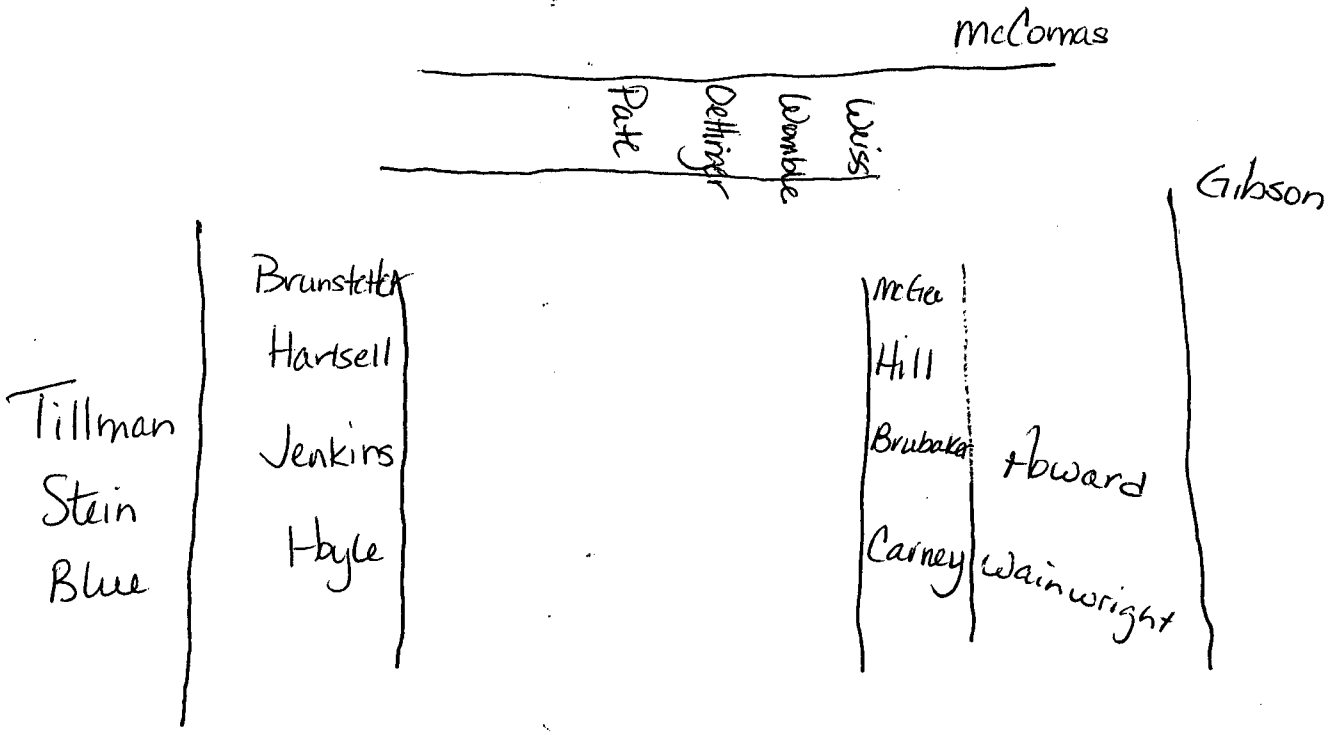
2010-2011

REVENUE LAWS STUDY COMMITTEE

MINUTES

Revenue Laws Study Committee

DATES / NAMES	1/6	2/3	3/31	4/21	5/5											
Sen. Dan Clodfelter, Cochair	X	X	X	X✓	X											
Rep. Paul Luebke, Cochair	X	X	X	X	X											
Sen. Dan Blue	✓	X	–	–												
Rep. Harold Brubaker	X	X	X	X✓	X											
Sen. Pete Brunstetter	X	X	X	–	X											
Rep. Becky Carney	X	X	–	X												
Rep. Pryor Gibson	✓	X	E	X✓	X											
Sen. Fletcher Hartsell	X	X	X	X✓	X											
Rep. Dewey Hill	X	X	X	X✓	X											
Rep. Julia Howard	X	X	X	X✓	X											
Sen. David Hoyle	X	E	X	X	X											
Sen. Clark Jenkins	X	X	–	X	X											
Rep. Danny McComas	X	X	–	–	X											
Rep. Bill McGee	X	X	X	X✓	X											
Mr. David Oettinger	X	X	X	X	X											
Mr. Mike Pate	X	X	X	X	X											
Sen. Josh Stein	X	X	–	X✓	X											
Sen. Jerry Tillman	X	X	X	X✓	X											
Rep. William Wainwright	X	X	X	X✓	X											
Rep. Jennifer Weiss	–	X	X	X✓	✓											
Rep. Larry Womble	X	X	E	–	E											


McComas
Weiss
Womble
Oettinger
Pate
Gibson
Brunstetter
Harrsell
Jenkins
Hayle
Tillman
Stein
Blue
McGee
Hill
Brubaker
Carney
Howard
Wainwright

21 members
11 staff

Revenue Laws Study Committee
Membership List
2009-2010

President Pro Tem Appointments

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Representative William L. Wainwright
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Advisory Member

Representative Larry Womble
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REVENUE LAWS STUDY COMMITTEE
Wednesday, January 6, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, January 6, 2010, in room 544 of the Legislative Office Building. Twenty members of the committee were present. Representative Luebke presided as chair.

Welcome and Introduction of Members

Representative Luebke requested a moment of silence in memory of Leonard Jones, a public member, who served on the Committee for ten years. Mr. Jones passed away last summer. Representative Luebke then asked that the members of the committee introduce themselves.

Overview of 2009 Finance Law Changes

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized. She outlined changes in the State law and recent federal changes, including the Military Spouses Residency Relief Act. Sandra Johnson, a fiscal analyst with the Fiscal Research Division, was recognized to answer questions regarding tobacco tax funds. A copy of the Ms. Walston's power point presentation and the 2009 Finance Law Changes document is attached.

Report from the Department of Revenue

Kenneth R. Lay, Secretary of the Department of Revenue, was recognized. He spoke about the recent resolution initiative process and results. Linda Millsaps, Chief Operating Officer for the Department of Revenue, was recognized to answer questions. A handout outlining the resolution initiative and its results is attached. Secretary Lay also discussed the status of the Tax Information Management System (TIMS), addressing its projected costs, start-up date, and vendor information.

Online Travel Booking and Taxes

Trina Griffin, a staff attorney with the Research Division, was recognized to explain differences in tax collection of traditional travel bookings versus online travel bookings, and how these differences have led to lawsuits with mixed court decisions. A copy of Ms. Griffin's power point is attached.

Issues Related to Cigarettes and Little Cigars

Heather Fennell, a staff attorney with the Research Division, was recognized for an explanation of cigarettes and little cigars, their taxation, what other states are doing, and

possible revenue options for North Carolina. A copy of Ms. Fennell's power point is attached.

The meeting adjourned at 12:05 p.m.

Representative Paul Luebke, Presiding Chair

DeAnne Mangum, Committee Clerk

HOUSE PAGES

NAME OF COMMITTEE Rules. Laws DATE 1.5.'10

1. Name: _____

   County: _____

   Sponsor: _____

2. Name: _____

   County: _____

   Sponsor: _____

3. Name: _____

   County: _____

   Sponsor: _____

4. Name: _____

   County: _____

   Sponsor: _____

5. Name: _____

   County: _____

   Sponsor: _____

SGT-AT-ARM

1. Name: Martha Lanier George Robinson
2. Name: Tom Williams Robert Yeomans
3. Name: James Worth ERNIE SHERRELL
4. Name: CHARLES HARPER
   CHESTER White

VISITOR REGISTRATION SHEET

Revenue Laws — Jan. 6, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Steve Brewer	CenturyLink
Chip Kallam	Nelson Mullins
Lucius Pullen	Attorney
David Baker	NCDOR
Kevin Leonard	NCACC
David Johnson	NCACC
Kelli Culama	NCLM
Doug Howey	NCPCM
Cam Criez	NCPCM
David Bowers	Poyner Spruill

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Revenue Laws — Jan. 6, 2010

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Paul Stock	NCBA
Doug Heron	Williams Mullen
Bo Heath	McGuire Woods
[illegible]	Judge Osteen
Cam Ames	BPMHL
Martha Jan McConnell	Carolina Healthcare Sys.
Thomas Moore	[illegible]
PAUL SPELMAN	PREMIERE FIBERS ANSONVILLE, NC

VISITOR REGISTRATION SHEET

Revenue Laws — Jan. 6, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Fred Box	Box & Assoc.
Britt Allen	Allen Law Offices, PLLC

VISITOR REGISTRATION SHEET

Revenue Laws — Jan. 6, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Sammy Roberson	TWC
Amy McConkey	Smith Anderson
Wendy Kelly	NMRS
Joe Lanier	NMRS
Mike Davis	Mike Davis Public Relations
Brian May	Altria Client Services
Gene Ainsworth	A&A
Dana Simpson	Smith Anderson

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Revenue Laws — Jan. 6, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dr. Ann Harris	LAHFA
Kathy Hawkins	Progress Energy
Jim Ahler	NCACPA

VISITOR REGISTRATION SHEET

Revenue Laws — Jan. 6, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Matt Gentile	EX
Ken Melton	K.M.A.
Sara Burrows	Carolina Journal
Karl Knapp	NCLM
Chuck Stone	SEANC
Emily Welborn	TPG
Patrick Buffkin	Nelson Mullins
Elizabeth Robinson	NCBMA
Will Culpepper	Moore + Van Allen
Linda Millsaps	NCDOR
KEN LAY	NCDOR

VISITOR REGISTRATION SHEET

Revenue Laws — Name of Committee

Jan. 6, 2010 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jennifer Mount	JD, AL, PA
Tommy Worden	SouthCo
Mitch Pennard	SEANC
Michelle Frazier	MF+S
Sam Sands	WCSR
Eric Warner	NCDOR
Shannon Miller	CUCA
[illegible]	[illegible]
Jay Stein	NCAA
[illegible] Savage	NCDOR
Dick Colton	[illegible]

VISITOR REGISTRATION SHEET

Revenue Laws — Jan. 6, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Michael Horser	NC Dept of Revenue
Jim Hobbs	HANC
David Baker	NC DOR
Donna Powell	NCDOR
Lennie Collins	DOR
Bill Spencer	DOR
Carmen Hooley	Electricities of NC
Pam Melton	CenturyLink
Sarah Clapp	NCWRC
Nathan Kauffman	OSBM
Tom Crouch	NC Bar Association

REVENUE LAWS STUDY COMMITTEE AGENDA

Sen. Daniel Clodfelter Rep. Paul Luebke

Wednesday, January 6, 2010
Room 544, Legislative Office Building
9:30 a.m.

I. **Welcome and Introduction of Members**

II. **Overview of 2009 Finance Law Changes**

- **State Changes**
- **Recent Federal Changes: *Military Spouses Residency Relief Act***

– Martha Walston, Fiscal Research Division

III. **Report from the Department of Revenue**

- **Resolution Initiative**
- **Enhanced Collections**
- **Tax Information Management System (TIMS)**

Kenneth R. Lay, Secretary of the Department of Revenue

IV. **Online Travel Booking and Taxes**

– Trina Griffin, Research Division

V. **Issues Related to Cigarettes and Little Cigars**

– Heather Fennell, Research Division
– Sandra Johnson, Fiscal Research Division

VI. **Economic Development Update**

- **Reporting, Clawbacks, and Sunsets: A Look at Statutory Features that Aid the State in Tracking Incentives**

– Dan Ettefagh, Legislative Drafting Division

VII. **Adjournment**

Next Meeting Date: Wednesday, February 3, 2010
in Room 544, LOB, at 9:30 a.m.

2009

FINANCE LAW CHANGES

PREPARED BY
FINANCE TEAM LEGAL STAFF:
Cindy Avrette
Dan Ettefagh
Heather Fennell
Trina Griffin
Martha Walston

2009 Finance Law Changes

Martha K. Walston, NCGA

January 6, 2010

1

Sales Tax (S.L. 2009-451)

- Temporary increase in State sales and use tax of 1% (from 4.5% to 5.5%)
- Increase applies to taxable sales and purchases of property or services delivered on or after September 1, 2009
- On September 1, 2009, the local tax rate in most counties was 2.25%, thus making the combined State and local tax rate 7.75%
- On October 1, 2009, the combined rate stayed the same, but the allocation of the rate between the State and counties changed
- Effective July 1, 2011, the State rate is to return to 4.75%

2

Past Temporary Sales Tax Increases

- In 2001, the State sales tax was increased by 1/2¢ from 4% to 4.5% for two years
- In 2003, the sunset on this temporary tax was extended from July 1, 2003 to July 1, 2005
- In 2005, the sunset was extended for an additional two years until July 1, 2007
- In 2006, the rate was reduced by ¼ cent
- In 2007, maintained the remaining ¼ cent, so that the permanent State sales tax rate was 4.25%

3

Expansion of Sales Tax Base

- Effective January 1, 2010, the sales tax applies to the following digital goods:
  - Audio works
  - Audiovisual works
  - Books, magazines, newspapers, newsletters, reports, or other publications
  - Photographs or greeting cards
- The above goods are taxable if delivered or accessed electronically and if they would be taxable when purchased in a tangible format.

