of Staff for Speaker Black. In that conversation, Allen Rogers suggested the possibility of funding a position to undertake this type of work on behalf of the Department and recommended Michael Decker, Sr. for the position. Staci Meyer informed Allen Rogers that (1) any position would be time limited in its creation; (2) DCR would require any funded position to be posted; and (3) Michael Decker would have to apply, be qualified, and be interviewed as a candidate for the position.

On January 21, 2005, Staci Meyer and Donna Rosefield received an email from Allen Rogers with a draft job description, draft vacancy announcement, and draft “estimated costs” for such a position, using 2 different salary figures. (See Attachment A) DCR had previously provided salary and benefit cost information to Speaker Black’s office. (See Attachment B)

Between January 21, 2005 and February 2, 2005, Allen Rogers spoke with Rick Stone, Human Resources Director for DCR, and suggested some changes to the proposed vacancy announcement. Those changes were incorporated into the announcement. On February 2, 2005, Staci Meyer sent an e-mail message to Allen Rogers attaching the proposed posting. The position was posted later that same day. (Attachment C)

On February 8, 2005, the Personnel Office of DCR received a State Application for Employment from Michael Decker Sr. for the position posted as Community Development Specialist I, located in Forsyth County. The Department is unable to determine how the application was received. The Community Development Specialist I position’s application period closed on February 10, 2005.

On February 10, 2005, interviews were scheduled for the Information and Communication Specialist position in Goldsboro. After an inquiry to Allen Rogers about Michael Decker’s continuing interest in the Goldsboro position, Allen replied via e-mail that Mr. Decker wished to interview for that job in order to keep his options open. He said, “Mr. Decker indicated that he was in a strong job search and did not want to miss any possibility of employment. I respect his position on this.” Rogers

also requested a final copy of the job description prepared for the Community Development Specialist I. (See Attachment D)

John Beaver, DCR Western Office Manager, was designated as the supervisor for the Community Development Specialist I position. On February 14, 2005, Mr. Beaver conducted two interviews for the position in Old Fort. At approximately 3:00 pm, he interviewed one candidate, and then at approximately 4:15 pm he interviewed Mr. Decker. On February 15, 2005, Beaver interviewed a third candidate by phone at approximately 10:00 am. Following the interviews, John Beaver selected Michael Decker as the most qualified candidate and made the determination to extend an offer of employment to Decker.

On February 16, 2005, a formal position offer letter was written to Mr. Decker. (Attachment E) Decker accepted the position and was placed into Position # 4802-0303-0002-150 as a 'work-against' (working against a vacant position), as no funds had been directed to the agency for the support of the position.

On February 18, 2005, the agency received formal notification from Speaker Black's office regarding a \$45,000 discretionary grant to pay for "promotional work in assisting local communities in business and economic development planning around historic sites, and local resources and attractions." (See Attachment F)

On Monday, February 21, 2005, Decker attend standard orientation for new employees in Raleigh.

On February 22, 2005, Donna Rosefield received a breakdown of likely expenses to be incurred by the agency in the performance of promotional work from Thom Rhodes, State Historic Sites Budget and Finance Director. The breakdown did not include any salary or benefits numbers, as those were previously calculated by Rick Stone in determining the cost of salary and benefits. (See Attachment F)

On February 23, 2005, Charline Sutton of DCR'S Budget Office prepared a "BD 606" to request transfer of the \$45,000 in discretionary grant funds from the grant line in DCR'S budget to the office of the Director of Archives and History. A grant file was set up by Donna Rosefield. The \$45,000 in discretionary money was treated as a grant from the discretionary fund, as identified in the email from Rita Harris dated February 18, 2005. (See Attachment G).

On February 25, 2005, Renne Vance, Chief Financial Officer for DCR, approved the "BD 606" and submitted it to the Office of State Budget for review and approval. (See Attachment H). Between March 3 and March 10, 2005, the BD 606 was transmitted between DCR and OSBM twice. This was because some of the expenditure codes had to be changed. By March 10, 2005 all coding was properly entered into the NCAS (North Carolina Accounting System) and consistent with the approved 606 budget form, the funds were transferred from the grant code line item to the Archives and History budget for expenses related to this position. Mr. Decker continues to work against the vacant established position described above. The position is time-limited and ends June 30, 2005.

The Department worked diligently with the Northwest Piedmont COG to negotiate a lease for office space for Mr. Decker. The terms of the lease could not be agreed upon and the Department has

ceased discussion with the COG. Currently, the Department is working to locate office space at another location within the agency.

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Donna Rosefield

Attachment A

From: Allen Rogers (Speaker Black's Office) [Allenr@ncleg.net]
Sent: Friday, January 21, 2005 4:37 PM
To: staci.meyer@ncmail.net; donna.rosefield@ncmail.net
Cc: Rita Harris (Speaker Black's Office); Meredith Swindell (Speaker Black's Office)
Subject: Job information discussed
Importance: High

Staci and Donna,

Attached are the documents we have discussed:

Draft job description -- Community Development Specialist I
Draft vacancy announcement for above position. Should be edited to include any specifics qualifications of the desired employee.
Draft of 'estimated costs' using two salary figures. We can resolve this next week and I am sure Rita can assist with this aspect.

We can work on this further today or on Monday.

Thanks for your help.

Allen

Allen Rogers
Office of Speaker Jim Black
919-733-5917
allenr@ncleg.net

4/26/2005

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STATE OF NORTH CAROLINA

OFFICE OF STATE PERSONNEL

DCR

DRAFT 1/21/2005 11:31 AM
POSITION DESCRIPTION FORM (PD-102R-92)

Approved Classification: _____

Effective Date: _____

Analyst: _____

(This Space for Personnel Dept. Use Only)

1. Present Classification Title of Position new position	7. Pres. 15-Digit Pos. No.	Prop. 15-Digit Pos. No.
2. Usual Working Title of Position Community Development Specialist	8. Department, University, Commission, or Agency Department of Cultural Resources	
3. Requested Classification of Position Community Development Specialist I	9. Institution & Division	
4. Name of Immediate Supervisor	10. Section and Unit	
5. Supervisor's Position Title & Position Number	11. Street Address, City and County	
6. Name of Employee To be selected	12. Location of Workplace, Bldg. And Room No.	

JOB DESCRIPTION MUST BE COPIED FRONT AND BACK

See specific instructions attached for completion of Section I through III.

CERTIFICATION: Signatures indicate agreement with all information provided, including designation of essential functions.

SUPERVISOR'S CERTIFICATION: I certify that (a) I am the Immediate Supervisor of this position, that (b) I have provided a complete and accurate description of responsibilities and duties and (c) I have verified (and reconciled as needed) its accuracy and completeness with the employee.

Signature _____

Title: _____

Date: _____

EMPLOYEE'S CERTIFICATION: I certify that I have reviewed this position description and that it is a complete and accurate description of my responsibilities and duties.

Signature _____

Title: _____

Date: _____

SECTION or DIVISION MANAGER'S CERTIFICATION: I certify that this position description, completed by the above named immediate supervisor, is complete and accurate.

Signature _____

Title: _____

Date: _____

PERSONNEL OFFICE CERTIFICATION: I certify that this is an authorized, official position description of the subject position.

Signature _____

Title: _____

Date: _____

I. GENERAL INFORMATION

A. Primary Purpose of Organizational Unit:

North Carolina Historic Sites, a group of 27 unique state historic sites, invites you to see our state as it was, to open doors to the past, which can enable one to better understand the world we live in. The organization works to improve and enhance the enjoyment of citizens and visitors of the historical elements of North Carolina. North Carolina's historic sites are located in virtually every geographic region of North Carolina. The presence of the historic sites enhances the cultural, educational, and economic development of the counties and municipalities across North Carolina.

B. Primary Purposes of Position:

The purpose of the position is to assist the manager in the educational aspects and community development functions of the Historic Sites, enabling the communities to benefit from economic growth and by utilizing the attraction, appeals and visitation of the sites to include developing economic plans and incentives of community business and services. Additionally, program initiative will be developed to include the use of educational facilities at local schools and community colleges to further enhance the educational offerings related to the historic sites. The employee will work with local education groups, school boards, boards of trustees, and senior groups on collaborative educational initiatives that will make the offering of the sites have the greatest appeal.

