



State of North Carolina

## Office of State Budget and Management

**Michael F. Easley**  
Governor and Director  
of the Budget

February 17, 2004

**David T. McCoy**  
State Budget Officer

### MEMORANDUM

TO: Senator Marc Basnight, President Pro-Tempore of the Senate  
Representative Jim Black, Speaker of the House of Representatives  
Representative Richard Morgan, Speaker of the House of Representatives

FROM: David McCoy *David McCoy*

SUBJECT: Consultation on Allocations from the Contingency and Emergency Fund

Pursuant to G.S. 120-76(8)(a)'s consultation requirement, the Office of State Budget and Management is providing the following information regarding the allocation of Contingency and Emergency Funds. Four Items are included in this memorandum: (1) \$64,045.98 to pay expert witness fees for the case Stephenson v. Bartlett, (2) \$100,000 to retain outside counsel for the case State of North Carolina v. John Ashcroft (United States District Court for the District of Columbia), (3) \$8,571.19 for administrative support related to the Base Realignment and Closure Act (BRAC) and (4) \$200,000 for Base Realignment and Closure Act (BRAC) issues.

#### Expert Witness Fees for the *Stephenson v. Bartlett* case - \$64,045.98

In the first phase of Stephenson v. Bartlett, the Court retained two experts to assist in redistricting matters who submitted fee statements totaling \$90,942.72. On November 26, 2002, the Superior Court entered a preliminary order requiring the State to pay legal fees and costs in the amount of \$45,000 to the experts retained by the Court. Another \$20,000 was paid by the plaintiffs. However, an outstanding balance of \$25,942.72 remains unpaid.

Per Judge Jenkins' instructions, on April 17, 2003, the Trial Court Coordinator for Johnston County Superior Court transmitted a fee statement from the court's expert for work performed in the second phase of Stephenson v. Bartlett in the amount of \$41,103.26.

Pursuant to Rule 706 of the North Carolina Rules of Evidence, an expert retained by the Court is entitled to reasonable compensation in whatever sum the Court may allow. These fees must be paid by the parties as the Court directs and are charged to the parties as costs. Although no formal order directing payment to the court's experts has been issued for the \$25,942.72 and