

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 960  
Select Committee on Economic Recovery Committee Substitute Adopted 7/23/09  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S960-PCS55500-RO-79

Short Title: Ensure Accountability Re: Stimulus Funds.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO FACILITATE EXPEDITED USE AND EXPENDITURE OF FEDERAL  
3 FUNDS PROVIDED UNDER THE AMERICAN RECOVERY AND REINVESTMENT  
4 ACT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 143-52 reads as rewritten:

7 "§ 143-52. **Competitive bidding procedure; consolidation of estimates by Secretary; bids;**  
8 **awarding of contracts.**

9 (a) As feasible, the Secretary of Administration will compile and consolidate all such  
10 estimates of supplies, materials, printing, equipment and contractual services needed and  
11 required by State departments, institutions and agencies to determine the total requirements of  
12 any given commodity. Where such total requirements will involve an expenditure in excess of  
13 the expenditure benchmark established under the provisions of G.S. 143-53.1 and where the  
14 competitive bidding procedure is employed as hereinafter provided, sealed bids shall be  
15 solicited by advertisement in a newspaper widely distributed in this State or through electronic  
16 means, or both, as determined by the Secretary to be most advantageous, at least once and at  
17 least 10 days prior to the date designated for opening. Except as otherwise provided under this  
18 Article, contracts for the purchase of supplies, materials or equipment shall be based on  
19 competitive bids and acceptance made of the lowest and best bid(s) most advantageous to the  
20 State as determined upon consideration of the following criteria: prices offered; the quality of  
21 the articles offered; the general reputation and performance capabilities of the bidders; the  
22 substantial conformity with the specifications and other conditions set forth in the request for  
23 bids; the suitability of the articles for the intended use; the personal or related services needed;  
24 the transportation charges; the date or dates of delivery and performance; and such other  
25 factor(s) deemed pertinent or peculiar to the purchase in question, which if controlling shall be  
26 made a matter of record. Competitive bids on such contracts shall be received in accordance  
27 with rules and regulations to be adopted by the Secretary of Administration, which rules and  
28 regulations shall prescribe for the manner, time and place for proper advertisement for such  
29 bids, the time and place when bids will be received, the articles for which such bids are to be  
30 submitted and the specifications prescribed for such articles, the number of the articles desired  
31 or the duration of the proposed contract, and the amount, if any, of bonds or certified checks to  
32 accompany the bids. Bids shall be publicly opened. Any and all bids received may be rejected.  
33 Each and every bid conforming to the terms of the invitation, together with the name of the



1 bidder, shall be tabulated and that tabulation shall become public record in accordance with the  
2 rules adopted by the Secretary. All contract information shall be made a matter of public record  
3 after the award of contract. Provided, that trade secrets, test data and similar proprietary  
4 information may remain confidential. A bond for the faithful performance of any contract may  
5 be required of the successful bidder at bidder's expense and in the discretion of the Secretary of  
6 Administration. When the dollar value of a contract for the purchase, lease, or lease/purchase of  
7 equipment, materials, and supplies exceeds the benchmark established by G.S. 143-53.1, the  
8 contract shall be reviewed by the Board of Awards pursuant to G.S. 143-52.1 prior to the  
9 contract being awarded. After contracts have been awarded, the Secretary of Administration  
10 shall certify to the departments, institutions and agencies of the State government the sources of  
11 supply and the contract price of the supplies, materials and equipment so contracted for.

12 (b) All contracts for goods, equipment, or services awarded by the Department of  
13 Administration, State departments, institutions, agencies, universities, and community colleges  
14 using funds from the American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law  
15 111-5) shall be awarded to the maximum extent practicable using fixed-priced contracts and  
16 competitive procedures. The Secretary of Administration, in coordination with the Office of  
17 Economic Recovery and Investment (OERI), shall adopt rules, regulations, and policies that  
18 will promote the efficient and expeditious award of ARRA contracts in compliance with the  
19 requirements of ARRA and ARRA's rules, regulations, directives, and guidance, as well as  
20 directives issued by OERI."