4

Nexus Clarification

- Effective August 7, 2009, a remote retailer who enters into a 'click-through' contractual agreement with a North Carolina resident is soliciting business in this State for purposes of requiring a remote retailer to collect sales tax

5

Use Tax on Income Tax Return

- Eliminated the repeal of the requirement that the use tax line be included and use tax paid with the individual income tax return

6

Income Tax (S.L. 2009-451)

- Temporary income tax surtax for taxable years beginning on or after January 1, 2009, and expiring for taxable years beginning on or after January 1, 2011
- Personal income tax – 2% surtax for NC taxable incomes over $100,000 (married filing jointly) and 3% surtax for NC taxable incomes over $250,000
- Corporate income tax – 3% surtax on income tax payable by the corporation

7

Withholding Changes (S.L. 2009-476)

- Effective for taxable years beginning on or after January 1, 2010, any payer who pays compensation other than wages to someone whose taxpayer identification is an ITIN as opposed to a SSN must withhold 4% of the compensation if the compensation is more than $1,500 a year

8

Tobacco Product Tax Increase (S.L. 2009-451)

- Effective September 1, State excise tax on cigarettes increased from 1.75¢ per cigarette to 2.25¢ per cigarette
- This is increase from 35¢ to 45¢ per pack of twenty
- Excise tax on other tobacco products increased from 10% to 12.8% of the cost price of products
- General Fund revenue will increase by approximately $38 million for FY 2009-2010 and $54.5 million for FY 2010-2011

9

Alcohol Tax Increases (S.L. 2009-451)

- Effective September 1, alcohol excise taxes increased
- Tax on beer increased from 53.177¢ per gallon to 61.71¢ per gallon (8/10¢ per can)
- Tax on unfortified wine increased from 21¢ per liter to 26.34¢ per liter and on fortified wine from 24¢ per liter to 29.34¢ per liter (4¢ per bottle increase)
- Liquor increased from 25% to 30% of taxable sales sold in ABC stores

10

Local Alcohol Distribution Change

- State currently shares percentage of excise taxes on beer and wine with counties or cities where sale of these beverages is legal
- One time reduction of distribution for 12-month period ending March 31, 2010 – State will retain 70% of the revenues for this period
- Permanent reduction of distribution in that 100% of revenues from increased tax rates will go to State
- The alcohol tax changes will increase GF revenues by approximately $57.7 million for FY 2009-2010 and $47 million in FY 2010-2011

11

Motor Fuels Tax (S.L. 2009-108)

- Motor fuel tax rate consists of a flat rate of 17.5¢ per gallon plus a variable rate based upon the average wholesale price of motor fuel
- Established minimum motor fuel tax rate of 29.9¢ for July 2009 through June 2011, by providing that the variable component of the rate may not be less than 12.4¢ a gallon
- This means that the motor fuel tax rate may be greater than 29.9¢ per gallon but it may not be less
- Will increase revenue by $50 million for FY 2009-2010 and expected to increase revenue by $17.5 million for FY 2010-2011

12

Motor Fuel Tax Changes in Past

- In 2006, the GA capped variable wholesale rate so it could not exceed 12.4¢ from January 2006 through June 2006
- This cap was extended from July 2007 through June 2009
- With this cap, the motor fuel tax rate could be less than 29.9¢ per gallon but it could not be greater

13

Franchise Tax (S.L. 2009-422)

- Effective January 1, 2010, billings in excess of costs from surplus and undivided profits are excluded from the franchise tax capital stock base
- Construction industry recommended change

14

IRC Update

- Conformed to increase in EITC
- Conformed to deduction of up to $2,400 of unemployment income received for 2009
- Conformed to increased expensing limits for small businesses
- Conformed to 5-yr carryback of NOL for small businesses filing as individuals
- Partially conformed to bonus depreciation

15

IRC Update

- Did not conform to 5-yr carryback of NOLs for corporate filers
- Did not conform to deduction for sales or excise taxes paid on purchase of new motor vehicles made on or after February 17, 2009 and before January 1, 2010, so deduction must be added back to federal taxable income
- Did not conform to deduction of property taxes by non-itemizers, so a taxpayer who claims the standard deduction must add back any real property taxes deducted on his or her federal taxable income

16

Property Tax

- County may postpone a 2009 property tax appraisal as long as the county adopted a resolution to postpone the reappraisal between January 1, 2009 and June 30, 2009. (S.L. 2009-180)
- Builder may defer property tax on certain inventory, effective for taxes imposed for taxable years beginning on or after July 1, 2010 and repealed effective for taxes imposed for taxable years beginning on or after July 1, 2013. (S.L. 2009-308)

17

Property Tax (S.L. 2009-454)

- Requires that deed conveying real property must include name and mailing address of each grantor and grantee and statement whether property includes primary residence of grantor
- Does not apply to deeds of trust, deeds of release,
- Reinstates duty to report correct amount of tax due

18

Property Tax (S.L. 2009-481)

- Classifies community land trust property for special property tax valuation and requires resale restrictions to be considered in determining tax value
- Effective July 1, 2010

19

Tax Incentives

- Modified corporate apportionment formula for certain corporations (S.L. 2009-54)
- Expanded sales tax exemption for all flight simulators used for flight crew training and maintenance training effective October 1, 2009 (S.L. 2009-511)

20

Tax Incentives

- Modified Job Maintenance and Capital Development Fund (S.L. 2009-520)
- Expanded film credit (S.L. 2009-529)
- Expanded energy conservation credit (S.L. 2009-548)

21

Industrial Development Fund Modifications (S.L. 2009-523)

- Increased maximum rate of expenditure per new job from $5,000 to $10,000
- Authorized use of funds for job retention as well as job creation
- Expanded definition of 'economically distressed county' to top 80 counties
- Allowed top 80 counties to use funds in Utility Account for infrastructure improvements

22

Congestion Relief/Intermodal Transport Fund (S.L. 2009-527)

- Recommendation of the 21st Century Transportation Committee
- Created fund to make grants for intermodal transit BUT NO MONEY APPROPRIATED
- Authorized local option sales tax of ½% for Transportation Authorities (6 counties) with voter approval
- Authorized local option sales tax of ¼% for remaining 94 counties

23

Bonds (S.L. 2009-140)

- Authorizes local governments to issue several types of government bonds under American Recovery and Reinstatement Tax Act of 2009 (S.L. 2009-140)
- Authorizes the private sale of general obligation bonds that have a credit rating below "AA" or that are unrated and that are issued prior to December 31, 2010

24

Bonds
(S.L. 2009-209)

- Modified Two-Thirds Bond Act of 2008 in two ways:
  - Changed the interpretation of "biennium" for purposes of calculating 2/3 bond availability
  - Adds as a project to the 2008 Act, the Biomedical Research Imaging Center at UNC-Chapel Hill, and authorizes issuance of $223 million bond indebtedness to finance capital costs of Center

25

Military Spouses Residency Relief Act (P.L. No. 111-97)

- Prohibits NC from taxing income earned in NC by spouse of service member stationed in NC if:
  1. Service member present in NC because of military orders
  2. Spouse is in NC solely to be with service member, and
  3. Spouse is domiciled in same state as service member.

26

Examples

- Service member and Spouse Taxed
  - Service member domiciled in NC and stationed in NC on military orders
  - Spouse also domiciled in North Carolina
- Service member and Spouse Taxed
  - Service member domiciled in North Carolina and stationed in NC on military orders
  - Spouse is in NC solely to be with service member but spouse domiciled in California

27

Example

- Spouse Exempt
  - Service member domiciled In California and stationed in NC on military orders
  - Spouse domiciled in California but with spouse in NC solely because of military orders
  - If service member works at Walmart in NC, his income is taxed. If spouse works at Walmart in NC, her income is NOT taxed.

28

Interim Joint Finance Committee Meetings

- Finance Committees were authorized to study and recommend legislation to reform the State's sales and income tax structure in order to broaden the tax base and lower the State's tax rates
- Committees have met three times and only examined sales and use tax

29

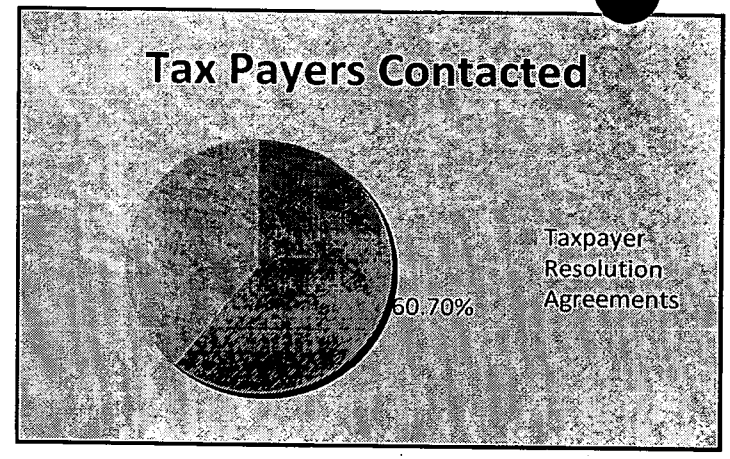
2009 Tax Law Changes Good Sources

- Available online: www.ncleg.net
  - Legislative Library website
  - Revenue Laws website
- North Carolina Department of Revenue:
  - www.dornc.com
- UNC School of Government: www.sog.unc.edu/dailybulletin/summaries09
- Finance Team
  - 733-2578 (General Research, NCGA)
  - 733-4910 (Fiscal Research, NCGA)
  - 733-6660 (Bill Drafting, NCGA)

30

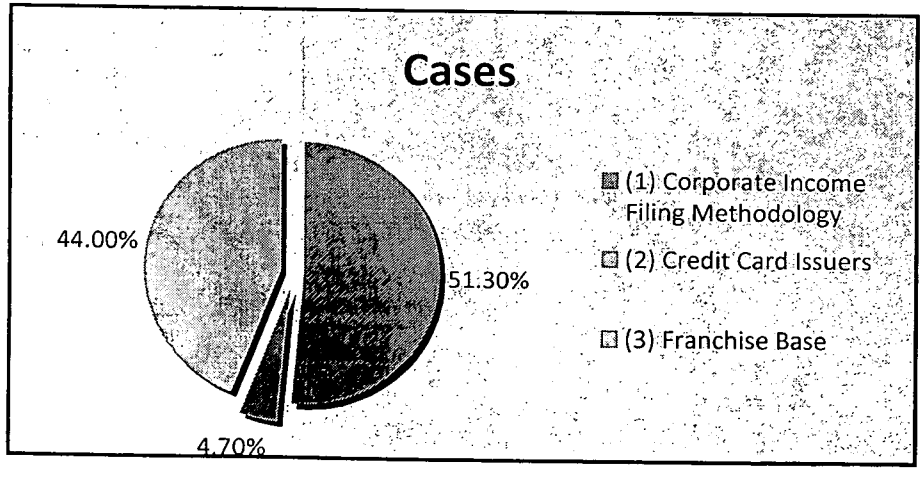
Resolution Initiative:

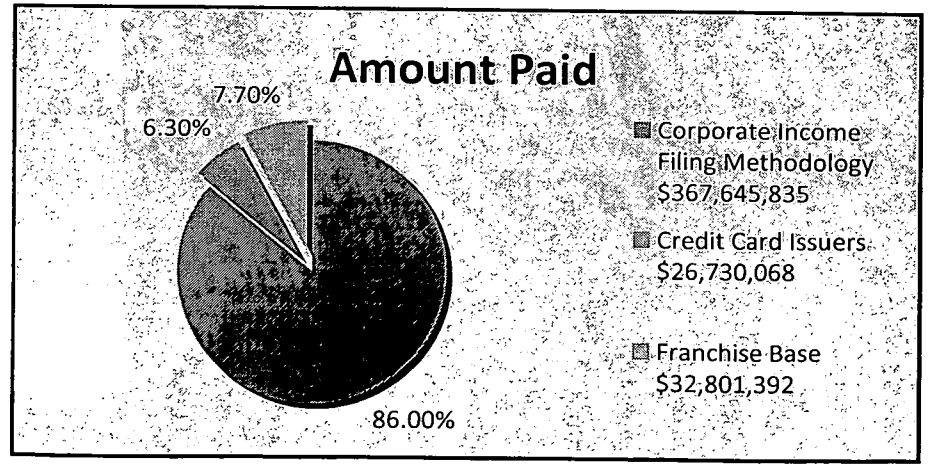
Taxpayers Contacted	**389**	
Taxpayer Resolution Agreements	**236**	**60.70%**
Total Amount Paid	**$427,177,295**	