C. Work Schedule:

The position is full-time, 40-50 hours a week and includes significant travel, evening and weekend work. The position requires the use of a pager and sometime being on call after regular working hours. The employee must be available to meet with boards, commissions, educational groups, and historical interest groups on evenings and weekends.

D. Change in Responsibilities or Organizational Relationship

This is a new position, performing work that has not been fully developed due to the unavailability of trained and experienced staff.

II. DUTIES AND RESPONSIBILITIES AND POSITION CHARACTERISTICS

A. Description of Responsibilities and Duties:

Method Used (Check One)

Order of importance [
 Sequential Order]

% Note percentage of time for each function.

* Place an asterisk (*) next to each essential function.

(45%) The primary responsibility of this position is to assist in the coordination, development, and oversight of various initiatives to add community development/economic development components to the historic sites in North Carolina through establishing collaboration with the sites and with existing public and private partnerships to communities across the State.

Work of the employee in the position involves:

- ☐ Collaboration with local school systems;
- ☐ Collaboration with local community colleges;
- ☐ Interaction with various community senior citizens groups, organizations, and facilities;
- ☐ Involvement with charter schools, faith based organizations, home school organizations, and civic organizations to promote and to encourage support of the historic sites; and,
- ☐ Work with local civic organizations to encourage conferences, visits, and educational sessions by utilizing the historic sites facilities and/or community facilities that subsequently add economic income to the community.

(20%) The employee will work with state and local officials, the general public, the news media, local civic groups and community resources to publicize the availability of statewide historic sites as a vehicle attract development, jobs, and new spending to local economies. The employee will speak to economic development boards, groups in local governments, both public and private; to communicate business plans for promotion of a

method of bringing new initiatives to the communities. Work may require initiating linkages with private and public partnerships, and helping to create models for this kind of community development program.

(25%) Work involves providing consultation and promotional work in assisting local communities in business and economic development planning around historic sites and local resources and attractions – to combine the presence of federal, state, and local attractions into economic development programs. These initiatives will include historic sites, local historic sites, business attractions such as new industries that attract visitors and create interest of residents (examples may include: wineries, agricultural displays/farmers markets, furniture industry/sales, state recreational facilities, parks, military installations/demonstrations, and natural resources and vacation opportunities.)

The employee will work with local, state and federal agencies of Commerce, Natural Resources, Parks, Wildlife, Federal parks, various military institutions, and local sites that attract groups and individuals to small communities in this state. The work requires independent initiatives, assertiveness in having dialogue and cooperation between different levels of industry, business and government.

(10%) The employee monitors the needs for the creation or the modification legislation to accomplish the objectives of this program for the Secretary of Cultural Resources that directly impacts the community development and economic development initiatives. The employee may be asked to draft legislation and amendments to General Statutes. While this is done independently, the Director will consult with the supervisors, senior management and legal and legal counsel before issues are discussed with members of the General Assembly.

- This position is also responsible for scheduling, making arrangements and coordinating several regional meetings around the state to disseminate information to historic sites, economic development and community development interests, and local and state leaders at the public-private partnership level on this program.
- This position is responsible for assisting in the development of marketing brochures and information that can be used in recruitment/advertising campaigns. Additionally, this position will be responsible for either providing necessary identified training, or acting as a resource to direct leaders from historic sites and economic development programs to current, available sources of training.
- In terms of searching for enhancements in economic growth and development the employee may assist historic sites staff and business leaders to examine and review proposals in land zoning in relation to business property, subdivisions, parks, and transportation. The employee reviews site plans for compliance with current county zoning and state guidelines; may assist the general public and developers with questions related to development requirements in a particular district and rezoning applications.

B. Other Position Characteristics:

1. Accuracy Required in Work:

Work has direct and indirect effect on every community of the State, local governments and economic development groups and to citizens of North Carolina. A high degree of accuracy is required to formulate program and planning initiatives. Long term planning for communities and related community development can be positively impacted by the initial work of this new initiative.

2. Consequence of Error:

Errors in judgment may severely impact the initiatives, the department, the historic sites, employees and citizens of the state.

3. Instructions Provided to Employees:

This position receives minimum instruction from the supervisors due to the expectation of initiative and independent work to be accomplished. The employee is expected to collaborate with the DCR leadership to plan and provide necessary information for policy input to accomplish short-term, and long-term programmatic and operational goals.

4. Guides, Regulations, Policies and References Used by Employees:

Employee uses N.C. General Statutes relating to the program, as well as budget management guidelines. Employee will assist supervisors in creating guidelines with the development of the economic development initiative.

5. Supervision Received by Employees:

The employee is supervised by the Secretary and line management conferences through personal discussions, staff meetings, on-site observations, quality of activities and feedback from internal and external customers and clients.

6. Varieties and Purpose of Personal Contacts:

This position will have a variety of daily contact with historic sites, state government and local agencies for the purpose of furthering the new program initiatives. The contact is to further the mission, encourage participation, and provide information on programs and activities.

7. Physical Effort:

This position does not require any significant physical effort beyond that which is required for a normal office environment. Employee must have the ability to travel set up and give presentations to groups, using different tools for presentations.

8. Work Environment and Conditions:

Majority of the work takes place in a typical office environment. Travel is an expectation. Work at Historic Sites can place the employee in environments that differ from office environments with exposure to temperature extremes, bugs, reptiles, rodents, and entertainment area environments.

9. Machine, Tools, Instruments, Equipment and Materials Used:

Uses word processors and printers, copiers, fax machines and the telephone are examples of major equipment used by this position.

10. Visual Attention, Mental Concentration and Manipulative Skills:

Word processors and printers, copiers, fax machines and the telephone are examples of major equipment used by this position. Ability to do planning and to develop complex proposals that require considerable interaction with public and private sector groups and individuals.

11. Safety for Others:

There is a low level of physical risk to the employee in this position. However, 'big picture planning' requires consideration for safety for large numbers as it relates to using historic sites.

12. Dynamics of Work:

The work environment is ever changing due to the dynamics of government and the work of the Department of Cultural Resources, Historic Sites and the very nature of community and economic development approaches in communities. The employee must be able to provide immediate response to and interpretation of new and/or revised policies and procedures, statutes and State, local and federal guidelines.

III. KNOWLEDGES, SKILLS & ABILITIES AND TRAINING & EXPERIENCES REQUIREMENTS:

A. Knowledges, Skills and Abilities:

Requires exceptional communication skills and ability to establish and maintain effective working relationships with governmental officials and the general public.

The person must be able to convey instructions accurately, synthesize information, weigh competing resource needs and make decisions relative to policies and procedures.

Requires general knowledge of the principles and methods of community organization and grassroots coalitions building and general knowledge and skills related to marketing techniques and practices.

Also necessary is a general knowledge of various economic and community development initiatives and principles available to local communities.

Knowledge of principles of economic development and the ability to work with local government officials and community development initiatives.

Skills, knowledge and abilities to work with diversity issues and multi-cultural communities.

Ability to organize and assist in the conduction of public meetings and to express ideas clearly and concisely in verbal and written form.

Ability to analyze situations and needs accurately and to adopt effective courses of actions.

Ability, skills, and knowledge to establish and maintain effective working relationships with interested organizations, agencies and individuals.

Ability to identify problems related to community and economic development and to establish, or to make recommendations for plans of action.

The person must be able to convey instructions accurately, synthesize information, weigh competing resource needs and make decisions relative to policies and procedures.

B. Training Requirements

1. Required Minimum Training:

Graduation from a four-year college or university with a degree in Economics, Business Administration, Public Administration or a related curriculum and three or more years of related and progressive experience in public policy, community development, economic development, or cultural resources programming; or, an equivalent combination of education or experience.

