



The 2009 session of the North Carolina General Assembly came to a close August 11, 2009. Below is a summary of Durham County and state legislative issues that have or will impact our community.

Overview

_State Employees: The budget eliminates 2,191 state employee positions, 726 of which are currently filled.

_Education: Funding has been reduced for about 100 programs; 23 programs have been eliminated.

_HHS: Funding has been reduced for about 125 programs; 13 programs have been eliminated.

_Natural and Economic Resources: Funding has been reduced for about 75 programs; five programs have been eliminated.

_Justice and Public Safety: Funding has been reduced for about 80 programs; 10 programs have been eliminated.

_General Government: Funding has been reduced for about 80 programs; two programs have been eliminated.

_Transportation: Funding has been reduced for about 30 programs; one program has been eliminated.

Education

_Saved a significant amount of money by delaying the adoption of math textbooks in grades 6 through 12. - (\$48 million)

_ Reduced General Fund support for More at Four. - (\$5 million)

_Cut funding for local school systems across the state. Local education officials will decide how manage the cut, and the state will allow systems some additional flexibility in moving money around to protect classroom instruction. - (\$225 million)

_Eliminated funding for all 200 Literacy Coaches. - (\$12 million)

_Reduced funding for non-instructional support personnel in public schools. Non-instructional support personnel include clerical assistants, custodians, and substitute teachers, amongst other items. - (\$10 million)

_Reduced funding for public school transportation, which supports salaries of transportation personnel as well as the maintenance of yellow buses. - (\$15 million)

_Reduced funding to the following non-public school organizations: Communities in Schools, Schools Attuned, ExplorNet, Teacher Cadet, NC Network, Science Olympiad, Teach for America, NC Math & Science, and Project Enlightenment. - (\$4.6 million)

_Reduced funding to a number of UNC Centers and Institutes. - (\$12 million)

Health and Human Services

- _Reduced funding for Smart Start. – **(\$16 million)**
- _Reduced service funds for supplemental state-funded services provided to CAP/MR-DD patients. State funds are still allowed for room, board, and other services. – **(\$16 million)**
- _Reduced funding for state operated services within the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services that are not part of the core mission of DMH, DD, and SAS. – **(\$4.5 million)**
- _Reduced funding for community services within the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services that are not part of the core mission of DMH, DD, and SAS. – **(\$4 million)**
- _Eliminated state funding for the following programs: Kidney Disease Purchase of Medical Care Program, Epilepsy Purchase of Medical Care Program, Adult Cystic Fibrosis Program, and the Cancer Purchase of Medical Care Program. – **(\$3.3 million)**
- _Reduced Division of Public Health contract funds that (1) do not meet the Division’s core mission, (2) do not provide a direct service, (3) have had unobligated funds in the past, or (4) have not met the goals or deliverables in the contract. – **(\$4 million)**
- _Reduced funding for NC Reach. NC Reach is an education assistance program for adoptees and foster youth. – **(\$3.2 million)**
- _Reduced state aid to counties associated with county administration of public assistance programs. – **(\$5.5 million)**
- _Reduced Medicaid provider rates. This reduction applies to all public and private providers except for federally qualified health centers, rural health centers, school-based and school-linked health centers, state institutions, hospital outpatient, pharmacy, and the non-inflationary components of the case-mix reimbursement system for skilled nursing facilities. – **(\$76.4 million)**
- _Reduced prescription drug expenditures by using more generics and better managing costs. – **(\$25 million)**
- _Reduced appropriation for community support services within the Division of Medical Assistance. – **(\$65 million)**
- _Reduced funding for some children’s group homes. – **(\$15.9 million)**
- _Consolidated case management services throughout the Medicaid program. – **(\$41 million)**
- _Frozen Community Alternative Program (CAP) slots for disabled adults and people with mental retardation and developmental disabilities. – **(\$6.7 million)**
- _Reduced medical assistance payments by increasing payment by third parties and increasing cost avoidance through better utilization of technology and other Medicaid cost-containment activities. – **(\$20 million)**