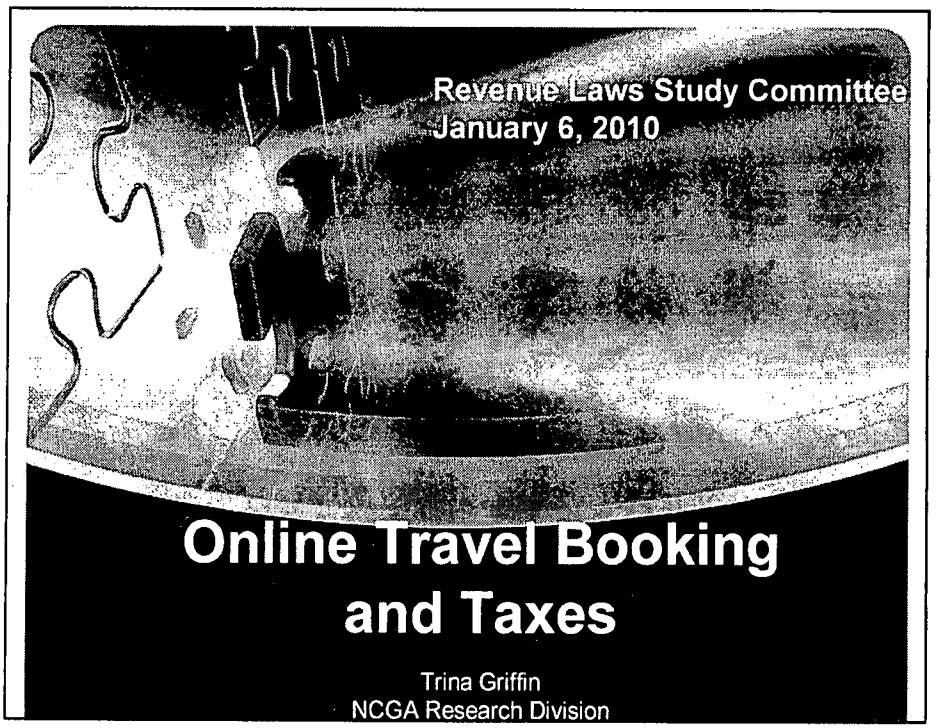


Primary Issues:

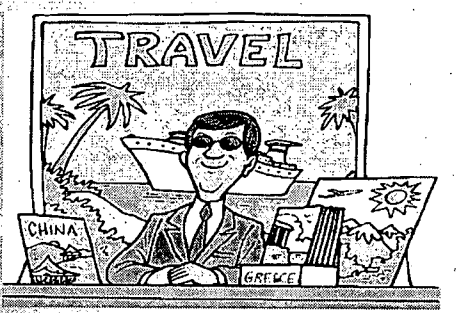
	Cases			Amount Paid	
(1) Corporate Income Filing Methodology	**121**	**51.30%**		**$367,645,835**	**86.00%**
(2) Credit Card Issuers	**11**	**4.70%**		**$26,730,068**	**6.30%**
a. Mail Solicitation	6				
b. Private Label	5				
(3) Franchise Base	**104**	**44.00%**		**$32,801,392**	**7.70%**
a. Amoritization	70				
b. Billings in excess	25				
c. Pensions	9				
	236	**100.00%**		**$427,177,295**	**100.00%**







Traditional Business Model



- Consumer contacts hotel directly.
- Consumer uses travel agent to serve as intermediary. Consumer pays upon checkout. Hotel pays commission to travel agent (percentage of cost of room) based on full price paid by guest and remits tax to taxing authority without any reduction for agent's commission.

Merchant Model

ORBITZ

priceline



Expedia

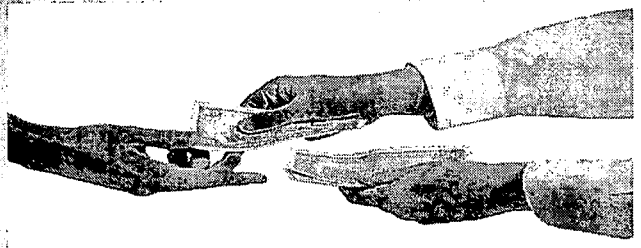
hotels.com

travelocity

- OTCs contract with hotels for right to broker or facilitate room reservations at a discounted rate.
- No inventory risk.
- OTCs collect money from customer up front and transmit funds to hotel after occupancy. Hotel then remits occupancy tax, based on discounted rate, to taxing authority.

What Do They Collect?

- **Room rate** – Discounted rate negotiated with hotel.
- **Service charge or "facilitation" fee** – A fee for their booking services and/or to compensate OTC for processing the reservation.
- **"Tax recovery charge"** - Amount they expect the hotels to bill them for applicable taxes.



What's the Problem?

Holiday Inn → $80/night → travelocity

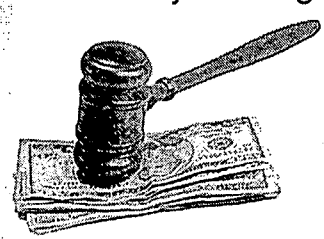
$100/night + "taxes and fees"

The OTC remits occupancy tax based on the discounted room rate it negotiated with the hotel rather than the rate it charged the customer. Local governments are seeking to collect occupancy tax on the higher rate. To which rate do local occupancy tax ordinances apply?



Lawsuits

- Since 2004, there have been numerous lawsuits filed by cities and counties against OTCs seeking to collect occupancy tax on the difference between the discounted rate and the rate actually charged to the customer by the OTC.
- There are as many as 45 going on right now.



Government arguments



- Local occupancy tax ordinances require OTCs to collect tax on the full amount paid by customer.
- OTCs are collecting tax on the full amount charged to customer, disguised within "tax recovery charges" and "service fees," and failing to remit them.

OTC Arguments

- They do not own, operate, manage, or control hotels.
- Unlike a traditional wholesale transaction, where a retailer purchases a product, owns it as inventory, and resells it to consumers, OTCs provide a nontaxable service by creating an intermediary market between hotels and customers.



Results

- Court decisions have been mixed because outcome turns on judicial interpretation of applicable statutes and ordinances.
- Only a few of the cases have made it fully through the legal process.
- Four federal district courts and the U.S. Court of Appeals for the Fourth and Sixth Circuits have ruled that state and local laws, as written, don't apply to OTCs, have dismissed lawsuits for lack of standing, or have required governments to exhaust administrative remedies before proceeding with lawsuit.
- Favorable verdicts for local governments have occurred in Georgia, California, Texas, and Washington, most of which are being appealed.

California

- In Feb. 2009, the City of Anaheim won an administrative proceeding resulting in a $21.3 million award, for back taxes, interest and penalties.
- The Hearing Officer found that OTCs are both "operators" and "managing agents" of accommodations under city ordinance.
- On appeal.

Texas

- On October 31, 2009, the City of San Antonio (along with 172 other cities) won a $20.6 million verdict against 11 major travel companies.
- The jury's decision hinged on its finding that OTCs had ***control*** over the hotel rooms. The cities' ordinances do not define what "controlling" means, but the judge instructed the jury "to use [their] common sense."

The case will be appealed.

Georgia

- The Ga. Supreme Court ruled in favor of the City of Columbus against Expedia in June 2009 and against Hotels.com in October 2009.
- Both enabling statute and city ordinance specifically imposed room tax on the "***lodging charges actually collected***" and the "***charge to the public***."
- Court found that Expedia had contractually obligated itself to collect taxes on behalf of hotels.

Georgia

Expedia

- **Dissent**: The tax calculation is based on the rental of the room by the innkeeper. Expedia is not different from the tourist who, after renting a room, hands the key over to a traveler in the parking lot in exchange for reimbursement and a fee. The ordinance simply does not govern transactions between a non-innkeeper entity and the users of the rooms. The tax is imposed on the transaction between the innkeeper and the room purchaser.

Kentucky

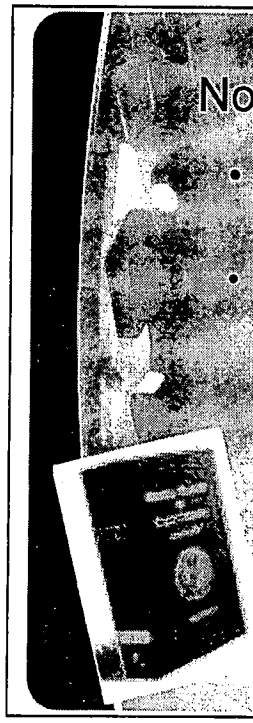
- 6th Circuit upheld dismissal of Louisville and Lexington's cases against 4 major OTCs.
- Decision hinged on whether OTCs constituted ***like or similar accommodations businesses*** as that phrase appeared in the enabling act following "motor courts, motels, hotels, inns."

South Carolina

- In Feb. 2009, the Administrative Law Court found that the entire room rate charged by Expedia to be subject to sales tax.
- Statute: Vendor to remit tax on the "gross proceeds derived from the rental or charges for any rooms ***furnished*** to transients by any hotel…or any place in which…sleeping accommodations are furnished…"
- The court also found that Expedia had nexus with SC by virtue of deriving income from booking hotel rooms located within the State and by relying heavily on services and other benefits provided by SC for carrying out its sales transactions.

Virginia

- As of Aug. 2009, no suits had been filed against OTCs in Virginia.
- In 2006, an OTC asked the Dept. of Taxation for a ruling on the issue.
- The DOT ruled OTCs do not owe sales tax on the their markup/fee because they are not physically providing the room and because they are not located in Virginia.
- Commissioner lacks authority to rule on local occupancy tax issue.



North Carolina Law

- Local occupancy tax legislation refers to sales tax statute.
- The taxing authority *"may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the [taxing authority] that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3)."*

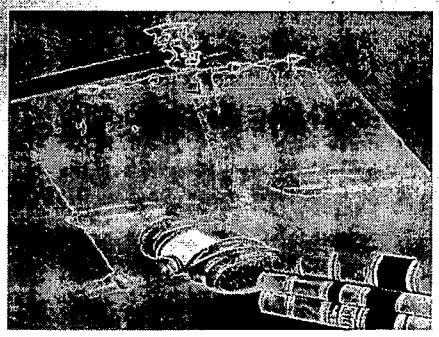


North Carolina Law

- G.S. 105-164.4(a) imposes sales tax on a retailer. For purposes of the occupancy tax, (a)(3) states that:
  - *"**Operators** of hotels, motels, tourist homes, tourist camps, **and similar type businesses** and persons who rent private residences and cottages to transients **are considered retailers** under this Article…"*

North Carolina Cases

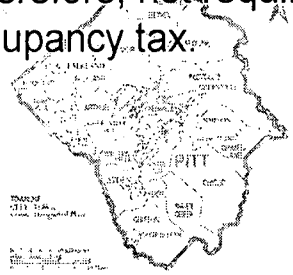
- *Pitt County v. Hotels.com* (4th Cir. Jan. 14, 2009)
- *Wake Co. et al. v. Hotels. Com (2007 NCBC 35)* - ongoing



Pitt County v. Hotels.com

(4th Cir. Jan. 14, 2009)

- **Holding:** An OTC does not meet the statutory definition of a "retailer" because they are not hotel operators under plain language of the statute and, therefore, not required to collect the occupancy tax.



Pitt County v. Hotels.com

Reasoning

1. **Plain meaning** - OTCs do not "operate" hotels as that term is defined in the dictionary because they do not participate in the day-to-day operation or management of hotels.
2. ***Ejusdem generis*** - OTCs are not "similar type businesses" when compared to others on the list.
3. **Policy** - Rejected county's loophole argument.
4. **Tax statutes** - Applied principle of statutory construction that, if ambiguous, taxing statutes should be construed in favor of taxpayer.

Wake Co. et al. v. Hotels.com et al.

(2007 NCBC 35)

Plaintiffs	Defendants
• The scope of the occupancy tax is broader than the scope of the state sales tax.	• Sales tax and local occupancy tax are parallel taxation schemes like State sales tax and local sales tax.
• Local ordinance applies to gross receipts derived by "*any person, firm, corporation, or association*" from the rental of any room furnished by a hotel..."	• The phrase "*subject to the State sales tax imposed under G.S. 105-164.4(a)(3)*" limits scope of occupancy tax to hotel operators.
• Phrase in local ordinance "*subject to the State sales tax...*" modifies "*similar place within the County*" only and not the preceding terms.	• The tax is limited to "*gross receipts derived from the rental of rooms*" and OTCs derive their receipts from providing online booking services.

New York

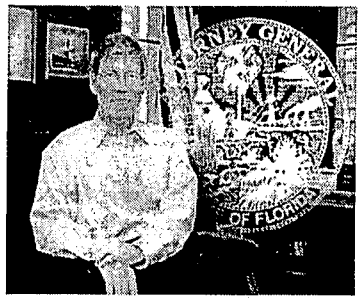
- New city legislation effective Sept. 1, 2009 (for rooms booked on or after).
- Two-remitter system. Tier one: the hotel itself must collect the tax based on the rate it charged the "room remarketer," called the "net rent." Tier two: the remarketer must collect and remit occupancy tax based on whatever it charges in addition to the "net rent," called the "additional rent."



•On Dec. 21, 2009, OTCs, the American Society of Travel Agents, and the U.S. Tour Operators Association filed a lawsuit against the city challenging the constitutionality of the tax.

Florida

- In 2008, SB 2788 would have required OTCs to collect tax only on wholesale price paid to hotels. Did not pass.
- Nov. 3, 2009: Attorney General filed suit against Expedia and Orbitz under Unfair and Deceptive Trade Practices Act.



•Three recent bills introduced attempting to clarify that OTCs should pay sales and tourist-related taxes on the higher retail rate they charge.