2. Additional Training/Experience:

Public policy experience highly preferred; knowledge required of state, local, state government relationships highly desirable. Proven experience in working effectively with groups with cooperation and with creating a team approach to problem solving.

3. Equivalent Training and Experience:

Substantial program management or public policy development experience would be considered for the nature of experience.

C. License of Certification Required by Statute or Regulations:

North Carolina drivers license required for travel to sites across the state.

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DRAFT Vacancy posting information:

1/21/2005 4:25 PM

Community Development Specialist I

New Position

70/\$31,451-\$51,044

Wake

(Time limited position through 06/30/2005)

Position Qualifications:	Graduation from a four-year college or university and three years of experience, preferably in a field related to community development, economic development, and/or public policy development.
Description of Work:	The employee will work intensively with to economic development boards, local government groups, both public and private, to promote new business and economic development initiatives. Work will require initiating linkages with private and public partnerships, and helping to create models for this kind of community development program that can be used in other communities. This is consultative and promotional work in assisting local communities in business and economic development planning around historic sites and local resources and attractions. The employee will facilitate the coordination with state and local officials; the general public, the news media, local civic groups and community resources to promote historic sites as a vehicle attract development and job to communities.
Knowledge, skills, and abilities:	Requires exceptional communication skills and ability to establish and maintain effective working relationships with governmental officials and the general public. The person must be able to convey instructions accurately, synthesize information, weigh competing resource needs and make decisions relative to policies and procedures. Requires general knowledge of the principles and methods of community organization and grassroots coalitions building and general knowledge and skill related to marketing techniques and practices. Requires a comprehensive general knowledge of economic and community development initiatives and principles available to local communities.

	<p>Knowledge of principles of economic development and the ability to work with local government officials and community development initiatives. Skills, knowledge and abilities to work with diversity issues and multi-cultural communities. Ability to organize and assist in the conduction of public meetings and to express ideas clearly and concisely in verbal and written form. Ability, skills, and k The employee will work intensively with to economic development boards, local government groups, both public and private, to promote new business and economic development initiatives.. Work will require initiating linkages with private and public partnerships, and helping to create models for this kind of community development program that can be used in other communities.</p> <p>nowledge to establish and maintain effective working relationships with interested organizations agencies and individuals. Ability to identify problems related to community and economic development and to establish, or to make recommendations for, plans of action. Ability to convey instructions accurately, synthesize information, weigh competing resource needs and make decisions relative to policies and procedures.</p>

**N.C. General Assembly
Requested Salary and Fringes Cost (Allen Rogers)
1/21/2005**

Annual Salary	Employer Cost Fringes				Cost	
	Social Security	Medicare	Retirement	Health Care	Annualized	Feb 1st thru Jun 30th
48,000	2,976	696	2,791	3,432	57,895	24,123
45,000	2,790	653	2,617	3,432	54,492	22,705
Travel Budget					1,500	625

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4,000	monthly salary
X 45	# of months
<hr/>	
18,000	total salary
	thru 30 June 05
1,377	Social Security
1,046	Retirement
1,287	SAP
<hr/>	
21,710	Total

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Attachment C

Staci Meyer

From: Staci Meyer [Staci.Meyer@ncmail.net]
Sent: Wednesday, February 02, 2005 10:24 AM
To: 'Allen Rogers (Speaker Black's Office)'
Subject: FW: Posting for Community Development Specialist I position

Allen: Please see that attached posting. The county will be changed to reflect the Piedmont Triad region with office location to be determined. We plan to post the position today for the required seven days. Please call me to confirm receipt of this e-mail and to discuss a few details. Thanks for your help. Staci

From: Rick Stone [mailto:Rick.Stone@ncmail.net]
Sent: Wednesday, February 02, 2005 9:45 AM
To: Staci.Meyer@ncmail.net
Subject: Posting for Community Development Specialist I position

Staci, Attached is the proposed job posting with a couple of changes for your review. It looked good. I just made one grammatical change and added a MANAGEMENT PREFERENCE statement. Please let me know if you have any other changes before we post the position to day. Thanks. Rick

5/6/2005

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	<p>Knowledge of principles of economic development and the ability to work with local government officials and community development initiatives. Skills, knowledge and abilities to work with diversity issues and multi-cultural communities. Ability to organize and assist in the conduction of public meetings and to express ideas clearly and concisely in verbal and written form. Ability, skills, and k The employee will work intensively with to economic development boards, local government groups, both public and private, to promote new business and economic development initiatives.. Work will require initiating linkages with private and public partnerships, and helping to create models for this kind of community development program that can be used in other communities.</p> <p>nowledge to establish and maintain effective working relationships with interested organizations agencies and individuals. Ability to identify problems related to community and economic development and to establish, or to make recommendations for, plans of action. Ability to convey instructions accurately, synthesize information, weigh competing resource needs and make decisions relative to policies and procedures. Management prefers candidate with knowledge of North Carolina history and public policy experience.</p>

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Attachment D

STATE OF NORTH CAROLINA	Approved Classification:
OFFICE OF STATE PERSONNEL	Effective Date:
POSITION DESCRIPTION FORM (PD-102R-92-2004)	Analyst:
Present Classification Title of Position: New position	Present 15-Digit Position Number and Proposed 15-Digit Position Number: 4802-0900-0002-863
Usual Working Title of Position:	Department, University, Commission, or Agency:
Requested Classification of Position: Community Development Specialist I	Institution & Division: Office of Archives and History
Name of Immediate Supervisor:	Section & Unit:
Supervisor's Position Title & Position Number:	Street Address, City, and County:
Name of Employee and Room Number:	Location of Workplace, Building, & Room Number:

CERTIFICATION: Signatures indicate agreement with all information provided, including designation of essential functions.

Supervisors' Certifications: I certify that (a) I am the Immediate Supervisor of this position, that (b) I have provided a complete and accurate description of responsibilities and duties, and (c) I have verified (and reconciled as needed) its accuracy and completeness with the employee.

Signature:

Title:

Date:

Signature:

Title:

Date:

Employee's Certification: I certify that I have reviewed this position description and that it is a complete and accurate description of my responsibilities and duties.

Signature:

Title:

Date:

Signature:

Title:

Date:

Section or Division Manager's Certification: I certify that this position description, completed by the above named immediate supervisor, is complete and accurate.

Signature:

Title:

Date:

Signature:

Title:

Date:

Department Head or Authorized Representative's Certification: I certify that this is an authorized, official position description of the subject position.

Signature:

Title:

Date:

I. A. Primary Purpose of Organizational Unit:

North Carolina Historic Sites, a group of 27 unique state historic sites, invites you to see our state as it was, to open doors to the past, which can enable one to better understand the world we live in. The organization works to improve and enhance the enjoyment of citizens and visitors of the historical elements of North Carolina. North Carolina's historic sites are located in virtually every geographic region of North Carolina. The presence of the historic sites enhances the cultural, education, and economic development of the counties and municipalities across North Carolina.

B. Primary Purpose of Position:

The purpose of the position is to assist the manager in the educational aspects and community development functions of the Historic Sites, enabling the communities to benefit from economic growth and by utilizing the attraction, appeals and visitation of the sites to include developing economic plans and incentives of community business and services. Additionally, program initiative will be developed to include the use of educational facilities at local schools and community colleges to further enhance the educational offerings related to the historic sites. The employee will work with local education groups, school boards, boards of trustees, and senior groups on collaborative educational initiatives that will make the offering of the sites have the greatest appeal.

C. Work Schedule:

The position is full-time, 40-50 hours a week and includes significant travel, evening and weekend work. The position requires the use of a pager and sometime being on call outside regular working hours. The employee must be available to meet with boards, commissions, educational groups, and historical interest groups on evenings and weekends.

D. Change in Responsibilities or Organizational Relationship:

This is a new position, performing work that has not been fully developed due to the unavailability of trained and experienced staff.

II. A. DESCRIPTION OF RESPONSIBILITIES AND DUTIES:

Method Used (Check One)

☐ Order of Importance

☐ Sequential Order

Place an asterisk (*) next to each essential function. (See instructions for complete explanation.) Please note percentage of time for each function.