21 **SECTION 2.** G.S. 143-53 is amended by adding a new subsection to read:

22 "(e) The Secretary of Administration, in coordination with the Office of Economic  
23 Recovery and Investment (OERI), shall adopt rules, policies, and regulations regarding the  
24 requisition, issuance, advertising, opening, evaluation, award, protests, contract performance,  
25 contract administration, default, termination, and debarment for all contracts for goods,  
26 equipment, or services to be awarded by the Department of Administration, State departments,  
27 institutions, agencies, universities, and community colleges using funds from and to meet the  
28 goals of the American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5).  
29 The rules adopted under this subsection shall be adopted in accordance with G.S. 150B-21.1B."

30 **SECTION 3.** Chapter 150B of the General Statutes is amended by adding a new  
31 section to read:

32 **"§ 150B-21.1B. Adoption of rules to implement the American Recovery and Reinvestment**  
33 **Act.**

34 (a) Purpose. – This section establishes an expedited procedure for the adoption of new  
35 or the amendment of existing rules implementing the American Recovery and Reinvestment  
36 Act of 2009 (ARRA) (Public Law 111-5), including any federal rules, regulations, policies,  
37 guidance, or goals for the implementation of the ARRA. It is the policy of the State to provide  
38 fair regulation, oversight, and transparency for the use of ARRA funds and to quickly and  
39 efficiently complete the awards of grants and contracts under the ARRA. The provisions of this  
40 section shall be liberally construed to allow agencies maximum flexibility in implementing the  
41 ARRA.

42 (b) Adoption. – An agency may adopt a rule under this section by using the procedure  
43 for adoption of an emergency rule set forth in G.S. 150B-21.1A(a) and (b). The provision in  
44 subsection (a) of G.S. 150B-21.1A that requires a finding of a serious or unforeseen threat to  
45 public health or safety shall not apply to rules adopted under this section. In lieu of the written  
46 statement of its findings of need as provided in subsection (b) of G.S. 150B-21.1A, the agency  
47 must prepare a written statement of its findings that the rule is needed to implement the ARRA.  
48 The emergency rule becomes effective when it is entered into the North Carolina  
49 Administrative Code. When an agency adopts an emergency rule under this section, the agency  
50 must simultaneously commence the process for adopting a temporary rule by submitting the  
51 rule to the Codifier of Rules for publication on the Internet in accordance with

1 G.S. 150B-21.1(a3). For purposes of this section, all references to business days in  
2 G.S. 150B-21.1(a3) shall be deemed to be calendar days. If the agency receives written  
3 comment objecting to the temporary rule, the temporary rule shall be reviewed in accordance  
4 with subsection (c) of this section. If the agency receives no written comment objecting to the  
5 temporary rule, the agency shall deliver the rule to the Codifier of Rules. The Codifier of Rules  
6 shall enter the temporary rule into the North Carolina Administrative Code on the sixth  
7 business day after receipt of the rule, and the temporary rule becomes effective upon entry into  
8 the Code.

9 (c) Review. – If the agency receives written objection to the temporary rule, the agency  
10 must submit the temporary rule and a written statement of its findings that the rule is needed to  
11 implement the ARRA to the Director of the Office of Economic Recovery and Investment  
12 (Director). The Director shall have 14 calendar days to review the statement and the rule to  
13 determine whether the rule meets the following criteria:

14 (1) It is within the authority delegated to the agency by the General Assembly.

15 (2) It is clear and unambiguous.

16 (3) It is reasonably necessary to implement or interpret an enactment of the  
17 General Assembly or Congress, including the ARRA and any federal rules,  
18 regulations, policies, guidance, or goals for the implementation of the  
19 ARRA. The Director shall consider the cumulative effect of all rules adopted  
20 by the agency related to the specific purpose for which the rule is proposed.

21 (4) It was adopted in accordance with this section.

22 If the Director finds that the temporary rule meets all of the criteria set forth in this subsection,  
23 the Director shall deliver the rule to the Codifier of Rules for entry into the North Carolina  
24 Administrative Code. If the Director finds that the temporary rule fails to meet any of the  
25 criteria set forth in this subsection, the Director shall return the rule to the agency with a  
26 statement of the Director's objections. The agency may change the rule to satisfy the Director's  
27 objections and submit the revised rule to the Director. If the agency fails to satisfy the  
28 Director's objections, the rule shall not be entered in the North Carolina Administrative Code. If  
29 the Director fails to make a final finding within 14 calendar days of receipt of the statement and  
30 rule, the rule shall not be entered in the North Carolina Administrative Code.