Natural & Economic Resources

- _Reduced operating expenses within the Division of Agriculture and Consumer Services. – **(\$345,873)**

- _Reduced operating expenses within the Department of Labor. -**(\$155,877)**
- _Reduced operating expenses within the Department of Environment and Natural Resources. – **(\$724,866)**
- _Reduced operating expenses within the Department of Commerce. – **(\$333,615)**

Justice and Public Safety

- _Eliminated state funding for the Center for the Prevention of School Violence, which does not serve the core mission of the department. – **(\$481,225)**
- _Eliminated pass-through funding to Boys & Girls Club, which was used as part of a match for grant funds that the club no longer receives. – **(\$400,000)**
- _Reduced state funding Eckerd Wilderness Camp contract, which will close two of the seven camps. The North Carolina Eckerd Wilderness Camps serve boys and girls, ages 10 through 17, with behavioral problems. – **(\$2.8 million)**
- _Closed the Samarkand Youth Development Center. – **(\$2.6 million)**
- _Plan to close seven prisons, which will be staggered over the course of the 2009-2010 fiscal year. – **(\$8.4 million)**
- _Eliminated Community Work Crews, which provide labor for state and local governmental entities at no cost, as well as providing occupational development for inmates; 127 associated officer positions will also be eliminated. The DOC may charge actual cost to governmental entities for these services. – **(\$4.8 million)**

Transportation

- _Reduced aviation and ferry funds. – **(\$4.15 million)**
- _Administration funding is cut throughout the Department of Transportation. This funding is used for salary and operating expenses in the administration of the NCDOT, Division of Highways, and the Division of Motor Vehicles. – **(\$9.2 million)**
- _Funds for the Drivers Education Program in the Department of Public Instruction are also reduced. – **(\$1.1 million)**
- _Funding for various operating accounts is reduced in the State Highway Patrol. - **(\$3.7 million)**

General Government

- _Reductions to various operating accounts in eight divisions across the Department of Administration. – **(\$104,647)**
- _Reductions to various operating accounts within the Department of Cultural Resources. – **(\$552,985)**
- _Reduced various administrative services within the Department of Cultural Resources. – **(\$193,640)**

_Reduced funding for the following expenditures within the Department of Cultural Resources: Tryon Palace, Maritime Museum, the Museum of Art, the Arts Council, State Library Services, the Museum of History, and the Roanoke Island Commission. – **(\$1.9 million)**

_Reduced funding for the Volunteer Safety Workers' Fund within the Department of Insurance. – **(\$2.5 million)**

Preservation/Expansion of Vital Programs

Education

_Overall education spending increase between House budget and final version - **\$285 million**

_Allocated funds to prevent the elimination of 3rd-grade teaching assistants - **\$130 million**

_Allocated funding to protect K-3 teaching positions - **\$139 million**

_Provided funding for 12 additional Learn & Earn high schools that will be operational in FY 2009-10 - **\$3.6 million.**

_Allocated funding to expand the District and School Transformation Initiative, which is part of the state's redesigned framework for delivering technical assistance and other support to low performing districts and schools. - **\$ 2.5 million**

_Provided recurring funding for additional dropout prevention grants. - **\$13 million**

_Fully funded enrollment growth in community colleges. - **\$58 million**

_Fully funded enrollment growth in universities - **\$44 million**

_Allocated funding to re-establish and place renewed emphasis on vocational and technical education programs at community colleges. - **\$4.5 million**

_Financial aid for UNC system - **\$35 million**

_Increased the state's contribution to the Teachers' and State Employees' Retirement System. - **\$21 million**

Health and Human Services

_Complete last phase of three-year takeover of Medicaid from counties, freeing money for local governments - **\$252 million**

_Expanded the Children's Health Care Program (Health Choice) - **\$17 million**

_Restored funding for Local Mental Health Management Agencies - **\$10 million**

_Provided funds to keep the Dobbs Youth Development Center open - **\$2.26 million**