Following functions listed are those considered most essential to the role of this position. Percentages are noted, but may vary during different work periods based on work priorities.

(45%) The primary responsibility of this position is to assist in the coordination, development, and oversight of various initiatives to add community development/economic development components to the historic sites in North Carolina through establishing collaboration

with the sites and with existing public and private partnerships to communities across the State.

Work of the employee in the position involves:

- Collaboration with local school systems;
- Collaboration with local community colleges;
- Interaction with various community senior citizens groups, organizations, and facilities.
- Involvement with charter schools, faith based organizations, home school organizations, and civic organizations to promote and to encourage support of the historic sites; and,
- Work with local civic organizations to encourage conferences, visits, and educational sessions by utilizing the historic sites facilities and/or community facilities that subsequently add economic income to the community.

(20%) The employee will work with state and local officials, the general public, the news media, local civic groups and community resources to publicize the availability of statewide historic sites as a vehicle attract development, jobs, and new spending to local economies. The employee will speak to economic development boards, groups in local governments, both public and private; to communicate business plans for promotion of a method of bringing new initiatives to the communities. Work may require initiating linkages with private and public partnerships, and helping to create models for this kind of community development program.

(25%) Work involves providing consultation and promotional work in assisting local communities in business and economic development planning around historic sites and local resources and attractions--to combine the presence of federal, state, and local attractions into economic development programs. These initiatives will include historic sites, local historic sites, business attractions, such as new industries that attract visitors and creative interest of residents (examples may include: wineries, agricultural displays/farmers markets, furniture industry/sales, state recreational facilities, parks, military installations/demonstrations, and natural resources and vacation opportunities.)

The employee will work with local, state and federal agencies of Commerce, Natural Resources, Parks, Wildlife, Federal parks, various military institutions, and local sites that attract groups and individuals to small communities in state. The work requires independent initiatives, assertiveness in having dialogue and cooperation between different levels of industry, business and government.

(10%) The employee monitors the needs for the creation or the modification legislation to accomplish the objectives of this program for the Secretary of Cultural Resources that directly impacts the community development and economic development initiatives. The employee may be asked to draft legislation and amendments to General Statutes. While this is done independently, the Director will consult with the supervisors, senior management and legal and legal counsel before issues are discussed with members of the General Assembly.

This position is also responsible for scheduling, making arrangements and coordinating several regional meetings around the state to disseminate information to historic sites, economic development and community development interests, and local and

state leaders at the public-private partnership level on the program.

This position is responsible for assisting in the development of marketing brochures and information that can be used in recruitment/advertising campaigns. Additionally, this position will be responsible for either providing necessary identified training, or acting as a resource to direct leaders from historic sites and economic development programs to current available sources of training.

In terms of searching for enhancements in economic growth and development the employee may assist historic sites staff and business leaders to examine and review proposals in land zoning in relation to business property, subdivisions, parks, and transportations. The employee reviews site plans for compliance with current county zoning and state guidelines; may assist the general public and developers with questions related to development requirements in a particular district and rezoning applications.

III. B. OTHER POSITION CHARACTERISTICS:

1. Accuracy Required in Work:

Work has direct and indirect effect on every community of the State, local governments and economic development groups and to citizens of North Carolina. A high degree of accuracy is required to formulate program and planning initiatives. Long term planning for communities and related community development can be positively impacted by the initial work of this new initiative.

2. Consequence of Error:

Errors in judgment may severely impact the initiatives, the department, the historic sites, employees and citizens of the state.

3. Instructions Provided to Employee:

This position receives minimum instruction from the supervisors due to the expectation of initiative and independent work to be accomplished. The employee is expected to collaborate with the DCR leadership to plan and provide necessary information for policy input to accomplish short-term, and long-term programmatic and operational goals.

4. Guides, Regulations, Policies and References Used by Employee:

Employee uses N.C. General Statutes relating the program, as well as budget management guidelines. Employee will assist supervisors in creating guidelines with the development of the economic development initiative.

5. Supervision Received by Employee:

The employee is supervised by the Secretary and management conferences through personal discussions, staff meetings, on-site observations, quality of activities and feedback from internal and external customers and clients.

6. Variety and Purpose of Personal Contacts:

This position will have a variety of daily contact with historic sites, state government and local agencies for the purpose of furthering the new program initiatives. The contact is to further the mission, encourage participation, and provide information on programs and activities.

7. Physical Effort:

This position does not require any significant physical effort beyond that which is required for a normal office environment. Employee must have the ability to travel set up and give presentations to groups, using different tools for presentations.

8. Work Environment and Conditions:

Majority of the work takes place in a typical office environment. Travel is an expectation. Work at Historic Sites can place the employee in environments that differ from office environments with exposure to temperature extremes, bugs, reptiles, rodents, and entertainment area environments.

9. Machines, Tools, Instruments, Equipment and Materials Used:

Uses work processors and printers, copiers, fax machines and the telephone are examples of major equipment used by this position.

10. Visual Attention, Mental Concentration, and Manipulative Skills:

Word processors and printers, copiers, fax machines and the telephone are examples of major equipment used by this position. Ability to do planning and to develop complex proposals that require considerable interaction with public and private section groups and individuals.

11. Safety for Others:

There is a low level of physical risk to the employee in this position. However, 'big picture planning' requires consideration for safety for large numbers as it relates to using historic sites.

12. Dynamics of Work:

The work environment is ever changing due to the dynamics of government and the work of the Department of Cultural Resources, Historic Sites and the very nature of community and economic development approaches in communities. The employee must be able to provide immediate response to and

interpretation of new and/or revised policies and procedures, statutes and State, local and federal guidelines.

IV. KNOWLEDGES, SKILLS & ABILITIES AND TRAINING & EXPERIENCE REQUIREMENTS:

A. Knowledges, Skills and Abilities:

Requires exceptional communication skills and ability to establish and maintain effective working relationships with governmental officials and the general public.

The person must be able to convey instructions accurately, synthesize information, weigh competing resource needs and make decisions relative to policies and procedures.

Requires general knowledge of the principles and methods of community organization and grassroots coalitions building and general knowledge and skills related to marketing techniques and practices.

Also necessary is a general knowledge of various economic and community development to local communities.

Knowledge of principles of economic development and the ability to work with local government officials and community development initiatives.

Skills, knowledge and abilities to work with diversity issues and multi-cultural communities.

Ability to organize and assist in the conduction of public meetings and to express ideas clearly and concisely in verbal and written form.

Ability to analyze situations and needs accurately and adopt effective courses of actions.

Ability, skills, and knowledge to establish and maintain effective working relationships with interested organizations, agencies and individuals.

Ability to identify problems related to community and economic development and to establish, or to make recommendations for plans of action.

This person must be able to convey instructions accurately, synthesize information, weigh competing resource needs and make decisions relative to policies and procedures.

B. 1. Required Minimum Training:

Graduation from a four-year college or university with a degree in Economics, Business Administration, Public Administration or a related curriculum and three or more years of related and progressive experience in public policy, community development, economic development,

cultural resources programming, or, an equivalent combination of education or experience.

2. Additional Training/Experience:

Public policy experience highly preferred; knowledge required of state, local, state government relationships highly desirable. Proven experience in working effectively with groups with cooperation and with creating a team approach to problem solving.

3. Equivalent Training and Experience:

Substantial program management or public policy development experience would be considered for the nature of experience.

C. License or Certification Required by Statute or Regulation:

North Carolina drivers license required for travel to sites across the state.

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Attachment E

North Carolina Department of Cultural Resources

Michael F. Easley, Governor
Lisbeth C. Evans, Secretary

Office of Archives and History
Jeffrey J. Crow, Deputy Secretary

February 16, 2005

Michael Paul Decker, Sr.