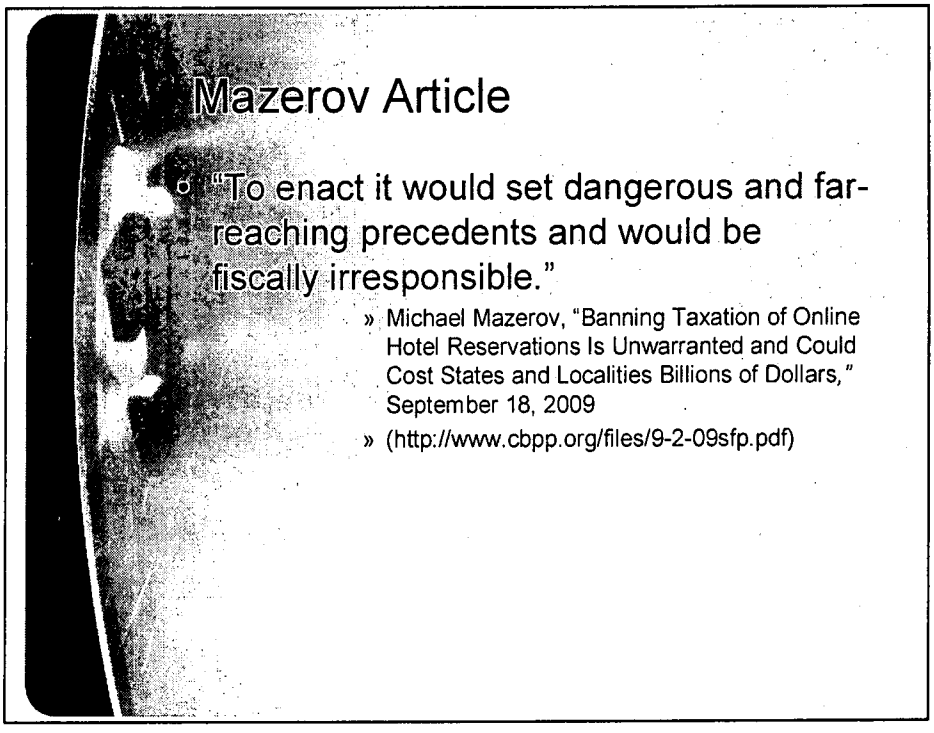
Congressional Action

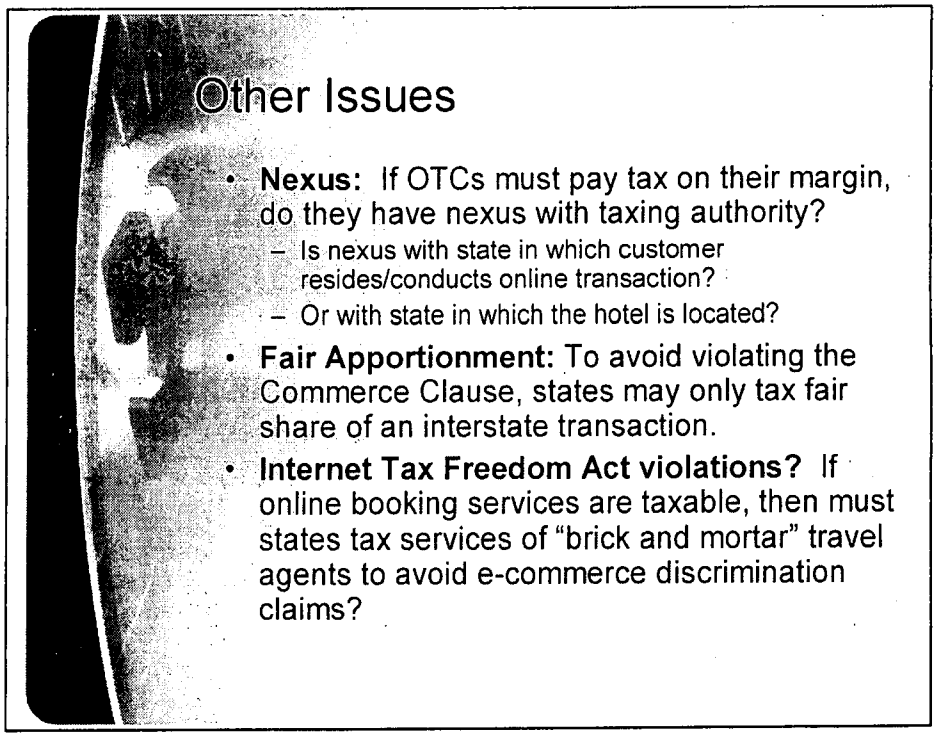


- Industry has been seeking legislation to prevent state and local taxing authorities from imposing hotel taxes on OTC service fees.
- Amendment to Travel Promotion Act of 2009 failed but efforts will likely continue.

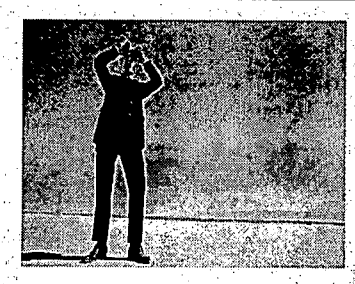
Mazerov Article

- The proposed amendment would:
  - Deprive states and localities of more than $680 million in tax revenues they now receive from taxes imposed on "wholesale" room rate.
  - Prevent states and localities from establishing clearer laws and rules clarifying OTCs' obligation to collect taxes on the full retail charge for room rentals.
  - Prevent states and localities from recovering millions in back taxes due to alleged non-compliance with existing tax laws.
  - Give OTCs an unfair competitive advantage by providing them with preferential tax treatment.
  - Place at risk the estimated $7.5 billion in annual state and local hotel taxes by encouraging hotels to form their own captive OTC subsidiaries.


Mazerov Article
"To enact it would set dangerous and far-reaching precedents and would be fiscally irresponsible."
» Michael Mazerov, "Banning Taxation of Online Hotel Reservations Is Unwarranted and Could Cost States and Localities Billions of Dollars," September 18, 2009
» (http://www.cbpp.org/files/9-2-09sfp.pdf)


Other Issues
• Nexus: If OTCs must pay tax on their margin, do they have nexus with taxing authority?
– Is nexus with state in which customer resides/conducts online transaction?
– Or with state in which the hotel is located?
• Fair Apportionment: To avoid violating the Commerce Clause, states may only tax fair share of an interstate transaction.
• Internet Tax Freedom Act violations? If online booking services are taxable, then must states tax services of "brick and mortar" travel agents to avoid e-commerce discrimination claims?

Looking Forward



- Walter Hellerstein – 3 options
- Not whether to tax, but how to tax
  - Tax OTC receipts as an integral part of the provision of accommodations, at the location and rate where the hotel is located **(MTC proposal).**
  - Tax OTC receipts as a service distinguishable from the provision of accommodations **(industry proposal).**
  - Require hotels to mark up price to OTC and collect tax on the marked up price **(Hellerstein's proposal).**

Differences Between MTC and OTC Model

- Sourcing:
  - MTC: Full retail price paid by consumer (discounted room rate + accommodations fee) should be the basis for determining amount of tax due and sourced to hotel location.
  - OTC: OTC remits to hotel, tax on discounted room rate and to local taxing authority, tax on OTC's facilitation fee based on customer's billing address
- Separately state taxes and fees.

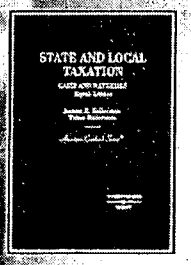
Hellerstein's View

- "The MTC proposal combines the worst of both worlds by (a) imposing an independent tax collection obligation on the travel intermediary and (b) subjecting their services to the high rates often applied to the provision of hotel accommodations."

Hellerstein's View

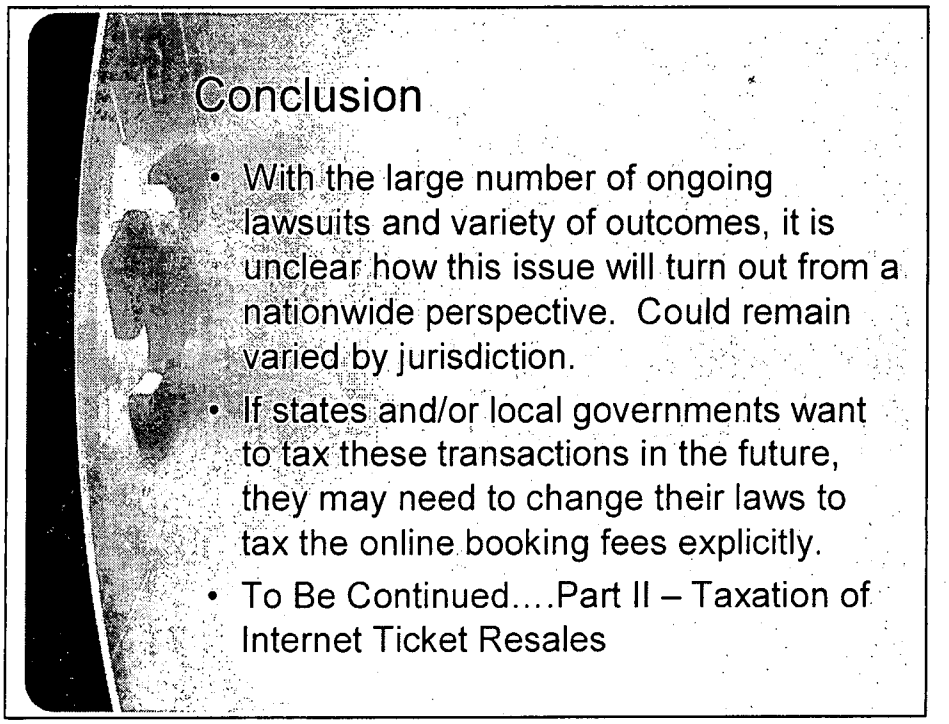


- If taxed, OTC receipts should be taxed as a separate service and transaction should be sourced to the location of the customer, not the hotel.



Why?

- OTCs do not provide hotel accommodations. Sales taxation should reflect "common understanding."
- Consumption should be taxed where it occurs.
- Reflects Streamlined rules.
- Administrative considerations.


Conclusion
• With the large number of ongoing lawsuits and variety of outcomes, it is unclear how this issue will turn out from a nationwide perspective. Could remain varied by jurisdiction.
• If states and/or local governments want to tax these transactions in the future, they may need to change their laws to tax the online booking fees explicitly.
• To Be Continued....Part II – Taxation of Internet Ticket Resales

Issues Related to Cigarettes and Little Cigars

Revenue Laws Study Committee
January 6, 2010
Heather Fennell & Sandra Johnson
Research & Fiscal Research Divisions

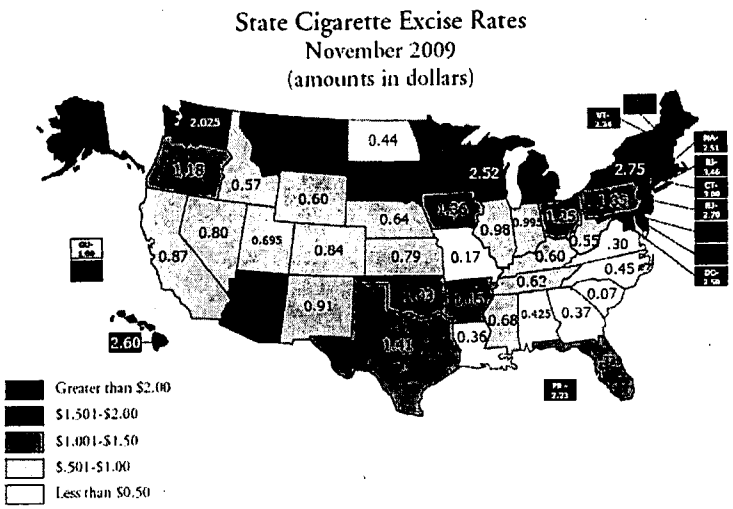
Overview

- History and current taxation.
- Cigarette tax stamps.
- Other tobacco products and little cigars.

Current Taxation

- Cigarettes are taxed per pack at 45¢ per pack.
  - 2009 – 45¢.
  - 2006 – 35¢.
  - 2005 – 30¢.
  - 1991 – 5¢.
  - 1969 – 2¢.
- Other tobacco products (OTP) are taxed at 12.8% on the price of the product.
  - 2009 – 12.8%.
  - 2007 – 10%.
  - 2005 – 3%.
  - 1992 – 2%.

Cigarette taxes by state



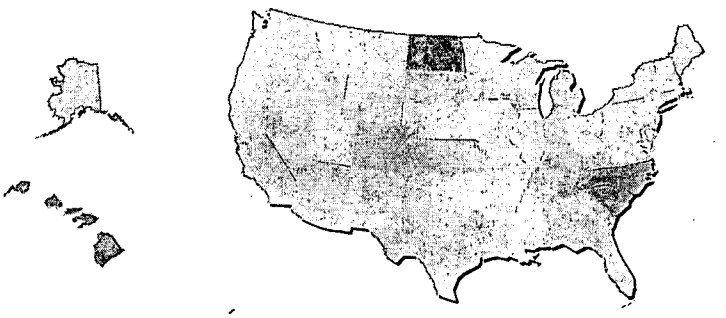
Cigarette tax stamps



47 states require stamps



North Carolina, South Carolina, and North Dakota do not require cigarette tax stamps.