_Provided additional funding to the State Health Plan cover medical costs and to reduce the premium rate increase for the next two years from 10 percent to 8.9 percent. - **\$132.2 million**

_New local inpatient beds for the mentally ill to treat people closer to their homes and relieve state hospitals - **\$12 million**

Justice and Public Safety

_Restored funding for 132 jobs in state courts - **\$7.5 million**

_Restored funding for 155 Victim Witness Legal Assistants - **\$7 million**

_Provided money for the Private Attorney Fund to address backlog of unpaid claims carried over from last fiscal year. Recurring continuation increases for the Fund are reduced. - **\$7 million**

_Allotted funds to expand Chief Probation Parole Officer Positions to fund an additional 18 positions. - **\$1.4 million**

_Restored 400 proposed job cuts in the Department of Corrections - **\$15 million**

Miscellaneous

_Allocated funds for maintenance to the state highway system. The increase in funding is necessary to prevent further deterioration of the State highway system. - **\$41.1 million**

_Provided funds to Water Resources Development Projects to pay for the state's share of the projects. Funds will provide a state match for \$57,700,000 in federal funds. - **\$4.9 million**

STATE BUDGET/MUNICIPAL REVENUES

Appropriations Act of 2009 – SB 202 (SL 2009-451): ENACTED. The General Assembly struggled to pass the state budget, ultimately agreeing to a \$19 billion spending plan with nearly \$1 billion in new taxes and significant cuts throughout state government. Tax increases include a temporary one-cent increase in state sales tax (through June 30, 2011), sales tax increases on beer/wine and cigarettes, and temporary income tax surcharges on corporations and on couples earning over \$100,000 (tax years 2009 and 2010).

Municipal revenues were not immune from the many cuts made in order to produce a workable state budget. Beer and wine tax distributions for FY 2009-10 were reduced by two-thirds (total municipal impact of \$14.4 million). These revenue distributions are scheduled to return to normal levels in FY 2010-11.

Privilege License Tax: While the tax was spared this year, tax reform proposals that included its elimination will be studied during the interim.

Other budget items of note:

- Rural Center: 2% cut; additional 2% cut in FY 2011.
- Clean Water Management Trust Fund: funded at \$50 million for both FY 2009-10 and FY 2010-11.

ELECTIONS

Municipal District Elections/Census – SB 38 (SL 2009-414): ENACTED. Applies special rules for redistricting following the federal census. After receiving census information, a city that elects its governing board on a district basis may delay the municipal election if it needs to revise districts to correct population imbalances.

One Stop Sites – HB 908 (SL 2009-541): ENACTED. Requires the county board of elections to make its request for the use of a public building for one-stop voting at least 90 days before the start of the one-stop voting period. If the city in charge of the building responds negatively to the request within 20 days, the city and the county board of elections must work in good faith to identify an alternative site for one-stop voting.

Public Municipal Campaigns – HB 120: PASSED HOUSE; STILL ELIGIBLE. Would establish a pilot program for public financing of municipal election campaigns

Economy and Jobs

_(S.L. 2009-199) amends the current state laws prohibiting companies, specializing in perishable products, from falsely representing themselves to consumers as a local business in: print media, telephone directories or through the use of the internet.

_ The law (S.L. 2009-54) changes the way corporate income tax liability is calculated for multi-state taxpayers by considering only the company's sales in the state when determining their tax bills. The change applies only to companies that invest \$1 billion or more over a nine-year period.

_(S.L. 2009-394) extends the sunset of the Job Development Investment Grant Program (JDIG). The program aims is to foster job creation and investment in the economy of this state. JDIGs are awarded only to new and expanding businesses or industrial projects which benefits exceed the costs to the state and which would not be undertaken in North Carolina without the grant.

_(S.L. 2009-515) Homeowners associations are now required to make reasonable and diligent efforts to locate and notify a lot owner prior to filing a claim of lien for assessments.