Dear Mr. Decker:

This letter is to confirm your offer of employment with the North Carolina Department of Cultural Resources as a Community Development Specialist I, Salary Grade 70, Position No. 4802-0900-0002-893, with the department's Office of Archives & History, effective February 16, 2005. Your gross annual salary will be \$48,000. Your work hours will be 8:00 a.m. – 5:00 p.m., Monday through Friday with the exception of special events, as required, which may require occasional weekend duties. Please know that all new employees to state government are required to serve a probationary period of employment, and it is this department's practice to exercise the full nine-month probationary period.

Also, within three (3) business days of the date your employment begins you are expected to provide the Department of Cultural Resources with acceptable forms of identification as listed on page three of the Employment Eligibility Verification Form I-9 available at the following web address: <http://uscis.gov/graphics/index.htm>. The employer portion of the I-9 form regarding your employment must be completed within three (3) business days. Employees must present original documents. The only exception is that an employee may present a certified copy of a birth certificate. You are scheduled for a new employee orientation in our Human Resources Office Training Room on Monday, February 21, 2005, at 9:30 a.m., 3rd Floor Archives & History/State Library Building, during which time health insurance, retirement, and other benefits will be discussed. In addition to the standard departmental orientation, we will supply you with pertinent laws and regulations affecting our agency and request that you read recent biennial reports for the North Carolina Office of Archives and History along with Wegner's History for all the People: One Hundred Years of Public History in North Carolina.

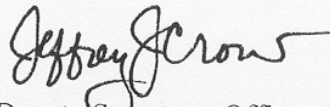
Furthermore, educational degrees must be received from and awarded by appropriately accredited institutions. Employees who have obtained their education outside of the U.S. and its territories must present proof that their academic degree has been validated as equivalent to the degree conferred by a regionally accredited college or university in the U.S. Credentials such as the highest post-secondary degree, registrations, licenses, certifications, and work history that are used to qualify or set salary must be verified within 90 days of initial employment and prior to the granting of a permanent or time-limited permanent appointment.

You will also need to complete a detailed position description and a Work Plan within the first 30 days of your employment. It is the policy of the State of North Carolina, the Office of State Personnel, and the Department of Cultural Resources that the management and appraisal of employees' performance be based on a Performance Management Program in accordance with G.S. 126-4.8, C.S. 143 R-17, and 143 B-10(h). The work plan addresses the process for establishing individual performance expectations, monitoring progress, and appraising performance. Monitoring will include a detailed written report every two weeks detailing your activities and progress in meeting the goals and objectives of your work plan. Other forms of feedback will include telephone conversations, and in-person meetings to discuss your work progress.

The Department is currently evaluating a number of duty stations where you will conduct your daily job responsibilities. A number of State Historic Sites operated by the Department are located in the general region where you live and one will most likely be selected for your work location.

I am impressed with your relevant background and experience for this position. I am looking forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey J. Crow". The signature is fluid and cursive, with the first name "Jeffrey" and last name "Crow" clearly distinguishable.

Deputy Secretary, Office of Archives & History
N.C. Department of Cultural Resources

Donna Rosefield

Attachment F

From: Rita Harris (Speaker Black's Office) [RitaH@ncleg.net]
Sent: Friday, February 18, 2005 5:20 PM
To: Donna.Rosefield@ncmail.net
Subject: Archives and History

Importance: High

Speaker Black requests \$45,000. of Discretionary Funds be directed to the Department of Cultural Resources, Division of Archives and History for promotional work in assisting local communities in business and economic development planning around historic sites, and local resources and attractions.

Rita Harris
Office of Speaker Black
919.733.3451 Direct: 919.733.5900
Cell: 919.345.8733
ritah@ncleg.net

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Attachment G

Western Community Outr

1241	YTD AUTH BUDGET
532199 MISC CONTRACTUAL SERVICES	\$ 176.00
532490 MAINT AGREEMENT-OTHER	\$ 452.00
532714 TRANSP-GRND - IN STATE	\$ 4,500.00
532715 TRANS GRND-OUT STA,IN US	\$ 300.00
532721 LODGING - IN STATE	\$ 895.00
532722 LODGING-OUT STATE, IN US	\$ 400.00
532724 MEALS - IN STATE	\$ 300.00
532727 MISC - IN STATE	\$ 500.00
532811 TELEPHONE SERVICE	\$ 657.00
532812 TELECOMMUN DATA CHRG	\$ 400.00
532840 POSTAGE, FREIGHT & DELIV	\$ 300.00
533110 GENERAL OFFICE SUPPLIES	\$ 1,500.00
533900 OTHER MATERIALS & SUPP	\$ 1,123.00
534511 FURN-OFFICE	\$ 2,000.00
534534 PC/PRINTER EQUIPMENT	\$ 4,100.00
534539 OTHER EQUIPMENT	\$ 3,519.00
534713 PC SOFTWARE	\$ 500.00
535830 MEMBERSHIP DUES&SUBSCRIPT	\$ 500.00
535950 PETTY/IMPREST CASH	\$ 150.00
EXPENDITURES	<u>\$ 22,272.00</u>

43,982

(1,018)

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CULT.RES.-GENERAL

EFFECTIVE DATE 02/16/05

BD 606 NO. 12 0110

SUBJECT ESTABLISH POSITION

CODE 14800

SUBMITTED 03/09/05

APPROVED 03/10/05

FISCAL YEAR 2004-05

STATUS FILED

ATTACHMENT YES

CODES

REQUIREMENTS

**** 2003-04 ****

**** 2004-05 ****

INCREASE DECREASE

INCREASE DECREASE

OFFICE OF THE SECRETARY			
4601 536930	1110100		45,000
ARCHIVES & HISTORY-ADMIN			
4601 531221	1210116	18,000	
4601 531511	1210116	1,377	
4601 531521	1210116	1,046	
4601 531561	1210116	1,287	
4601 532199	1210116	176	
4601 532490	1210116	452	
4601 532714	1210116	4,500	
4601 532715	1210116	300	
4601 532721	1210116	1,913	
4601 532722	1210116	550	
4601 532724	1210116	300	
4601 532727	1210116	500	
4601 532811	1210116	657	
4601 532812	1210116	400	
4601 532840	1210116	300	
4601 533110	1210116	1,500	
4601 533900	1210116	1,123	
4601 534511	1210116	2,000	
4601 534534	1210116	4,100	
4601 534539	1210116	3,519	
4601 534713	1210116	500	
4601 535830	1210116	500	
*** TOTAL REQUIREMENTS		0	0

ANNUALIZED SALARY LINE ITEMS

INCREASE DECREASE

INCREASE DECREASE

4601 531221	1210100	48,000
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POSITIONS CLASSIFICATION

POSITION NUMBER

SALARY GRD SCHEM FTE

1210 1221 COMM DEVELOPMT SPEC I	4802 0100 0002 044	48,000	70	02931	1.00
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REMARKS (JUSTIFICATION):

AS PER THE ATTACHED E-MAIL, THIS REQUEST ESTABLISHES AN APPROPRIATION-SUPPORTED, TIME-LIMITED POSITION "FOR PROMOTIONAL WORK IN ASSISTING LOCAL COMMUNITIES IN BUSINESS AND ECONOMIC DEVELOPMENT PLANNING AROUND HISTORIC

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SUBJECT ESTABLISH POSITION

CODE 14800

SUBMITTED 03/09/05

APPROVED 03/10/05

FISCAL YEAR 2004-05

STATUS FILED

ATTACHMENT YES

CODES

SITES, AND LOCAL RESOURCES AND ATTRACTIONS."