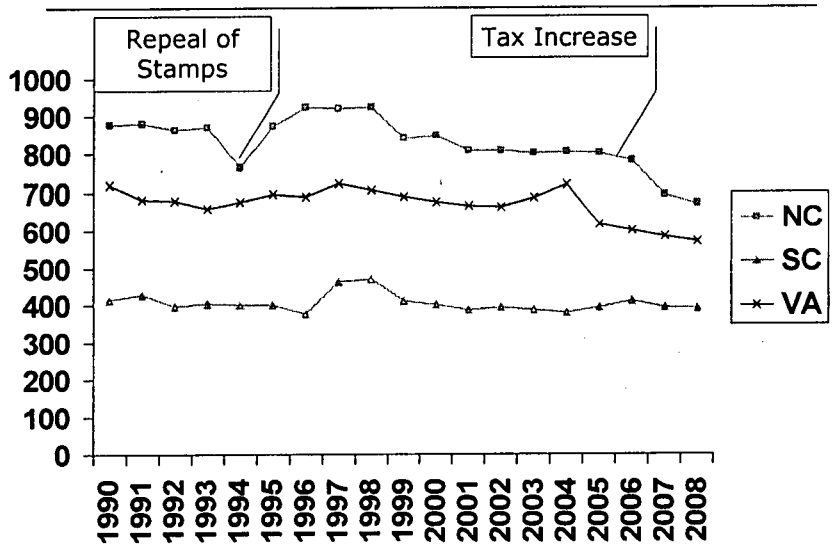


NC history: stamps

- **1969**: Chapter 1075 of the 1969 Session Laws.
  - New 2¢ per pack on cigarettes.
  - Cigarette tax stamps required.
- **1993:** Chapter 442 of the 1993 Session Laws.
  - Eliminated stamps. Allowed for the payment of the tax by reporting.

Cigarette Sales (in Millions of Packs)

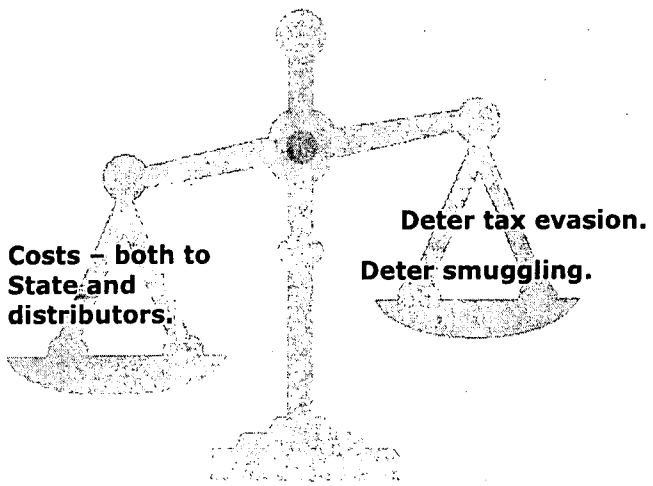
Source: The Tax Burden on Tobacco 2008, Volume 43



NC history: discounts

- **1969**: 7/24¢ per stamp on sale of stamps over $100 for expenses associated with stamps.
- **1993:** 4% discount on amount due for costs of filing reports.
- **2003:** Repealed.
- **2004:** Reinstated, 2% discount on amount due.

Costs and potential benefits



Fiscal Impact:

- 1994 Repeal of Stamps
  - Cigarette sales +18% in one year.
- Re-enacting Stamp Program
  - Potential loss of $5.0 mil per fiscal year.
  - Accounts for long-distance and cross border sales.

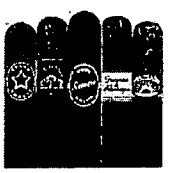
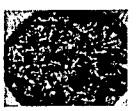
Options:

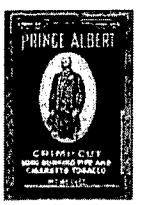
- Maintain current reporting system.
- Require stamps:
  - What kind of stamps?
  - How to offset increased costs to State and taxpayers?
  - Increased enforcement?

Overview

- Current taxation.
- Cigarette tax stamps in North Carolina.
- Other tobacco products and little cigars.

Other tobacco products – OTP



OTP taxation in other states

- Method of taxation varies:
  - Taxed by price.
  - Taxed by weight.
- OTP can be divided in 3 broad categories:
  - Snuff.
  - Chewing & smoking tobacco.
  - Cigars.

OTP taxation in surrounding states

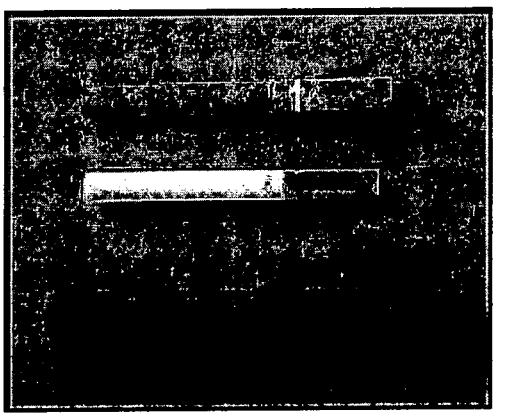
Virginia	
Snuff	10% of price
Chewing tobacco	
Smoking tobacco	
Cigars	

Tennessee	
Snuff	6.6% of price
Chewing tobacco	
Smoking tobacco	
Cigars	

Georgia	
Snuff	10% of price
Chewing & smoking tobacco	
Little cigars	25¢ ea
Cigars	23%

South Carolina	
Snuff	5% of price
Chewing tobacco	
Smoking tobacco	
Cigars	

What is a little cigar?

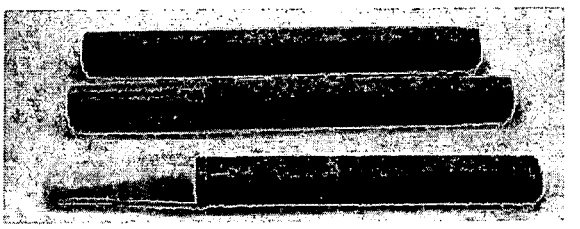


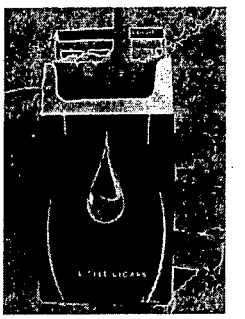
Little cigar

Cigarette

Cigar

Variety of little cigars





North Carolina definitions:

- Cigar. – **A roll of tobacco wrapped in a substance that contains tobacco**, other than a cigarette.
- Cigarette. – Any of the following:
  a. A roll of tobacco **wrapped in paper** or in a substance that does not contain tobacco.
  b. **A roll of tobacco wrapped in a substance that contains tobacco** and that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by a consumer as a cigarette described in subpart a. of this subdivision.

Other states – little cigars

- 12 states, including Tennessee, tax little cigars as cigarettes.
  - California
  - Connecticut
  - Georgia
  - Hawaii
  - Iowa
  - Massachusetts
  - Montana
  - New Hampshire
  - Pennsylvania
  - Rhode Island
  - Tennessee
  - Vermont
- April 2009 – Federal: little cigars taxed as cigarettes at $1.01 per pack.

Options:

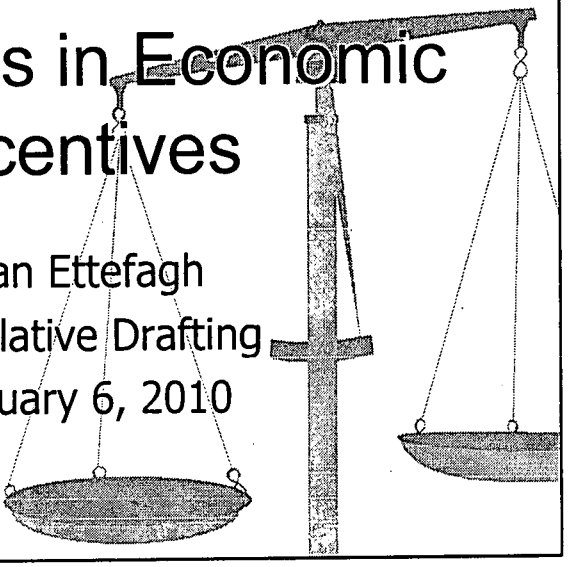
- Maintain current law.
- Change definition of cigarette to include little cigars:
  - Tennessee – "all rolled, shredded, or cut tobacco....being within customary cigarette sizes and marketed in cigarette type packages."
- Define "little cigars" and increase tax:
  - New York - "...and weighing not more than three pounds per thousand...[and] meets the definition of 'cigarette' under this article."

Fiscal Impact:

- Maintain current law.
  - 12.8% of purchase price ~$0.32 per pack
- Include little cigars in definition of cigarette.
  - Additional revenue +$1M
- Create definition for little cigars, tax as OTP.
  - 18% of purchase price ~$0.45 per pack
  - Pros:
    - Revenue keeps apace with inflation
    - Does not effect Cancer Research Fund earmarking

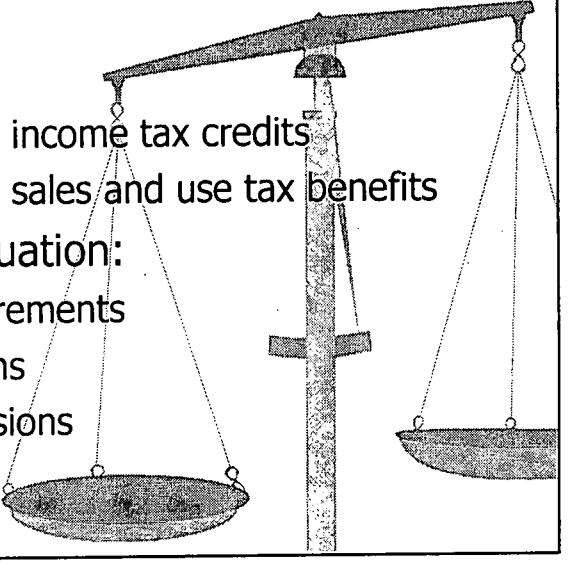
Variations in Economic Incentives

Dan Ettefagh
Legislative Drafting
January 6, 2010



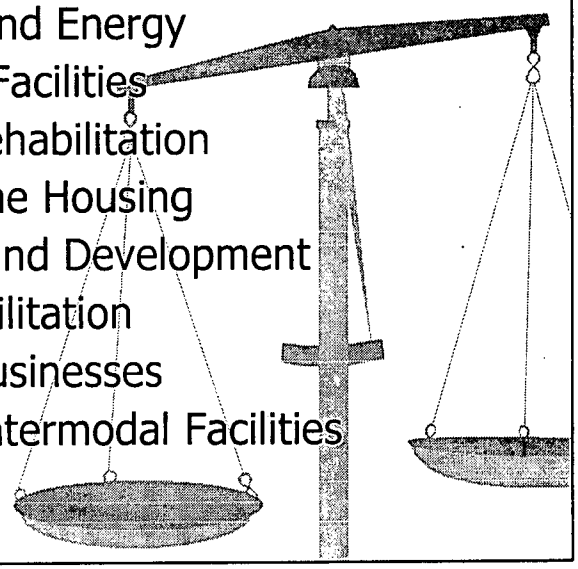
Categories of and Methods of Evaluating Economic Incentives

- Categories:
  - Article 3 credits
  - Certain Article 4 income tax credits
  - Certain Article 5 sales and use tax benefits
- Methods of evaluation:
  - Reporting requirements
  - Sunset provisions
  - Forfeiture provisions



Article 3 Credits

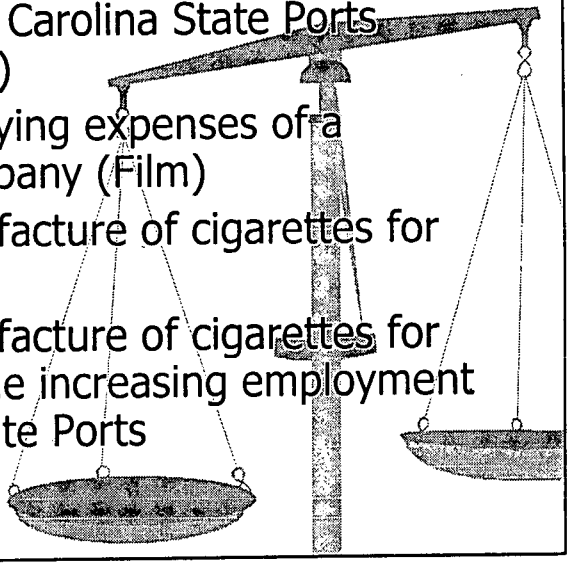
- 3B: Business and Energy
- 3C: Recycling Facilities
- 3D: Historic Rehabilitation
- 3E: Low-Income Housing
- 3F: Research and Development
- 3H: Mill Rehabilitation
- 3J: Growing Businesses
- 3K: Railroad Intermodal Facilities



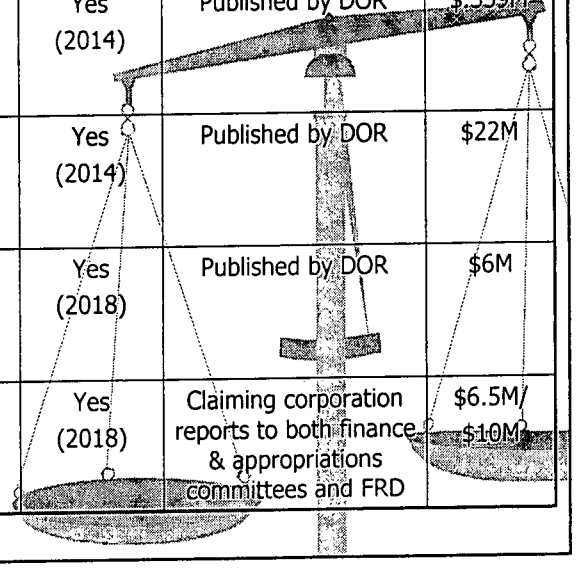
Article	Report	Itemized by taxpayer	Forfeiture	Sunset	Misc.	Cost
3B	Yes	--	Yes, where applicable	Yes (varies)		$26.4M
3C	Yes	Yes	Yes	--	DOR and Commerce jointly report	$4.1M
3D	Yes	--	Yes	--		$6.5M
3E	Yes	--	Yes	Yes (2015)		$4.4M
3F	Yes	Yes	N/A	Yes (2014)		$21.3M
3H	--	N/A	Yes	Yes (2011)		$11.6M
3J	Yes	Yes	Yes	Yes (2011)	Itemized by credit	$50.6M
3K	Yes	Yes	N/A	Yes (2038)		$0