31 (d) Emergency Rule Expiration Date. – An emergency rule adopted in accordance with  
32 this section expires on the earliest of the following dates:

33 (1) The date specified in the rule.

34 (2) The effective date of the temporary rule adopted to replace the emergency  
35 rule, if the Director approves the temporary rule.

36 (3) The date the Director returns to an agency a temporary rule adopted to  
37 replace the emergency rule, if the agency fails to satisfy the Director's  
38 objections.

39 (4) Sixty days from the date the emergency rule was published in the North  
40 Carolina Register, unless the temporary rule adopted to replace the  
41 emergency rule has been submitted to the Codifier of Rules.

42 (e) Temporary Rule Expiration Date. – A temporary rule adopted in accordance with  
43 this section expires on the earliest of the following dates:

44 (1) The date specified in the rule.

45 (2) The effective date of a permanent rule adopted in accordance with  
46 G.S. 150B-21.2 to replace the temporary rule.

47 (3) June 30, 2012.

48 (f) The Director's determination that a temporary rule meets the criteria set forth in  
49 subsection (c) of this section and that the rule is required by ARRA is a final agency decision  
50 and may be reviewed in accordance with Article 4 of this Chapter."

51 **SECTION 4.** G.S. 150B-1(c) is amended by adding a new subdivision to read:

1           "(8) Except as provided in G.S. 150B-21.1B, any agency with respect to  
2           contracts, disputes, protests, and/or claims arising out of or relating to the  
3           implementation of the American Recovery and Reinvestment Act of 2009  
4           (Public Law 111-5)."

5           **SECTION 5.** G.S. 143-53.1 reads as rewritten:

6           "**§ 143-53.1. Setting of benchmarks; increase by Secretary.**

7           (a) On and after July 1, 1997, the procedures prescribed by G.S. 143-52 with respect to  
8 competitive bids and the bid value benchmark authorized by G.S. 143-53(a)(2) with respect to  
9 rule making by the Secretary of Administration for competitive bidding shall be no more than  
10 twenty-five thousand dollars (\$25,000); provided, the Secretary of Administration may, in his  
11 or her discretion, increase the benchmarks effective as of the beginning of any fiscal biennium  
12 of the State commencing after June 30, 1999, in an amount whose increase, expressed as a  
13 percentage, does not exceed the rise in the Consumer Price Index during the fiscal biennium  
14 next preceding the effective date of the benchmark increase. For a special responsibility  
15 constituent institution of The University of North Carolina, the benchmark prescribed in this  
16 section shall be as provided in G.S. 116-31.10. For community colleges, the benchmark  
17 prescribed in this section shall be as provided in G.S. 115D-58.14.

18           (b) The benchmarks set by the Secretary of Administration, The University of North  
19 Carolina, and the State Board of Community Colleges in subsection (a) of this section shall be  
20 applicable to all contracts for goods, equipment, or services awarded by the Department of  
21 Administration, State departments, institutions, agencies, universities, and community colleges  
22 using funds from the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)."

23           **SECTION 6.** G.S. 143-54 reads as rewritten:

24           "**§ 143-54. Certification that bids were submitted without collusion.**

25           (a) The Director of Administration shall require bidders to certify that each bid is  
26 submitted competitively and without collusion. False certification is a Class I felony.

27           (b) The certification required by subsection (a) of this section shall be applicable to all  
28 bids and proposals for contracts for goods, equipment, or services awarded by the Department  
29 of Administration, State departments, institutions, agencies, universities, and community  
30 colleges using funds from the American Recovery and Reinvestment Act of 2009 (Public Law  
31 111-5)."