PREPARED BY CHARLINE S. SUTTON	ON	2	23	05
AGENCY APPROVED BY RENNE VANCE	ON	2	25	05
SUBMITTED BY RENNE VANCE	ON	2	25	05
APPROVAL ENTERED BY GREG PINER	ON	3	3	05
AS AUTHORIZED BY DAVID C. BROWN, JR.				
FORMATTED FOR NCAS BY CHARLINE S. SUTTON	ON	3	7	05
606 UPDATED IN SCS CHARLINE S. SUTTON	ON	3	7	05
NCAS FORMAT CANCELLED BY CHARLINE S. SUTTON	ON	3	8	05
ACTION CANCELLED BY GREG PINER	ON	3	9	05
RETURNED WITHOUT ACTION BY GREG PINER	ON	3	9	05
AS AUTHORIZED BY DAVID C. BROWN, JR.				
REVISED BY CHARLINE S. SUTTON	ON	3	9	05
AGENCY APPROVED BY CHARLINE S. SUTTON	ON	3	9	05
SUBMITTED BY CHARLINE S. SUTTON	ON	3	9	05
APPROVAL ENTERED BY GREG PINER	ON	3	10	05
AS AUTHORIZED BY DAVID C. BROWN, JR.				
FORMATTED FOR NCAS BY CHARLINE S. SUTTON.	ON	3	10	05

Attachment I

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NORTH CAROLINA GENERAL ASSEMBLY
PRESIDENT PRO TEMPORE
SENATOR MARC BASNIGHT
RALEIGH 27601-2808

June 23, 2005

The Honorable Leslie W. Merritt, Jr., CPA, CFP
Office of the State Auditor
20601 Mail Service Center
Raleigh, NC 27699-0601

Dear Auditor Merritt:

Thank you for the opportunity to review your draft report on the reserve funds in the 2004-2005 budget. I sincerely hope the time, cooperation and information my staff and I provided to you and your auditors were helpful in your evaluation and analysis.

Your draft report provides factually accurate information about the budget process. I commend you and your staff for your thorough and conscientious review – especially the considerable effort you put forth explaining the budget process, which can often be difficult to understand. As I said many times publicly when I first learned of these reserve funds, I believe the budget process should be as open as possible and that all local projects should be specified in writing and subject to debate as the budget makes its way through the legislature. You will recall that last year's Senate budget did specify such items, and I was as disappointed as anyone that the final budget did not account for the funding as meticulously as the original Senate budget had done.

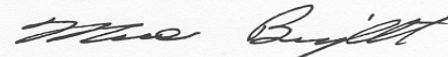
While it is clear that the budget process did not work the way it should have, I continue to believe that every project the Senate recommended for funding last year was truly deserving. Investments in the arts, cultural attractions and tourism are important to the economies of so many communities in our state, and it is proper for the state to continue to assist in these efforts. For example, according to a study from Appalachian State University, North Carolina's nonprofit arts industry contributes \$723 million annually to our state's economy, and is responsible for 7,000 full-time jobs in North Carolina. Likewise, tourism is a growing industry for our state – last year more than 49.2 million visitors enjoyed our state, spending more than \$13 billion and supporting more than 182,000 jobs for North Carolina residents. Investing in cultural resources, the arts and tourism brings a tremendous benefit to our economy – and at the same time enhances the quality of life for all people in our state.

I thank you for your commitment to accountability and integrity in our state government. Please be assured that those of us who serve in the General Assembly share your goal and believe it is incumbent upon us to be wise stewards of our tax dollars. That is why the Senate has approved legislation requiring stronger reporting requirements for nonprofit groups that receive state funds, more open disclosure of legislators' own economic interests, lobbying and campaign law reforms, and budget reforms such as modified zero-based budgeting. It is good-government efforts such as these that have helped North Carolina earn its ranking of fourth in the nation for fiscal responsibility.

I look forward to continuing to work with you to maintain and, I hope, improve our state's stellar reputation for fiscal integrity and accountability. I would truly appreciate it if you would include this response as part of your final report – and I hope you will not hesitate to let me know if I can be of further assistance to you as you finalize your report, or as you undertake future efforts to help make all areas of our government work more effectively for those whom we are both so fortunate to represent. Thank you again for your hard work on this report and on behalf of all the people of North Carolina.

With warmest personal regards, I remain

Sincerely yours,



Marc Basnight



Office of the Speaker Pro Tempore
North Carolina House of Representatives
Raleigh, North Carolina 27603-5925

RICHARD T. MORGAN
SPEAKER PRO TEMPORE

LEGISLATIVE OFFICE BUILDING
PHONE: (919) 715-3000

June 24, 2005

The Honorable Les Merritt, Jr., CPA, CFP
State Auditor
2 South Salisbury Street
Raleigh, North Carolina 27699

Dear Les:

Thank you for your courtesy and the opportunity to review the draft report.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard", is written over a large, light-colored oval shape.

Richard T. Morgan
Speaker Pro Tempore

RESPONSE FROM REPRESENTATIVE JAMES B. BLACK

Office of the Speaker
North Carolina House of Representatives
Raleigh 27601-1096

JAMES B. BLACK
SPEAKER

June 29, 2005

LEGISLATIVE
PHONE: (919)

The Honorable Les Merritt
State Auditor
Old Revenue Building
2 S. Salisbury Street
Raleigh, North Carolina 27699-0601

Dear Auditor Merritt:

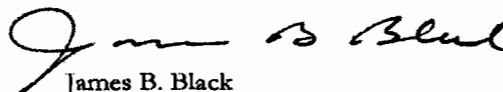
Thank you for the opportunity to review and respond to your draft report that reviews the Reserve Funds in the 2004 budget bill (HB 1414, S.L. 2004-124). It is not the purpose of this letter to agree or disagree with your findings. However, I would like to make the following comments about the subject matter of the report.

The Reserve Funds in the budget were used to support a number of worthy programs in communities across our state, such as community health centers, museums, after-school programs, colleges, and libraries. These programs were required to meet certain eligibility requirements in order to receive the funding, and the grant recipients and the state agencies disbursing the funds to the recipients are subject to the monitoring and reporting requirements in State law.

Concerning the creation of the Community Development Specialist I position, prior to the discussions that led to the creation of the position, conversations between my staff and the staff of Cultural Resources had occurred concerning the need to promote historical sites and tourist areas in the smaller communities of our state. When Mr. Decker asked me to assist him in finding a job in State government, I thought Mr. Decker's background – a history teacher who has an interest in State historical sites and experience in public service – fit with the identified needs in Cultural Resources. I therefore recommended him to the Department of Cultural Resources as someone who could fill that type of position, and I was glad that the Department of Cultural Resources found him qualified and offered him a position.

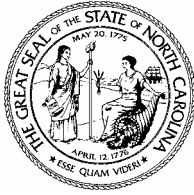
I would appreciate your filing this letter with your final report, and I again thank you for your courtesy in giving us the opportunity to comment on your draft report.

Sincerely,



James B. Black
Speaker, North Carolina House

Office of the State Auditor



Leslie W. Merritt, Jr., CPA, CFP
State Auditor

2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601
Telephone: (919) 807-7500
Fax: (919) 807-7647
Internet
<http://www.ncauditor.net>

September 7, 2005

The Honorable Roy Cooper
NC Department of Justice
P. O. Box 629
Raleigh, NC 27602

Dear Mr. Cooper:

This Office has received numerous inquiries from citizens, legislators and the press regarding the status of the Reserve Fund Review. After our meeting on June 28, 2005, it was my expectation your office would be issuing a legal opinion on the issues raised in the Review within a few weeks. The Auditor's Office has completed its portion of the work on this important matter and we are continuing to get questions about when the Attorney General's Office will be releasing its Opinion on the legality of the expenditures. While we are planning to follow-up on the appropriations issued through the Reserve Fund, we are awaiting your ruling as well.

Please advise at your earliest convenience as to when we may expect to receive the ruling from your office. In advance, I thank you for your efforts on this important issue.

Very Sincerely Yours,

Leslie W. Merritt, Jr.

Leslie W. Merritt, Jr., CPA, CFP
State Auditor



State of North Carolina Department of Justice

Roy Cooper, Attorney General

September 12, 2005

The Hon. Leslie Merritt, Auditor
State of North Carolina
20601 Mail Service Center
Raleigh, N. C. 27699-0601

Dear Auditor Merritt:

Thank you for your review of the General Assembly Reserve Funds in the 2004-2005 Revised Certified Budget. We appreciate the opportunity to work with your staff and to apply the law to the report findings.