Article 4 Income Tax Credits

- Credit for North Carolina State Ports Authority (Ports)
- Credit for qualifying expenses of a production company (Film)
- Credit for manufacture of cigarettes for exportation
- Credit for manufacture of cigarettes for exportation while increasing employment and utilizing State Ports

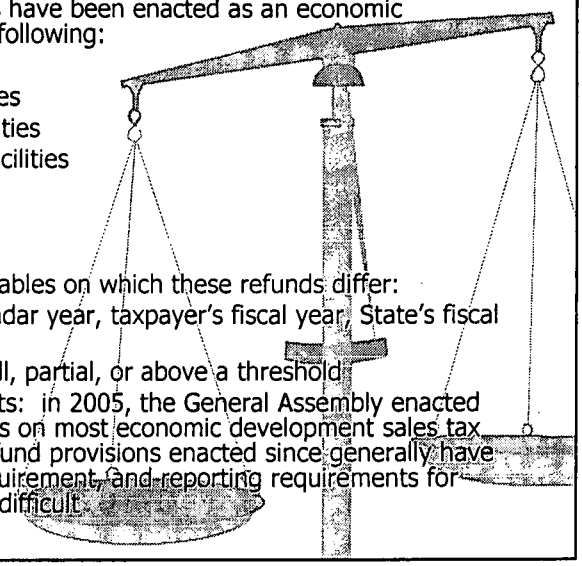


Credit	Report	Forfeiture	Sunset	Publication	Cost 2008/ 2007
Ports	Yes	N/A	Yes (2014)	Published by DOR	$.359M
Film	Yes	N/A	Yes (2014)	Published by DOR	$22M
Cigarettes	Yes	N/A	Yes (2018)	Published by DOR	$6M
Cigarettes/ Empl't/ Ports	Yes	Yes	Yes (2018)	Claiming corporation reports to both finance & appropriations committees and FRD	$6.5M/ $10M



Sales and Use Taxes

- Sales and use tax refunds have been enacted as an economic development tool for the following:
  - Passenger air carriers
  - Major recycling facilities
  - Certain industrial facilities
  - Railroad intermodal facilities
  - Low-tier machinery
  - Motorsports
  - Analytical services
- There are three main variables on which these refunds differ:
  - Period covered: calendar year, taxpayer's fiscal year, State's fiscal year
  - Amount of refund: full, partial, or above a threshold
  - Reporting requirements: in 2005, the General Assembly enacted reporting requirements on most economic development sales tax benefits; however, refund provisions enacted since generally have not picked up this requirement, and reporting requirements for exemptions would be difficult.

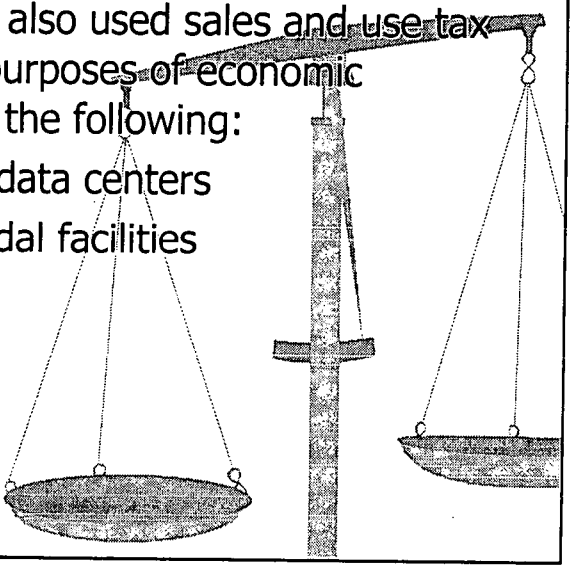


	Period covered	Amount of refund	Reporting requirements	Sunset	Cost
Passenger Air Carriers	Calendar year	Threshold	Yes	Yes	$3.8M; $0
Major recycling facilities	Taxpayer's fiscal year	Full	Yes	No	$0; $0
Low-tier machinery	State's fiscal year	Full	Yes	No	$.05M; $.25M
Certain industrial facilities	Taxpayer's fiscal year	Full	Yes	No	$.677M; $1.1M
Motorsports	State's fiscal year	Full for aviation fuel; Partial for vehicle parts	Yes for aviation fuel; No for vehicle parts	Yes for aviation fuel; No for vehicle parts	$.174M; $.1M// $2.6M
Analytical services	State's fiscal year	Partial	No	No	$2.6M
Railroad intermodal facilities	State's fiscal year	Full	No	No	$.2M

Sales and Use Tax Exemptions

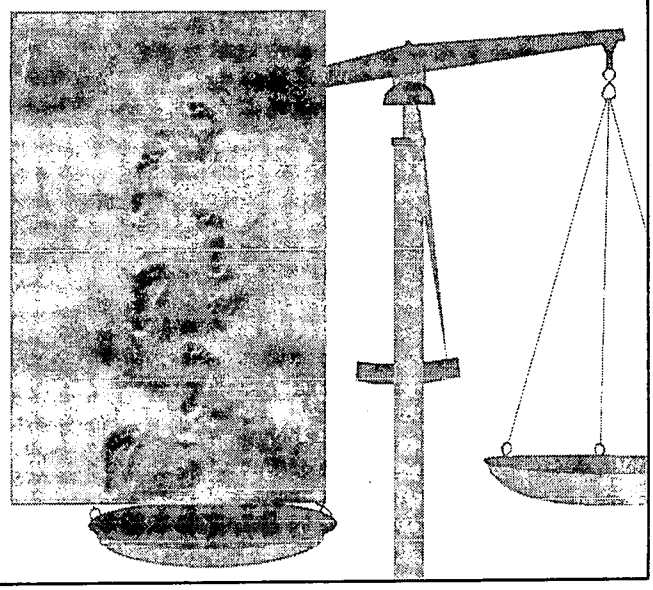
North Carolina has also used sales and use tax exemptions for purposes of economic development for the following:

- Eligible Internet data centers
- Railroad intermodal facilities



Exemption	Report	Forfeiture	Sunset	Cost
Eligible Internet data center	--	Yes	--	$5.5M
Railroad Intermodal Facility	--	--	--	$.2M

Next Steps



REVENUE LAWS STUDY COMMITTEE
Wednesday, February 3, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, January 6, 2010, in room 544 of the Legislative Office Building. Twenty members of the committee were present. Senator Clodfelter presided as chair.

Proposed Legislation Related to Cigarettes and Little Cigars

Heather Fennell, a staff attorney with the Research Division, was recognized to present two proposed bill drafts. The first draft, "Restore Cigarette Tax Stamps", provides for payment of cigarette taxes by stamp and creates a criminal penalty for the counterfeiting of cigarette tax stamps. The second draft, "Tax Little Cigar", defines little cigars and taxes them as cigarettes. After explaining the proposed bill drafts, Ms. Fennell and Sandra Johnson, a fiscal analyst with the Fiscal Research Division, answered questions from the Committee. Copies of the bill drafts, the summaries and the fiscal analyses are attached.

Sonny Wooten, President of the NC Wholesalers Association, was recognized for comments. He outlined the State's cost of stamping cigarettes (inventorying, distribution, and storage of stamps) and the wholesalers' costs (stamping and repackaging machinery, maintenance and repair, supplies, damages, labor, and reporting). A copy of his handout is attached.

Sandy Sands, lobbyist for Altria Client Services, was recognized. He cited past contraband activity in North Carolina, benefits and current users of tax stamps, and a list of procedural recommendations. A copy of his handout is attached.

An Overview of Recently Enacted Property Tax Relief Programs

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized. She explained the effects on local units of government of enacted property tax relief programs and exemptions (Property Tax Homestead Exclusion, Disabled Veteran Homestead Exclusion, Homestead Circuit Breaker, Present Use Value Property, and Builders' inventory Property Tax Deferral). Rodney Bizzell, a fiscal analyst with the Fiscal Research Division, was recognized to explain the fiscal impacts of the property tax relief program on local governments. A copy of the Ms. Walston's power point presentation and a copy of Mr. Bizzell's presentation are attached.

Rebecca Troutman, NC Association of County Commissioners, was recognized for comments. She requested a periodic costs and benefits review of the tax relief programs and opposes the expansion of exclusions and exemptions due to the loss of counties' revenues.

Paul Meyer, NC League of Municipalities, was recognized. He voiced concern over municipal governments suffering from economic downturns of revenue since property revenues are decreasing.

Pete Rodda, NC Tax Assessors/Collectors, was recognized. He said that future tax bases will be flat or reduced, new construction permit applications are down, and business property is down and is considered a depreciating asset. Tax assessors are not expecting any growth taxes.

Internet Ticket Resales

Trina Griffin, a staff attorney with the Research Division, was recognized. She explained internet ticket resales by outlining the definitions of ticket scalpers, ticket brokers/ resellers, auction listing services and ticket aggregators. She presented online ticket statistics, how anti-scalping laws are not working, the need for consumer protection, the proposed federal and state legislation, and issues regarding possible taxation of online sales. A copy of Ms. Griffin's power point is attached.

The meeting adjourned at 11:45 a.m.

Senator Dan Clodfelter, Presiding Chair

DeAnne Mangum, Committee Clerk

REVENUE LAWS STUDY COMMITTEE AGENDA

Sen. Daniel Clodfelter Rep. Paul Luebke

Wednesday, February 3, 2010
Room 544, Legislative Office Building
9:30 a.m.

I. Approval of Minutes from January 6, 2010 Meeting

II. Proposed Legislation Related to Cigarettes and Little Cigars

- **An Act to Reinstate Stamps on Cigarettes**
- **An Act to Modify the Taxation of Little Cigars**
  – *Heather Fennell, Research Division*
- **Comments from Interested Parties**
  – *Sonny Wooten, President NC Wholesalers Association*
  – *Sandy Sands, Altria Client Services*

III. An Overview of Recently Enacted Property Tax Relief Programs

– *Martha Walston, Fiscal Research Division*
– *Rodney Bizzell, Fiscal Research Division*

- **Comments from Interested Parties**
  – *Rebecca Troutman, NC Assn. of County Commissioners*
  – *Paul Meyer, NC League of Municipalities*
  – *Pete Rodda, NC Tax Assessors/Collectors*

IV. Internet Ticket Resales

– *Trina Griffin, Research Division*

V. Adjournment

Next Meeting Date: Wednesday, March 3, 2010
in Room 544, LOB, at 9:30 a.m.

REVENUE LAWS STUDY COMMITTEE
Wednesday, January 6, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, January 6, 2010, in room 544 of the Legislative Office Building. Twenty members of the committee were present. Representative Luebke presided as chair.

Welcome and Introduction of Members

Representative Luebke requested a moment of silence in memory of Leonard Jones, a public member, who served on the Committee for ten years. Mr. Jones passed away last summer. Representative Luebke then asked that the members of the committee introduce themselves.

Overview of 2009 Finance Law Changes

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized. She outlined changes in the State law and recent federal changes, including the Military Spouses Residency Relief Act. Sandra Johnson, a fiscal analyst with the Fiscal Research Division, was recognized to answer questions regarding tobacco tax funds. A copy of the Ms. Walston's power point presentation and the 2009 Finance Law Changes document is attached.

Report from the Department of Revenue

Kenneth R. Lay, Secretary of the Department of Revenue, was recognized. He spoke about the recent resolution initiative process and results. Linda Millsaps, Chief Operating Officer for the Department of Revenue, was recognized to answer questions. A handout outlining the resolution initiative and its results is attached. Secretary Lay also discussed the status of the Tax Information Management System (TIMS), addressing its projected costs, start-up date, and vendor information.

Online Travel Booking and Taxes

Trina Griffin, a staff attorney with the Research Division, was recognized to explain differences in tax collection of traditional travel bookings versus online travel bookings, and how these differences have led to lawsuits with mixed court decisions. A copy of Ms. Griffin's power point is attached.

Issues Related to Cigarettes and Little Cigars

Heather Fennell, a staff attorney with the Research Division, was recognized for an explanation of cigarettes and little cigars, their taxation, what other states are doing, and

possible revenue options for North Carolina. A copy of Ms. Fennell's power point is attached.

The meeting adjourned at 12:05 p.m.