32           **SECTION 7.** G.S. 143-55 reads as rewritten:

33           "**§ 143-55. Requisitioning for supplies by agencies; must purchase through sources**  
34 **certified.**

35           (a) Unless otherwise provided by law, after sources of supply have been established by  
36 contract and certified by the Secretary of Administration to the said departments, institutions  
37 and agencies as herein provided for, it shall be the duty of all departments, institutions and  
38 agencies to make requisition or issue orders on forms to be prescribed by the Secretary of  
39 Administration, for all supplies, materials and equipment required by them upon the sources of  
40 supply so certified, and, except as herein otherwise provided for, it shall be unlawful for them,  
41 or any of them, to purchase any supplies, materials or equipment from other sources than those  
42 certified by the Secretary of Administration. One copy of such requisition or order shall be  
43 furnished to and when requested by the Secretary of Administration.

44           (b) The acquisition of supplies, materials, goods, equipment, or services using funds  
45 from the American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) shall  
46 be exempt from the contracts certified by the Secretary of Administration in subsection (a) of  
47 this section. However, the Secretary of Administration, in coordination with the Office of  
48 Economic Recovery and Investment, may approve the use of term contracts in limited  
49 circumstances where such contracts provide the best means to accomplish the goals of ARRA.  
50 In addition, the Secretary of Administration shall provide notice to the vendors on the certified  
51 contracts of the opportunity to submit bids or proposals for contracts using ARRA funds."

1           **SECTION 8.** G.S. 6-19.1 reads as rewritten:

2   "**§ 6-19.1. Attorney's fees to parties appealing or defending against agency decision.**

3       (a) In any civil action, other than an adjudication for the purpose of establishing or  
4 fixing a rate, or a disciplinary action by a licensing board, brought by the State or brought by a  
5 party who is contesting State action pursuant to G.S. 150B-43 or any other appropriate  
6 provisions of law, unless the prevailing party is the State, the court may, in its discretion, allow  
7 the prevailing party to recover reasonable attorney's fees, including attorney's fees applicable to  
8 the administrative review portion of the case, in contested cases arising under Article 3 of  
9 Chapter 150B, to be taxed as court costs against the appropriate agency if:

10           (1) The court finds that the agency acted without substantial justification in  
11 pressing its claim against the party; and

12           (2) The court finds that there are no special circumstances that would make the  
13 award of attorney's fees unjust. The party shall petition for the attorney's fees  
14 within 30 days following final disposition of the case. The petition shall be  
15 supported by an affidavit setting forth the basis for the request.

16       Nothing in this section shall be deemed to authorize the assessment of attorney's fees for the  
17 administrative review portion of the case in contested cases arising under Article 9 of Chapter  
18 131E of the General Statutes.

19       Nothing in this section grants permission to bring an action against an agency otherwise  
20 immune from suit or gives a right to bring an action to a party who otherwise lacks standing to  
21 bring the action.

22       Any attorney's fees assessed against an agency under this section shall be charged against  
23 the operating expenses of the agency and shall not be reimbursed from any other source.

24       (b) No party shall be entitled to recover attorneys' fees in any civil action regarding any  
25 claim, dispute, and/or protest relating to: (i) the implementation of the American Recovery and  
26 Reinvestment Act of 2009 (ARRA) (Public Law 111-5); (ii) the award of contracts or grants  
27 thereunder by the State and its departments, institutions, offices, agencies, universities,  
28 community colleges, counties, municipalities, and local education authorities; (iii) a vendor's  
29 default under an ARRA contract; and/or (iv) a vendor's debarment resulting from a default of  
30 an ARRA contract."

31           **SECTION 9.** G.S. 66-58(b) is amended by adding a new subdivision to read:

32           "(26) The North Carolina Office of Economic Recovery and Investment and State  
33 agencies in the implementation of the American Recovery and Reinvestment  
34 Act of 2009 (Public Law 111-5) funded projects."

35           **SECTION 10.** Recovery funds not specified in the American Recovery and  
36 Reinvestment Act of 2009 (ARRA) may be expended upon approval by the Office of Economic  
37 Recovery and Investment. The Office of Economic Recovery and Investment will report any  
38 authorizations of ARRA funds to the Joint Legislative Commission on Governmental  
39 Operations at its next meeting.

40           **SECTION 11.** Contracts or grants entered into for the use of funds from the  
41 American Recovery and Reinvestment Act of 2009 (ARRA) may include remedies sufficient to  
42 protect the State in the event such funds are not used in a manner consistent with ARRA or  
43 State requirements. Such remedies may include, but are not limited to, withholding State  
44 revenues to local governments and monetary penalties for nonprofits or for-profit entities.