_(S.L. 2009-417) a new state law significantly increases the Statutory Homestead Exemption. This legislation applies to an individual debtor's aggregate interest up to \$35,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence. The previous exemption was capped at \$18,500.

_ Legislation has passed that makes it a violation of the state's Fair Housing Act to discriminate in land-use decisions of the permitting of development that contains affordable housing units. The bill adds language to the State Fair Housing Act to make it an unlawful housing practice to discriminate in land-use decisions or in the permitting of development based on race, color, religion, sex, national origin, handicapping condition, familial status, or, the fact that a development or proposed development contains affordable housing units for families or individuals with incomes below 80% of area median income. However, it would not be a violation to make land-use decisions or permit development based on considerations of limiting high concentrations of affordable housing.

Collective Bargaining/Card Check: **NOT PASSED; STILL AN ISSUE.** Bills ([SB 178](#), [SB 427](#), [HB 750](#)) to repeal the prohibition on contracts between government entities and labor organizations were introduced but did not see action this session.

Education

_\$13 million in recurring funds for additional dropout prevention grants which provide funding on a competitive basis to local school administrative units, schools, local agencies, or nonprofit organizations to support programs that address dropout prevention.

_Enrollment growth - fully funded: Community Colleges - \$58 million; Universities - \$ 44 million

_(S.L. 2009-330) works to increase graduation rates by allowing local businesses to adopt personnel policies to permit parents to attend school conferences; encourages local boards of education to adopt policies to implement programs that: (1) assist students in transitioning between the middle school and high school, (2) increases parental involvement in student achievement, and (3) reduces suspension and expulsion rates and encourages academic progress during suspensions. The bill also directs local school boards to modify policies on pregnant and parenting students that would better enable those students to graduate.

_(S.L. 2009-542) could help educators intervene sooner to help at-risk students through plans intended to improve their school performance. The legislation would allow educators to step in if they determine the student is at risk of failing based on grades, observations, state assessments or other factors.

Health

_(S.L. 2009-27) officially prohibits smoking in all North Carolina bars and restaurants, excluding establishments with a designated smoking guest room no greater than 20% of the of the establishment; cigar bars and/or private clubs.

Children, Families and Seniors

_(S.L. 2009-139) requires the Commissioner of Labor to report on youth employment enforcement activities. The objective of the law is to enhance the safety of children in the workplace by making more information available on workplace violations.

_(S.L. 2009-351) doubled the fine for first-time violators of the state's child labor law from \$250 to \$500 under a new state law, also creating a \$1,000 penalty for additional violations. Under the bill, the NC Department of Labor will be authorized to fine a company up to \$14,000 for workplace safety violations that injure a worker younger than 18, which is double the amount of the current maximum fine.

Transportation

_(HJR 1654) supports the implementation of the Passenger Rail Investment and Improvement Act of 2008 and the American Recovery and Reinvestment Act of 2009. The acts establish a program of federal capital grants to improve passenger, intermodal and freight services, create a new capital program for states to expand and improve passenger rail services and encourage public-private partnerships that work on high-speed rail projects.

_(S.L. 2009-527) allows counties to raise more money for mass transit projects, including rail service and buses. The bill provides the opportunity for residents of Durham, Forsyth, Guilford, Orange and Wake Counties to vote on whether to increase local sales taxes by ½ cent and car registration fees by up to \$2. The money would be used for public transportation. Other counties could increase sales taxes by a ¼ cent for such projects. The legislation is based on a plan Mecklenburg County used to finance its new downtown rail line.

_ \$126 million has been appropriated for Secondary Road Improvement Funds Reprogrammed to Maintenance to prevent further deterioration of the state highway system due to reduced transportation revenues and maintenance expenditures.

_(S.L. 2009-343) transfers the functions and funds of the North Carolina Turnpike Authority to the Department of Transportation. The change means the Turnpike Authority will now be under the direct supervision of the Secretary of Transportation. The legislation aims to conserve expenditures and improve efficiency. The General Assembly created the *Turnpike Authority* in 2002 in response to concerns about congestion and growth and was granted permission to develop and operate up to nine projects.