While our lawyers' legal review attached outlines the legal opinion on the Funds, it is clear that the manner in which state money was directed is problematic for its secrecy, its lack of accountability and its end run around the legislative process.

First, the hidden use of reserves as a blank check for individual legislators to fill in later provides for little review or public input. Decisions made after budget certification and without public knowledge leave the public little recourse if they disagree with the ultimate expenditure of the money.

Second, the agencies that disbursed the money had few plans and little ability to track its use. Accountability after the fact is just as critical as knowing up front if the projects are worthwhile.

Finally, the method of directing state money with the nod of a single legislator after the budget has passed, whether for projects or the creating and filling of state positions, circumvents both the legislative and executive branch process. The Legislature is a deliberative body and its ideas should be voted up or down by all of its members. The result of having only a few legislators direct spending after the budget has passed ignores other legislators and undercuts the authority of the executive branch.

While many of the projects may have been worthy of consideration, the way they were funded makes them suspect in the public's mind. I recommend that:

1. All state appropriations should be detailed by bills filed and approved through the General Assembly's Appropriations committees, or within substantive legislation, and then included in an Appropriations Act for approval.
2. Emergency appropriation needs that fail to meet a bill-filing deadline should be presented to the Office of State Budget & Management for review and subsequent recommendation by professional staff or in public session through the Joint Legislative Committee on Governmental Operations prior to being included in the final budget.
3. The General Assembly's Fiscal Research Division should modify legislative committee financial reports to improve disclosure of legislator-initiated appropriations. A specific code, or related indicator, should be assigned to designate which appropriations are initiated by legislators, which are requested by state agencies and which are recommended by the Governor. A table or schedule summarizing these designations should be included in the committee financial reports to provide clear disclosure.
4. The Office of State Personnel should limit creation of state jobs to the request of the Office of the Governor through a recommended budget, the request of state agencies, or by an action of the General Assembly through the full appropriations process.
5. State agencies of any kind which are asked to disburse money through a reserve fund, such as the Tobacco Trust Commission and Health and Wellness Commission, should institute a reporting system that requires performance and accounting standards at least yearly.


Full, open deliberations can yield a better result for all of North Carolina. Partisan politics and personal vendettas can torpedo good ideas and promote bad ones. State taxpayers deserve full accountability of how the state spends their money.

The latest 2005-2006 certified budget contains specifics on one-time grants for organizations across the state, which is certainly an improvement in the process. State government should continue to do more to provide for an open and responsible process.

The Hon. Leslie Merritt
Page 3

Thank you for your attention to this issue and your staff's expertise and cooperation shared with our lawyers throughout this review. I look forward to continuing to work with you to provide greater accountability for the public's money.

Very truly yours,

A handwritten signature in black ink that reads "Roy Cooper". The signature is written in a cursive, slightly slanted style.

Roy Cooper

RAC/sm



State of North Carolina Department of Justice

REPLY TO: Grayson G. Kelley
(919) 716-6400
FAX: (919) 716-0135

September 12, 2005

The Honorable Leslie Merritt
North Carolina State Auditor
20601 Mail Service Center
Raleigh, North Carolina 27599-0601

Re: Advisory Opinion: Review of Reserve Funds in the 2004-2005 Revised
Certified Budget

Dear Auditor Merritt:

On June 28, 2005, this Office received from you a report entitled "Review of Reserve Funds in the 2004-2005 Revised Certified Budget" (the Report). This Report contains the findings and conclusions of your office regarding certain Reserve Funds appropriated to the Office of State Budget and Management, the Department of Cultural Resources and the Department of Health and Human Services in the 2004 Appropriations Act, and the subsequent allocation, control and disbursement of those funds by the agencies. The Report states that the investigation was generated by requests from private citizens and elected officials for a review of these Reserve Funds. The Attorney General has received similar requests. This opinion will therefore address certain legal questions which have been generated by the factual findings of the Report.

FACTUAL SUMMARY

The Report states that during the 2004 legislative session a near impasse between the Senate and House of Representatives during the Joint Conference Committee's budget reconciliation negotiations resulted in the establishment of certain reserves for grants ("Reserve Funds") which were included in the final 2004 Appropriations Act. The Joint Conference Committee Report on the Continuation, Expansion and Capital Budget, dated July 17, 2004, designated these appropriations as follows:

(1)	Office of State Budget and Management (OSBM)	-	\$1,338,382
(2)	Department of Cultural Resources (DCR)	-	\$9,161,618 and \$925,000
(3)	Department of Health and Human Services (DHHS)	-	\$2,400,000

The Reserve Funds as appropriated were not directed to line item recipients or specifically identified uses.

The Report states that the Reserve Fund appropriations were subsequently disbursed from OSBM, DCR and DHHS to a wide variety of organizations throughout North Carolina, usually in the form of grants. The Report further concludes, through extensive interviews with OSBM, DCR and DHHS management, as well as with legislative staff members and legislators, that control of the disbursement of these grant funds was, as a practical matter, retained and exercised by the legislative leadership.

Control over the Reserve Funds was divided between the President Pro Tempore of the Senate and the Co-Speakers of the House of Representatives. Documents reviewed indicated that the President Pro Tempore controlled \$6,507,500, one of the Co-Speakers controlled \$4,606,250, and the other controlled \$2,891,250. OSBM, DCR and DHHS each maintained accounting records documenting amounts controlled and disbursed by the three legislators. Similar accounting records were maintained by staff in each legislator's office.

Requests for disbursement of grants were generally received by agency officials from legislative staff members. The three agencies were advised which organizations should receive funds and the dollar amounts to be allocated. The agencies neither solicited, recommended nor awarded grants from the Reserve Funds without direction from the three legislative leaders. Managers at DCR and DHHS stated that they did not believe their agencies had any discretionary authority in regard to the award of these grant funds. As of the date of the Report there remained a total of \$1,232,200 in Reserve Funds which had not been disbursed.

LEGAL ANALYSIS

Two primary legal issues have been raised by the findings of the Report. The first is whether the appropriation and grant disbursement process utilized in connection with the Reserve Funds raises separation of powers or other issues under the North Carolina Constitution. The second is whether the Reserve Funds have been disbursed in violation of N.C.G.S. § 143-16.3 or other statutory provisions.

A. CONSTITUTIONAL ISSUES

As previously discussed, the Joint Conference Report on the Continuation, Expansion and Capital Budget described four reserves for grants which were included in the 2004-2005 Appropriations Act. Page J-30, Item 70 appropriated \$1,338,382 to OSBM as a "Reserve for Grants." Page G-13, Item 94 appropriated \$2,400,000 to DHHS as a "Grants Reserve" for health and human services grants. Page J-5, Item 13 appropriated \$925,000 to DCR as a reserve for "Historical Cultural and Arts Organizations." Page J-5, Item 14 appropriated \$9,161,618 to DCR as a "Grants Reserve." These provisions of the Joint Conference Committee Report were incorporated into the 2004 Appropriations Act by Section 33.2(a) of the Act.

The Reserve Funds in question were therefore appropriated to three Executive Branch agencies in accordance with the normal appropriations process. The Report does not point to, and we have not found any provision in the Appropriations Act, Joint Committee Report or any other provision of law enacted by the General Assembly which restricts OSBM, DCR or DHHS from distributing these Reserve Funds other than in accordance with their general statutory authority and normal grant procedures. Nor has any provision of law been identified which authorizes the President Pro Tempore of the Senate, the Co-Speakers of the House of Representatives or any other individual member of the legislature to direct or control the distribution of the Reserve Funds appropriated to OSBM, DCR and DHHS.

The North Carolina Constitution provides in part:

The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

N.C. Constitution, Article I, § 6. This section is commonly referred to as the "separation of powers" clause of our Constitution. The North Carolina Supreme Court has reiterated that "the principle of separation of powers is a cornerstone of our state and federal governments." *State ex rel. Wallace v. Bone*, 304 N.C. 591, 601, 286 S.E.2d 79, ____ (1982).