Representative Paul Luebke, Presiding Chair

DeAnne Mangum, Committee Clerk

VISITOR REGISTRATION SHEET

Revenue Laws — Feb. 3, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Michael Horser	NC DOR
Steve Brewer	CenturyLink
Rebecca Trantman	NCACC
Mitch Kokai	John Locke Foundation
Sam Taylor	NCBIA
Michelle Frazier	MFS
[signature]	MVSE

VISITOR REGISTRATION SHEET

Revenue Laws — Feb. 3, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
W. Gardner Culpepper	Personal Interest
Pete Rodda	NCAAO/NCTCA/Forsyth Co Tax Assessor/Collector
Stan Duncan	NCAAO/Henderson Co. Assessor/Collector
Charlie Smith	NC DOA
Wayne Peedin	NCDOA
Betsy Vetter	DOA
Jennifer Knight	JD.M.PA
Sara Nielson	NCDOC
Rose Williams	NC DOI
Fred Baggett	Smith Moore Leatherwood
Paul Sobel	NCBA

VISITOR REGISTRATION SHEET

Revenue Laws — Feb. 3, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chris Hollis	TSS
John Shaw	PCS
Mac Bosley	NC Aggregates
Al Milac	NC Dept. of Revenue
Lennie Collins	DOR
Bill Spencer	NCDOR
Lee Harris	NCDOR
Bill Wilkes	NCDOR
David Baker	NCDOR
Pam Melton	CenturyLink
Will Culpepper	Moore & Van Allen

VISITOR REGISTRATION SHEET

Revenue Laws — Feb. 3, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Doug Heron	Williams Mullen
Joe Lanier	Nelson Mullins
Mark Goff	Smith Anderson
Amy McConkey	NC Beverage Assoc.
Gary Harris	NC Petroleum & C-stores
Wendy Kelly	NMRS
Brian May	Altria Client Services, Inc.
Mike Davis	Mike Davis Public Relations -
Kim Crouch	NC Bar Association
Bo Hunter	McGuire Woods
Patrick Buffkin	

VISITOR REGISTRATION SHEET

Revenue Laws — Feb. 3, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Brad Phillips	TWC
Sammy Robinson	TWC
Cam Cove	B Pmith
Sarah Clapp	NCWRC
Gordon Myers	" "
Sam Sowl	WCSP
Dick Carlton	
Emily Wilkinson	TPG
Lori Ann HARRIS	LHHA
William Rawson	NCRMA

HOUSE PAGES

NAME OF COMMITTEE Revenue Laws DATE 2/3/10

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

SGT-AT-ARM

House

1. Name: Tom Wilder

2. Name: Young Bae

3. Name: Ken Burroughs

4. Name: _____

SENATE

Chester White

Charles Harper

Robert Young

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-TD-22 [v.7] (01/27)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
2/2/2010 3:13:09 PM

Short Title: Restore Cigarette Tax Stamps. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR PAYMENT OF CIGARETTE TAXES BY STAMP AND TO CREATE A CRIMINAL PENALTY FOR THE COUNTERFEITING OF CIGARETTE TAX STAMPS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-113.4 reads as rewritten:

"**§ 105-113.4. Definitions.**

The following definitions apply in this Article:

...

(3a) Duty-free transaction. – A sale or distribution of cigarettes exempt from federal excise tax pursuant to 26 U.S.C. § 5704(b) or any successor provision, or pursuant to a diplomatic or consular treaty between the United States and one or more foreign governments.

...

(4a) Importer. – A person who imports into the United States a finished cigarette sold or distributed within this State.

(4b) Integrated wholesale dealer. – A wholesale dealer who is an affiliate of a manufacturer of tobacco products, other than cigarettes, is the only person to whom the manufacturer sells its products, and is not a retail dealer. An "affiliate" is a person who directly or indirectly controls, is controlled by, or is under common control with another person.

...

(6a) Non-tax-paid cigarettes. – A package of cigarettes that does not bear a stamp as required by G.S. 105-113.19.

...

(10b) Stamp. – The indicia required to be placed on a package of cigarettes that evidence payment of the tax on cigarettes under G.S. 105-113.5, or the indicia used to indicate that the cigarettes are intended for a sale or distribution within this State that is exempt from State tax under any applicable provision of law.

...

(12a) U.S. government transaction. – A sale or distribution of cigarettes to an agency or instrumentality of the United States, including exchange and commissary services serving the armed forces of the United States.

...."

SECTION 2. G.S. 105-113.18(1) reads as rewritten:

"(1) Distributor's Report. – A distributor ~~shall~~ must file a monthly report in the form prescribed by the Secretary. The report covers sales and other activities occurring in a calendar month and is due within 20 days after the end of the month covered by the report. The report ~~shall state the amount of tax due and shall identify any transactions to which the tax does not apply.~~must:

a. State the amount of the tax due.

b. Identify any transaction to which the tax does not apply.

c. State the quantity of cigarettes on hand on the first and last days of the calendar month immediately preceding the month in which the report is required.

d. The amount of stamps purchased, used, and on hand during the report period.

e. Provide any other information the Secretary requires."

SECTION 3. G.S. 105-113.19 is reenacted and reads as rewritten:

"**§ 105-113.19. Secretary to provide stamps.**

(a) Stamps. – The taxes levied by this Article shall be paid or payment ~~shall~~ must be evidenced by the use of stamps, except as provided in G.S. 105-113.6. Tax-exempt stamps must be used to evidence exemption from the taxes levied by G.S. 105-113.5. The Secretary ~~shall~~ must make arrangements ~~with some manufacturer to~~for the manufacture of ~~taxpaid~~ cigarette tax stamps provided in this Article. The Secretary shall prescribe the form, design, denominations and such other matters as may be necessary with respect to said stamps.

(b) Sale of stamps. – The Secretary may sell ~~such~~ stamps directly to taxpayers ~~and he may also~~ or make arrangements for release of taxpaid stamps to taxpayers by the manufacturer of ~~said~~ the stamps. ~~Said manufacturer shall furnish such bond as the Secretary may deem advisable, in such amount and upon such conditions as in the opinion of the Secretary will adequately protect the State in the collection of the taxes levied by this Article.~~Only the Secretary may sell stamps. The Secretary must sell and distribute stamps exclusively to licensed distributors.

(c) Unique serial numbers. – Each roll or sheet of stamps must have a separate and unique serial number that shall be clearly visible at the point of sale. The Secretary must keep records of which licensed distributor purchases each roll or sheet of stamps identified by serial number. If the Secretary permits distributors to purchase partial rolls or sheets, in no case may stamps bearing the same serial number be sold to more than one distributor.

~~(b)~~(d) Payment in full shall accompany application for purchase of ~~stamps; provided, however, a licensed distributor may purchase stamps on credit if such distributor has filed with the Secretary a bond satisfactory to the Secretary in an amount no less than the amount to be paid for said stamps and prior to the date any such credit purchases are made. Such licensed distributor shall pay for said credit purchases of stamps on or before the tenth day of the month next following the date of purchase, and the bond herein required shall be conditioned upon such payment. The bond shall be executed by the distributor as principal and by an indemnity company licensed to do business under the insurance laws of this State, as surety.~~stamps.

~~(c) A licensed distributor using a stamp metering machine as provided for in G.S. 105-113.23 may make payment upon the same terms and conditions as in the case of the purchase of stamps as set forth in subsection (b) of this section.~~"

SECTION 4. G.S. 105-113.20 is reenacted and reads as rewritten:

"**§ 105-113.20. Distributors to affix stamps.**

(a) Licensed distributors. Only licensed distributors shall affix stamps. A licensed distributor may only affix stamps to packages of cigarettes manufactured, imported, purchased, or obtained directly from a licensed distributor who is a manufacturer or importer of cigarettes. A licensed distributor ~~shall~~ must not sell, borrow, loan, buy, or exchange stamps to, from, or with any other ~~person, except as provided in G.S. 105-113.19.~~person.

(b) Non-tax-paid cigarettes. – Only licensed distributors may possess or receive non-tax-paid cigarettes. A licensed distributor who possesses or receives ~~unstamped~~ non-tax-paid packages of cigarettes ~~shall~~ must affix stamps to the packages within 48 hours of the receipt of all unstamped cigarettes, exclusive of Saturdays, Sundays, and all legal holidays of the State, and ~~the time required by the Secretary. A licensed distributor shall affix stamps to the packages~~ prior to ~~any and all delivered to other persons except deliveries to points outside the State, deliveries by manufacturers to licensed distributors and those deliveries which this State is prohibited from taxing under the Constitution or the statutes of the United States.~~ selling, distributing, or shipping the cigarettes to any other person. A licensed distributor who is a manufacturer or importer of cigarettes may sell, distribute, or ship non-tax-paid cigarettes to another licensed distributor, and further provided that a licensed distributor may ship or cause to be delivered non-tax-paid cigarettes to a facility, wherever located, owned by such distributor.

(c) Packages. – Stamps must be affixed by licensed distributors:

(1) In a denomination that at least equals the tax due on cigarettes in the package, if the cigarettes are subject to tax under G.S. 105-113.5.

(2) On the smallest package of cigarettes that will be handled, sold, used, consumed, or distributed in this State.

(3) To the bottom of each individual package of cigarettes in a manner so that the stamp cannot be removed from the package without being mutilated or destroyed."

SECTION 5. G.S. 105-113.21(a1) reads as rewritten:

"(a1) Discount. – ~~A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.~~On sales of stamps, the Secretary must allow a discount per stamp as compensation for the services and expenses of the licensed distributor in handling and affixing such stamps to packages of cigarettes. The discount per stamp shall be two percent (2%) of the total tax due on each pack of cigarettes."

SECTION 6. G.S. 105-113.25 is reenacted and reads as rewritten:

"**§ 105-113.25. Redemption and refund.**

The Secretary shall redeem any unused or mutilated, but identifiable, stamps that any distributor ~~may present~~presents for redemption, and refund therefore the face value of ~~said~~ the stamps, less the discount allowed at the time of the purchase of the stamps by ~~said~~ the distributor. In the event any stamped cigarettes are shipped out of this State, or are sold to those agencies or instrumentalities which this State is prohibited from taxing under the Constitution or statutes of the United States, by any distributor, a refund of the face value of the ~~said~~ stamps less the discount allowed by the Secretary at the time of the purchase of the stamps by ~~said~~ the distributor, shall be made upon the application of the distributor on forms prescribed by the Secretary together with such evidence and proof of sale as the Secretary shall require."

SECTION 7. G.S. 105-113.27 is amended by adding a new subsection to read:

"(d) Only a licensed distributor may ship or otherwise cause to be delivered non-tax-paid cigarettes into or from this State. Any person that ships or otherwise causes to be delivered non-tax-paid cigarettes into, within, or from this State must ensure the invoice or equivalent documentation and the bill of lading or freight bill for the shipment identifies the true name and address of the cosignor or seller, the true name and address of the cosignee or purchaser, and

the quantity by brand style of the cigarettes transported, provided that this section shall not be construed as to impose any requirement or liability upon any common or contract carrier.

(e) The receipt, shipment, or delivery of non-tax-paid cigarettes in a duty-free transaction or a U.S. government transaction shall not constitute a violation of this section."

SECTION 8. G.S. 105-113.31(b)(4) reads as rewritten:

"(4) Unless the claimant can show that the non-tax-paid cigarettes seized were not transported in violation of this Part and that the property seized belongs to the claimant or that in the case of property other than cigarettes, the property was used in transporting non-tax-paid cigarettes in violation of this Part without the claimant's knowledge or consent, with the right on the part of the claimant to have a jury pass upon this claim, the court shall order a sale by public auction of the property ~~seized, and the~~ seized with the exception of the contraband cigarettes. The officer making the sale, after deducting the cost of the tax due, which the officer shall pay upon sale, expenses of keeping the property, the fee for the seizure, and the costs of the sale, shall pay all liens according to their priorities, which are established, by intervention or otherwise, at the hearing or in another proceeding brought for the purpose as being bona fide and as having been created without the lien or having any notice that the vehicle or vessel was being used for the unlawful transportation of non-tax-paid cigarettes, and shall pay the balance of the proceeds to the State Treasurer for the General Fund. All contraband cigarettes seized by this State must be destroyed. The Secretary may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect the contraband cigarettes, in order to assist the Secretary in any investigation regarding the cigarettes."

SECTION 9. G.S. 105-113.31(b)(5) reads as rewritten:

"(5) All liens against property sold under the provisions of this section shall be transferred from the property to the proceeds of the sale of the property. If, however, no one is found claiming the ~~cigarettes, or the~~ vehicle or vessel, then the ~~taking of the cigarettes, vehicle,~~vehicle or vessel, along with a description, shall be advertised in a newspaper having circulation in the county where the items were taken, once a week for two weeks and by notices posted in three public places near the place of seizure, and if no claimant appears within ten days after the last publication of the advertisement, the property shall be sold, and the proceeds, after deducting the expenses and costs, shall be paid to the State Treasurer for the General Fund. All cigarettes seized by this State must be destroyed. The Secretary may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Secretary in any investigation regarding such cigarettes."

SECTION 10. G.S. 105-113.34 as in effect on December 31, 1993 is reenacted and reads as rewritten:

"**§105-113.34. Forging or counterfeiting revenue stamps.**

Any person who falsely or fraudulently makes, forges, alters or counterfeits, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited, any stamps prepared or prescribed the Secretary under the authority of this Article, or who knowingly and willfully utters, publishes, passes or tenders as true, any such false, altered, forged or counterfeited stamps for the purpose of evading the tax levied by this Article, shall be guilty of a Class H felony, ~~and upon conviction thereof shall be fined~~which may include a fine

not more than two thousand dollars ~~($2,000) or imprisoned in the State prison for a term of not more than five years, or both, in the discretion of the court.~~($2,000).

~~If any person secures, manufactures or causes to be secured, or manufactured, or has in his possession any stamp or any counterfeit impression device not prescribed or authorized by the Secretary, such person shall be guilty of a felony and subject to the punishment above provided for in the first paragraph of this section.~~"

SECTION 11. This act becomes effective January 1, 2011.