_(S.L. 2009-135) makes text messaging while driving illegal. The law directs the Joint Legislative Transportation Oversight Committee to identify and study the leading causes of driver inattention or distraction, the risks posed by driver inattention or distraction, and any methods that might be used to manage those distractions and promote highway safety. Law officers, firefighters and ambulance drivers would be exempted if they are texting as part of their official duties. A violation of this law would be punishable by a fine of \$100 plus court costs.

_Equity Formula Study Commission (**SB 635**): **NOT PASSED**, but a study by the Joint Legislative Transportation Oversight Committee was authorized in the final studies bill.

Energy and Environment

_(S.L. 2009-95) requires counties and municipalities in North Carolina to provide development incentives in exchange for reductions in energy consumption. More specifically, counties and municipalities will be able to grant incentives to a developer or builder if they agree to construct a new development or reconstruct an existing development in a way that significantly reduces energy consumption.

_Water quality in the Jordan Reservoir will be improved under a new state law (S.L. 2009-216). Jordan Lake is an important drinking water source for many Triangle-area communities.

_S.L. 2009-486 (SB 1020) protects and restores water quality and quantity in the Upper Neuse River Basin, Falls Lake, and other drinking water supply reservoirs by directing the Environmental Management Commission to provide credit to local governments, landowners, and others who reduce water pollution in the Upper Neuse River Basin before permanent rules are adopted. The law also modifies the nutrient management strategy-adopting a sedimentation strategy for certain drinking water supply reservoirs.

_Certain North Carolina dams connected to electric generating facilities would be subject to the Dam Safety Act under a new state law (S.L. 2009-390). The law allows the Department of Environmental and Natural Resources to inspect the structural soundness of coal ash dams. Previously, utility companies submitted their own engineering reports to the state Utilities Commission and were not subject to inspection by an outside entity. The law will also permit an electric public utility that purchases or constructs a carbon offset facility to retain the fuel and fuel-related cost savings resulting from the purchase or construction of the facility under certain conditions.

_Revolving Loan Fund for Energy Improvements - **HB 1389 (SL 2009-522)**: **ENACTED**. Allows cities to establish revolving funds to provide loans to finance the purchase and installation of renewable energy sources or energy

efficiency improvements for residential, commercial or other real property. Cities can use unrestricted revenue as well as Energy Efficiency and Conservation Block Grant Funds for the fund.

_Permitting of Wind Energy Facilities – [SB 1068](#): **PASSED SENATE; STILL ELIGIBLE**. Would require a state permit for wind energy facilities, with certain restrictions on location and impact. Preserves local land use authority over such facilities.

_Upper Neuse Basin Water Quality – [SB 1020 \(SL 2009-486\)](#): **ENACTED**. Requires that Falls Lake clean-up rules be set by January 15, 2011. Requires that credit be given for early adoption of nutrient management strategies and addresses sedimentation and compensatory mitigation requirements.

_Stormwater Controls for Compost – [HB 1100 \(SL 2009-322\)](#): **ENACTED**. Directs DENR to establish stormwater control best management practices and water treatment processes for composting operations.

_Parking Lots - [HB 1099](#): **IN CONFERENCE; STILL ELIGIBLE**. Would allow local building inspectors to rely on third-party certification that a parking lot and bioretention area are properly designed and constructed for compliance with limits on impervious parking.

_Defer Tax on Builders Inventory - [HB 852 \(SL 2009-308\)](#): **ENACTED**. As a way to temporarily support an ailing homebuilding industry, defers property tax on new, unsold homes.

Local Governments:

_Condemnation/Conservation Easements - [SB 600 \(SL 2009-439\)](#): **ENACTED**. In response to complaints that properties encumbered by conservation easements were being targeted for condemnation, the legislation restricts the ability of cities to condemn such lands. Cities will be required to prove that no “prudent and feasible” alternative exists before condemning property encumbered by a conservation easement. The new legal standard applies in condemnations related to roads and other infrastructure. Applies to condemnation proceedings initiated on or after October 1, 2009.