In *State ex rel. Wallace v. Bone*, the North Carolina Supreme Court struck down legislation authorizing the appointment of members of the General Assembly to the Environmental Management Commission. The Court unanimously concluded that the General Assembly lacked the constitutional authority to mandate the appointment of legislators to bodies in the executive branch.

The Court has also rendered an advisory opinion on the constitutionality of a now-repealed statute which required the approval of the Joint Legislative Commission on Governmental Operations for the Governor to transfer or change certain line items in the state budget. The Court determined that, in light of the constitutional mandate of separation of powers, the statutory authority given to the legislator members of that

commission “exceeds that given to the legislative branch by Article II of the Constitution. That statute also constitutes an encroachment upon the duty and responsibility imposed upon the Governor by Article III, Section 5(3), and, thereby violates the principle of separation of governmental powers.” *Advisory Opinion in re Separation of Powers*, 305 N.C. 767, 776-777, 295 S.E.2d 589, ____ (1982).

The North Carolina Constitution sets forth the duties of the Governor and of the General Assembly. Among the duties of the Governor is the duty to “prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period.” N.C. Constitution, Article III, § 5(3). Additionally, “[t]he budget as enacted by the General Assembly shall be administered by the Governor.” *Id.* However, “[t]he legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.” N.C. Constitution, Article II, § 1.

Chapter 143, Article 1 (The Executive Budget Act) sets forth the statutory budget process in North Carolina. N.C.G.S. § 143-12 requires the Governor, through the Director of the Budget, to submit a proposed budget to the General Assembly. N.C.G.S. § 143-15 authorizes the General Assembly to modify the Governor’s proposed budget prior to enactment. Upon enactment by the General Assembly, both the Constitution and the Executive Budget Act require that the Governor administer the budget as enacted. The extent to which the General Assembly can enact laws which interfere with the Governor’s administration of the budget without violating the separation of powers principle, however, has not been clearly delineated by our courts.

The Report, however, does not reference the enactment of any law which granted to individual legislators the legal authority to direct Executive Branch officials in the disbursement of Reserve Fund grants. We have likewise been unable to identify such legislation. Nor are we aware of any action of the General Assembly which restricted the general authority of agency officials to administer the Reserve Fund grant disbursement process in accordance with normal rules, regulations and policies, or required them to disburse funds as directed by legislative leaders. Executive Branch officials were therefore not required by law to distribute grant funds as requested by individual legislators.

Independent actions of individual members of the General Assembly, regardless of the member’s position of leadership, do not constitute the exercise of official legislative power triggering constitutional safeguards. The process described in the Report therefore does not raise separation of powers issues under Article 1, § 6 of the Constitution.

B. STATUTORY ISSUES

The Report also includes a review of certain “special appropriations” which were included in committee reports, excluded from the final Appropriations Act, and ultimately funded from Reserve Funds. Specifically, the Report has identified eleven OSBM, DCR or DHHS grant recipients for whom funding in a total amount of \$6,500,000 was included in either the House Appropriations Committee Report on the Continuation, Expansion and Capital Budgets dated June 5, 2004 or the Senate Appropriations/Base Budget Committee Report on the Continuation, Expansion and Capital Budgets dated June 22, 2004, but was deleted from the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated July 17, 2004, and the 2004 Appropriations Act. Questions have been raised as to whether such grants were funded in violation of N.C.G.S. § 143-16.3.

N.C.G.S. § 143-16.3 reads as follows:

Notwithstanding any other provision of law, no funds from any source, except for gifts, grants, funds allocated from the Repair and Renovations Account in accordance with G.S. 143-15.3A, and funds allocated from the Contingency and Emergency Fund in accordance with G.S. 143-12(b), may be expended for any new or expanded purpose, position, or other expenditure for which the General Assembly has considered but not enacted an appropriation of funds for the current fiscal period; provided, however, that in the event the Director of the Budget declares that it is necessary to deviate from this provision, he may do so after prior consultation with the joint Legislative Commission on Governmental Operations. For the purpose of this section, the General Assembly has considered a purpose, position, or other expenditure when that purpose is included in a bill, amendment, or petition and when any committee of the Senate or the House of Representatives deliberates on that purpose.

This statute appears to have been interpreted by our appellate courts only once, in the case of *N.C. Monroe Construction Co. v. State*, 155 N.C. App. 320 (2002). In that case the Court of Appeals held that N.C.G.S. § 143-16.3 was not violated when OSBM entered into a contract for prison construction prior to the appropriation of funds for that purpose because funds were subsequently appropriated prior to any work being performed. The analysis in this case therefore provides little guidance as to the application of the statute to the factual findings in the Report.

Based upon our review of the Report, it does appear clear that eleven specific line item appropriations included in the Senate or House budget bills were not included in the final Appropriations Act. A literal reading of N.C.G.S. § 143-16.3 therefore suggests that these expenditures were considered but not enacted by the General

Assembly, thus prohibiting OSBM, DCR and DHHS from distributing grant funds for the same purposes. We believe this analysis is complicated, however, by the Report's further conclusion that, in order to reconcile the budget debate, the funds in question were actually appropriated indirectly through Reserve Funds, as a substitute for line item special appropriations.

The question is therefore whether the General Assembly did, in fact, appropriate funds which were intended to be distributed to the eleven grant recipients identified by the Auditor, even though the funds were not specifically identified in the Appropriations Act. An argument can be made that the statutory prohibition in N.C.G.S. § 143-16.3 is not implicated where House and Senate budget negotiators reached a compromise through which funds for specific purposes were, as a practical matter, appropriated as Reserve Funds, even though those purposes were not directly identified in the final budget act. On the other hand, members of the General Assembly who were not directly involved in the conference committee process may not have been made aware of the compromise agreement and thus the full legislature could not have knowingly enacted an Appropriations Act which was intended to fund the specific grants in question.

Under these circumstances we cannot conclude that the process described by the Auditor clearly violated N.C.G.S. § 143-16.3. We acknowledge, however, that the process utilized likely contravenes the intent of the General Assembly in enacting the statute and recommend that appropriate clarifying amendments be considered.

GRANT FOR COMMUNITY DEVELOPMENT SPECIALIST POSITION

The Report describes the use of \$45,000 from the Reserve Funds appropriated to DCR for the establishment of a Community Development Specialist position in that agency. The position established was filled by former House of Representatives member Michael Decker, Sr. Questions have been raised regarding the establishment of this position and selection of Mr. Decker.

The chronology of events prepared by DCR and included in the Report reflects that DCR officials were contacted in January, 2004 by staff members of the Co-Speaker concerning the possibility of using Reserve Fund resources to establish a position to assist local communities in business and economic development planning around historic sites and local attractions. Michael Decker, Sr. was recommended for the position. The Co-Speaker's staff was informed that such a position could be established, but that Mr. Decker would be required to participate in the normal hiring process and be qualified for such a position.

DCR subsequently received substantial input from the Co-Speaker's staff concerning the position description, vacancy announcement and budget for the position. The Report concluded that specific language was included in the position description in

September 12, 2005
Page 7

order to “tailor” the position for Mr. Decker. A time-limited position labeled Community Development Specialist I was posted on February 2, 2005 and Mr. Decker’s application was received by DCR on February 8, 2005. Mr. Decker was interviewed, along with two other candidates, and was offered the position on February 16, 2005. The Co-Speaker’s office thereafter approved the transfer of a \$45,000 grant from DCR’s Reserve Fund to fund the position. Mr. Decker’s position as a Community Development Specialist I was funded through grant funds until June 30, 2005.

We have been unable to identify any specific violation of law or regulation in the process outlined by the Report. We therefore cannot conclude that either the creation of the Community Development Specialist I position, the source of its funding or the selection of Mr. Decker were in violation of law. We note, however, that the State Personnel Commission, in accordance with N.C.G.S. § 126-14.3, has adopted rules designed to encourage open and fair competition for positions in State government. In our opinion, the appearance of impropriety detailed by the Report reflects a process that was neither open nor fair.

If we can be of further assistance, please contact me.

Very truly yours,

Grayson G. Kelley
Chief Deputy Attorney General

GG/sf