45           **SECTION 12.** If Senate Bill 828, 2009 Regular Session becomes law, then  
46 G.S. 136-28.1(a) and (b), as amended by that act, read as rewritten:

47   "**§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

48       (a) All contracts over one million two hundred thousand dollars (\$1,200,000) that the  
49 Department of Transportation may let for construction, maintenance, operations, or repair  
50 necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after  
51 public advertising under rules and regulations to be made and published by the Department of

1 Transportation. The right to reject any and all bids shall be reserved to the Board of  
2 Transportation. Contracts for construction or repair for federal aid projects entered into  
3 pursuant to this section shall not contain the standardized contract clauses prescribed by 23  
4 U.S.C. § 112(e) and 23 C.F.R. § 635.109 for differing site conditions, suspensions of work  
5 ordered by the engineer or significant changes in the character of the work. For those federal  
6 aid projects, the Department of Transportation shall use only the contract provisions for  
7 differing site conditions, suspensions of work ordered by the engineer, or significant changes in  
8 the character of the work developed by the North Carolina Department of Transportation and  
9 approved by the Board of Transportation.

10 (b) For contracts let to carry out the provisions of this Chapter in which the amount of  
11 work to be let to contract for transportation infrastructure construction or repair is one million  
12 two hundred thousand dollars (\$1,200,000) or less, and for transportation infrastructure  
13 maintenance, excluding resurfacing, that is one million two hundred thousand dollars  
14 (\$1,200,000) per year or less, at least three informal bids shall be solicited. The term "informal  
15 bids" is defined as bids in writing, received pursuant to a written request, without public  
16 advertising. All such contracts shall be awarded to the lowest responsible bidder. The Secretary  
17 of Transportation shall keep a record of all bids submitted, which record shall be subject to  
18 public inspection at any time after the bids are opened.

19 ...."

20 **SECTION 13.** Part 3 of Article 36 of Chapter 143 of the General Statutes reads as  
21 rewritten:

22 "Part 3. Energy ~~Improvement-Loan Program-Fund.~~

23 "**§ 143-345.16. Short title.**

24 This Part shall be known as the Energy ~~Improvement-Loan Program-Fund.~~

25 "**§ 143-345.17. Legislative findings and purpose.**

26 The General Assembly finds and declares that it is in the best interest of the citizens of  
27 North Carolina to promote and encourage energy efficiency within the State in order to  
28 conserve energy, promote economic competitiveness, and expand employment in the State.

29 "**§ 143-345.18. Lead agency; powers and duties.**

30 (a) For the purposes of this Part, the Department of Administration, State Energy  
31 Office, is designated as the lead State agency in matters pertaining to energy efficiency.

32 (b) The Department shall have the following powers and duties with respect to this Part:

33 (1) To provide industrial and commercial concerns doing business in North  
34 Carolina, local governmental units, ~~and nonprofit organizations operating~~  
35 organizations, and residents in North Carolina with information and  
36 assistance in undertaking energy conserving capital improvement projects to  
37 enhance efficiency.

38 (2) ~~To establish a revolving fund within the Department for the purpose of~~  
39 ~~providing secured loans in amounts not greater than five hundred thousand~~  
40 ~~dollars (\$500,000) per entity to install energy-efficient capital improvements~~  
41 ~~(i) within businesses or nonprofit organizations located within or~~  
42 ~~translocating to North Carolina, and (ii) within local governmental units. To~~  
43 establish one or more revolving funds within the Department for the purpose  
44 of providing secured loans in amounts not greater than one million dollars  
45 (\$1,000,000) per entity to install or to an entity that installs energy-efficient  
46 and renewable energy improvements (i) within business or nonprofit  
47 organizations located within or translocating to North Carolina, (ii) within  
48 local governmental units, (iii) within buildings classified as multifamily  
49 residential, (iv) within buildings designated as multiuse that include  
50 residential units, and (v) within single family residences, however, in this  
51 instance the amount of the loan shall not exceed fifty thousand dollars

1           (\$50,000). In providing these loans, priority shall be given to entities already  
2 located in the State.