_Promote Mitigation Banks – [S755 \(SL 2009-337\)](#): **ENACTED**. Clarifies the ability of developers and governmental units to use private compensatory mitigation banks to meet regulatory requirements to mitigate the impact of their development on the environment. Also directs DENR to conduct a study of the financing of the Ecosystem Enhancement Program.

Land Use/Development

_Extend Certain Development Approvals - [SB 831\(SL 2009-406\)](#) and [HB 1490 \(SL 2009-572\)](#) and [SB 838 \(SL 2009-484\)](#): **ENACTED**. Extends the life of certain types of development permits. For development approvals that were current and valid at any point from January 1, 2008 to December 31, 2010, the “clock” time on the permit and its vested rights is stopped until December 31, 2010. (Some permits may have additional time left to run after December 31, 2010 and some permits that local governments may have assumed to be expired may be revived.)

_Railroad Corridor Management ([HB 116](#)): **PASSED HOUSE; STILL ELIGIBLE**. Designed to prevent future encroachments into the railroad corridor, the bill would prohibit local governments from issuing certain development approvals, such as building permits, in the corridor without the railroad’s consent.

STUDY COMMITTEES AND COMMISSIONS:

The budget bill, [SB 202 \(SL 2009-451\)](#), authorizes the Senate and House Finance Committees and other designees to study and recommend legislation to reform the state’s sales and income tax structure to broaden the base and lower the tax rates.

The Studies Act of 2009 – [HB 945](#) also authorizes study of numerous issues.

The following select issues are included and may be studied in the interim.

Potential Legislative Research Commission Studies:

- Youth violence
- Tax credits for installation of innovative, low-impact stormwater management systems
- Gasoline shortages

- Sanitary district laws
- Mountain resources
- Transfer of development rights
- State-funded regional economic development programs
- Use of 911 funds
- High-speed internet in underserved urban areas and rural areas
- Broadband use

Potential Joint Legislative Transportation Oversight Committee Studies:

- Transportation funding distribution formula

Potential Environmental Review Commission Studies:

- Interbasin and intrabasin netting of water withdrawals and discharges
- Continue study of water allocation issues identified by 2008 Water Allocation Study
- Consolidating the state's environmental policymaking, rulemaking, and quasi-judicial functions into one commission
- Impacts of cement plants
- Alternative energy use by government
- Sustainable growth
- Disclosure of coastal hazards
- Recycling of fluorescent lights and mercury-containing products
- Local ordinances banning clotheslines
- Green building code
- State Environmental Policy Act document requirements
- Use and storage of reclaimed water
- Accelerating remediation of contaminated industrial and commercial sites

Potential Revenue Laws Study Commission studies:

- Municipal Broadband -- local government owned and operated communication services
- Effect on local government of property tax relief programs and exemptions
- Effects on state revenues of tax incentives, exemptions, credits, refunds, and exclusions
- Incentives for renewable energy and energy conservation
- Tax treatment of government retiree benefits

Potential Joint Legislative Utility Review Committee Studies:

- Siting of wind energy facilities

- Applying pesticides to rights-of-way

Potential Joint Legislative Elections Oversight Committee Studies:

- Filling vacancies in local offices
- Constitutionality of state laws on campaign contributions

Potential Department of Agriculture Studies:

- Land application of septage and sludge/health and environmental effects

Potential Department of Environment and Natural Resources Studies:

- Use of temporary erosion control structures on shorelines
- Mitigating impact of erosion-threatened structures on public beach

Legislative Study Commission on Water and Wastewater Infrastructure (*New Commission*)

- Identify statewide water and wastewater infrastructure needs
- Improve delivery of existing state water and wastewater funding programs
- Needs of small towns whose rates exceed the high-unit-cost threshold
- Recommend changes to infrastructure funding priorities
- Capacity and role of the state in bridging gaps between funding priorities and available funds