3           (2a) To develop and adopt rules to allow State-regulated financial institutions to  
4 provide secured loans to corporate entities, nonprofit organizations, and  
5 local governmental units and residents in accordance with terms and criteria  
6 established by the ~~Department~~ State Energy Office.

7           (3) To work with appropriate State and federal agencies to develop and  
8 implement rules and regulations to facilitate this program.

9           (4) To contract with persons or entities, including other State agencies and  
10 United States Treasury certified Community Development Financial  
11 Institutions (CDFI), to administer the Energy Loan Fund. Contracts for the  
12 procurement of services to manage, administer, and operate the Energy Loan  
13 Fund shall be awarded on a competitive basis through the solicitation of  
14 proposals and through the procedures established by statute and the Division  
15 of Purchase and Contract.

16           (c) The annual interest rate charged for the use of the funds from the revolving fund  
17 established pursuant to subdivision (b)(2) of this section shall be a percentage not to exceed  
18 three percent (3%) per annum, to be established by the State Energy Office, excluding other  
19 fees required for loan application review and origination. The term of any loan originated under  
20 this section may not be greater than ~~40~~ 20 years.

21           (c1) Notwithstanding subsection (c) of this section, the ~~Department~~ State Energy Office  
22 shall adopt rules to allow loans to be made from the revolving loan fund and by State-regulated  
23 financial institutions at interest rates as low as ~~one percent (1%)~~ zero percent (0%) per annum  
24 for certain renewable energy, recycling, and energy efficient and conservation projects ~~such as~~  
25 ~~recycling and renewable energy~~ to encourage their development and use.

26           (d) In accordance with the terms of the Stripper Well Settlement, administrative  
27 expenses for activities under this section that are subject to the Stripper Well Settlement shall  
28 be limited to five percent (5%) of funds ~~appropriated~~ allocated for this purpose. In accordance  
29 with the provisions of the American Recovery and Reinvestment Act of 2009 (ARRA) (Public  
30 Law 111-5), administrative expenses for activities under this section that are subject to the  
31 ARRA shall be limited to ten percent (10%) of funds allocated for this purpose.

32           (e) For purposes of this section:

33           (1) "Local governmental unit" means any board or governing body of a political  
34 subdivision of the State, including any board of a community college, any  
35 school board, or an agency, commission, or authority of a political  
36 subdivision of the State.

37           (2) "Nonprofit organization" means an organization that is exempt from federal  
38 income taxation under section 501(c)(3) of the Internal Revenue Code."

39           **SECTION 14.(a)** G.S. 62-133.8 is amended by adding a new subsection to read:

40           "**(k) Tracking of Renewable Energy Certificates.** – No later than July 1, 2010, the  
41 Commission shall develop, implement, and maintain an Internet Web site for the online  
42 tracking of renewable energy certificates in order to verify the compliance of electric power  
43 suppliers with the REPS requirements of this section and to facilitate the establishment of a  
44 market for the purchase and sale of renewable energy certificates."

45           **SECTION 14.(b)** The North Carolina Utilities Commission shall use available  
46 funds for the 2009-2010 fiscal year to implement this section.

47           **SECTION 14.(c)** The North Carolina Utilities Commission shall study the issue of  
48 trading renewable energy certificates in order to verify the compliance of electric power  
49 suppliers with REPS requirements and to facilitate the establishment of a market for the  
50 purchase and sale of renewable energy certificates. The Commission shall report its findings to  
51 the General Assembly by the commencement of the 2010 Regular Session.

1           **SECTION 15.** The General Assembly finds that it is in the public interest of the  
2 State of North Carolina to ensure expeditious awards of ARRA funds to maximize the  
3 economic recovery impact of the ARRA. It is the policy of the State to provide fair regulation,  
4 oversight, and transparency for the use of ARRA funds and to quickly and efficiently complete  
5 the awards of grants and contracts under the ARRA. It is also the policy of this State that, due  
6 to the historic level of federal and State oversight of ARRA grant and contract awards, restraint  
7 should be exercised in the granting of legal and injunctive relief that might forestall awards to  
8 programs and contractors.

9           **SECTION 16.** This act becomes effective February 17, 2009. Sections 1 through 8  
10 of this act expire June 30, 2012.