Bill Draft 2009-TD-22: Restore Cigarette Tax Stamps.

2009-2010 General Assembly

Committee:	Revenue Laws	**Date:**	February 3, 2010
Introduced by:		**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	2009-TD-22		

SUMMARY: Bill Draft 2009-TD-22 would require a tax stamp be attached to packages of cigarettes sold in North Carolina as evidence of payment of the tax on cigarettes and would create a criminal penalty for counterfeiting stamps or stamp impression devices.

CURRENT LAW: North Carolina first began taxing cigarettes in 1969. Tax stamps were required to be attached to packages of cigarettes as evidence of payment of the tax. In 1993, the tax stamp requirement was repealed and the payment of the cigarette tax was recorded by reports submitted by cigarette distributors.

At the time of the tax stamp repeal, 4 other states (Michigan, Hawaii, North Dakota, and Alaska) also did not require tax stamps. Since the repeal of the North Carolina tax stamp, Michigan, Hawaii, and Alaska have begun to require cigarette tax stamps. South Carolina repealed its tax stamp in 1997. Currently 47 states require cigarette tax stamps.

At the time of the original enactment, a discount of 7/24¢ per stamp was given for the expenses associated with the stamps (for a discount of approximately 5¢ per carton). When the tax stamp was eliminated, the discount was amended to provide for a 4% discount for preparing the reports on taxes due. The discount was repealed in 2003. The discount was reinstated in 2004 at a reduced rate of 2%. With the recent increase in the rate, the discount is currently 18¢ per carton.

BILL ANALYSIS: Bill Draft 2009-TD-22 would reinstate cigarette tax stamps.

Stamps: The tax required in G.S. 105-113.5 (Tax on cigarettes) must be evidenced by a stamp placed on the package of cigarettes. The Department of Revenue (Department) must make arrangements for the manufacture and sale of the stamps. The Department may sell stamps directly to distributors, or may allow the manufacturer of the stamps to sell stamps directly to distributors. Full payment is required before stamps are given to distributors. The draft also imposes the following additional requirements:

- Each roll of stamps must have a unique serial number.
- Stamps may only be sold to licensed distributors.
- Stamps must be affixed within 48 hours or the receipt of cigarettes (excluding Saturdays, Sundays, and State holidays).
- Stamps must be affixed to bottom of the smallest package of cigarettes (generally the pack) and in the manner so that the stamp cannot be removed without being mutilated or destroyed.

Reports: The distributor report is amended to require the following additional information:

- The quantity of cigarettes on hand on the first and last days of the preceding calendar month.
- The amount of stamps purchased, used, and on hand during the reporting period.
- Any other information the Department requires.

Discount: The discount for the preparation of reports is deleted and replaced with a 2% discount for the expenses associated with stamping.

Refunds: The Department must offer refunds of unused or mutilated stamps. Refunds are also available for cigarettes sold out of State, or sold to an entity that is not subject to tax.

Contraband Cigarettes: All contraband cigarettes seized by the state must be destroyed.

Felony for counterfeiting stamps: Individuals convicted of counterfeiting or forging a tax stamp, or manufacturing or possessing an impression device is guilty of a Class H felony and subject to a $2,000 fine.

EFFECTIVE DATE: This bill would be effective January 1, 2011.

2009-TD-22-SMTD-148 v5

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: February 2, 2010

TO: Revenue Laws

FROM: Sandra Johnson and Claire Hester
Fiscal Research Division

RE: Cigarette Stamps

FISCAL IMPACT ($ in Millions)

Yes (X)	No ( )	No Estimate Available ( )		
FY 2009-10	**FY 2010-11**	**FY 2011-12**	**FY 2012-13**	**FY 2013-14**
REVENUES:	(2.7)	(5.4)	(5.4)	(5.4)
EXPENDITURES:	0.7	1.2	1.2	1.2
GENERAL FUND (Loss):	**$ (3.4)**	**$ (6.6)**	**$ (6.6)**	**$ (6.6)**
POSITIONS (cumulative):	17	17	17	17

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: January 1, 2011

BILL SUMMARY: Bill Draft 2009TD-22 would reinstate cigarette stamps. Under this legislation, the tax required in G.S. 105-113.5 (Tax on cigarettes) must be evidenced by a stamp placed on the package of cigarettes. The Department of Revenue (Department) must make arrangements for the manufacture and sale of the stamps. The Department may sell stamps directly to distributors, or may allow the manufacturer of the stamps to sell stamps directly to distributors. Full payment is required before stamps are given to distributors.

Effective January 1, 1994, North Carolina discontinued the cigarette stamp program by passing SB 1025 during the 1993-94 session. Prior to 1994, North Carolina law required all manufacturers to affix stamps to each package of cigarettes sold in the state indicating that the cigarette excise tax had been paid. North Carolina switched from the stamp program to a monthly reporting mechanism, eliminating the stamps and requiring manufacturers to report monthly sales. Coinciding with the elimination of the cigarette stamp program, the legislature also increased cigarette taxes by 3-cents per pack, raising the total tax to 5-cents per pack. Despite a three-cent per pack tax increase in 1994, the volume of cigarettes sold increased by 18 percent in one fiscal year. The quantity of cigarettes sold increased between the 1993-94 and 1994-95 fiscal year from 721.8 million packs to 850.6 million packs generating an additional $64.4 million in tax revenue.

The national cigarette tax landscape in 1994 looked much like the scene North Carolina faces today. In 1994, the average cigarette per pack state excise tax for all 50 states equaled 30.5-cents, five times greater than North Carolina's cigarette tax of five cents per pack.[1] One of North Carolina's three neighboring states exhibited a lower per pack cigarette tax, South Carolina at seven cents per pack, Virginia at 2.5-cents per pack, and Tennessee at 13-cents per pack. The sales increase that coincided with the stamp removal suggests that out-of state purchases played a significant role in North Carolina cigarette sales. Historical tax rate information suggests that the increase in sales between the 1994 and 1995 fiscal years was influenced more by long distance smuggling than cross-border sales.

Today, seven states in U.S., three of which are in the Southeast, exhibit lower cigarette taxes than North Carolina's 45-cents per pack rate. Furthermore, North Carolina is one of three states that do not require cigarette stamps.

ASSUMPTIONS AND METHODOLOGY:

Tax Revenue

Fiscal Research estimates that an additional $5.4 million in tax revenue will be lost due per fiscal year to a decline in both cross border sales (in-state residents purchasing cigarettes out-of-state) and long distance smuggling (out-of -state residents purchasing cigarettes from in-state vendors). This estimate assumes that all cross-border sales and smuggling will decrease to zero. The estimate is based on research from a 2003 RTI study, *The Impact of Cigarette Excise Tax Increases in Low-Tax Southern States on Cigarette Sales, Cigarette Excise Tax Revenue, Tax Evasion, and Economic Activity.*

[1] The Tax Burden on Tobacco. Historical Compilation, Volume 37, 2002. Table 13B-1994 Cigarette Taxes as a Percentage of Retail Price Generic Brands Included in Average Calculation. Page 130.

North Carolina gains excise tax revenue from sales associated with smuggling. RTI researchers estimated that North Carolina, in 2003 with a 5-cent per pack cigarette tax, gained roughly 60 million packs in cigarette sales per fiscal year due to long distance smuggling. North Carolina, given recent cigarette tax increases, is estimated to gain roughly $8.1 million in tax revenue from the 18 million packs of cigarettes smuggled out of North Carolina per fiscal year beginning FY 09-10.

The State loses revenue from cross-border sales with purchasers in North Carolina seeking lower-tax cigarette options in South Carolina and Virginia. The original RTI report estimated that 16 million packs per fiscal year were purchased by North Carolina residents seeking lower priced options in neighboring states. Fiscal Research estimates that roughly 10.5 million in cigarette packs are currently purchased each fiscal year through cross border sales.

The net effect of a decline in smuggling and the gain in revenue from decreased cross border sales would equal a net loss of 7.8 million packs in sales per fiscal year. The reduction in cigarette sales equals a loss of $5.4 million in revenue (45-cents per pack in lost tax revenue *7.8 million packs+ lost sales tax revenue).

Personnel and Administrative Costs

The Department of Revenue (DOR) estimates that reinstatement of the cigarette tax stamp program would require the addition of 17 new positions in DOR. Two Processing Assistant V positions in the Cigarette Excise Tax Unit would be needed to process stamp orders, and a Revenue Administrative Officer II would handle administration of the program. Ten Revenue Officer I positions would perform retail inspections, and four Revenue Tax Auditors would be needed to conduct due diligence audits. The estimated costs of the salaries and benefits of these 17 positions are shown below:

Position Title	Grade	Salary	Soc Sec	Ret	Health	FTEs	Total
Processing Assistant V	61	$34,732	$2,657	$3,650	$4,929	2	$91,937
Revenue Admin. Officer II	76	$64,778	$4,956	$6,808	$4,929	1	$81,471
Revenue Officer I	71	$52,040	$3,981	$5,469	$4,929	10	$664,195
Revenue Tax Auditors	Journey	$55,202	$4,223	$5,802	$4,929	4	$280,623
					TOTAL	***17***	***$1,118,225***

Additionally, DOR estimates the following recurring and non-recurring administrative expenses would be needed to support the 17 positions listed above during the next biennium:

ACCOUNT TITLE	FY 2001-11	FY 2011-12	
Maintenance Agreement - PC & Printer	$ 4,063		NR
Maintenance Agreement - PC Software	$ 1,955	$ 1,955	R
PC & Printer Purchases	$ 17,000		NR
PC Software Purchases	$ 10,200		NR
Travel - Ground In-State	$ 42,000	$ 42,000	R
Telephone Service	$ 5,950	$ 5,950	R
General Office Supplies	$ 8,500	$ 8,500	R
Furniture - Office	$ 76,500		NR
Office Equipment (calculator)	$ 1,700		NR
TOTAL	***$ 167,868***	***$ 58,405***	

Currently, DOR is in the preliminary stages of developing and implementing the State's new Tax Information Management System (TIMS). Over the next 36 months, TIMS will replace the State's integrated tax system as well as a host of other miscellaneous tax systems. In order to process the activities of a cigarette tax stamp program, DOR would need to initiate a change order with the TIMS project's contractor. Based on the contractor's estimated hours needed to make these changes to the TIMS application, the additional nonrecurring costs for FY 2010-11 would be $16,000.

The total estimated impact of personnel and associated administrative costs needed to implement a cigarette tax stamp program in DOR would be $1,302,093 in FY 2010-11 and $1,176,630 in FY 2011-12.

SOURCES OF DATA:
North Carolina Department of Revenue

Farrelly, Matthew C. "State Cigarette Excise Taxes: Implications for Revenue and Tax Evasion." RTI International. Published May 2003.

The Tax Burden on Tobacco. Historical Compilation, Volume 37, 2002. Table 13B-1994 Cigarette Taxes as a Percentage of Retail Price Generic Brands Included in Average Calculation. Page 130.

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-TDx-21 [v.4] (01/20)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/29/2010 10:08:40 AM

Short Title: Tax Little Cigars. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DEFINE LITTLE CIGARS AND TO TAX LITTLE CIGARS AS CIGARETTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-113.4 reads as rewritten:

"**§ 105-113.4. Definitions.**

The following definitions apply in this Article:

...

(1a) Cigarette. – Any of the following:

a. A roll of tobacco wrapped in paper or in a substance that does not contain tobacco.

b. A roll of tobacco wrapped in a substance that contains tobacco and that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by a consumer as a cigarette described in subpart a. of this subdivision.

c. A little cigar.

...

(5a) Little cigar. – Cigars weighing not more than three pounds per thousand.

... "

SECTION 2. This act becomes effective October 1, 2010.

Bill Draft 2009-TDx-21: Tax Little Cigars.

2009-2010 General Assembly

Committee:	Revenue Laws	**Date:**	February 3, 2010
Introduced by:		**Prepared by:**	Heather Fennell
Analysis of:	2009-TDx-21		Committee Counsel

SUMMARY: Bill Draft 2009-TDx-21 would tax little cigars as cigarettes.

CURRENT LAW: Under G.S. 105-113.5 cigarettes are taxed at the rate of 45¢ per pack. Under G.S. 105-113.35 other tobacco products (OTP) are taxed at 12.8% of the cost price of the products. Little cigars are taxed as OTP.

BILL ANALYSIS: Bill Draft 2009-TDx-21 would add "little cigars" to the definition of cigarettes. "Little cigars" would be defined as cigars not weighing more than three pounds per thousand.

EFFECTIVE DATE: This bill would be effective October 1, 2010.

BACKGROUND: Little cigars are a fast growing segment of the tobacco industry. Most packages of little cigars cannot be distinguished from cigarettes and are marketed as cigarettes. Currently taxed as OTP in North Carolina, packages of little cigars are less expensive than cigarettes. The average tax on a pack of little cigars is 32¢, where cigarettes are taxed at 45¢ per pack.

Twelve states and the Federal government tax little cigars as cigarettes

2009-TDx-21-SMTD-147 v2

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: February 3, 2010

TO: Revenue Laws

FROM: Sandra Johnson
Fiscal Research Division

RE: Little Cigars

FISCAL IMPACT ($ in Millions)

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
REVENUES:		$1.4	$1.9	$2.0	$2.1
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue

EFFECTIVE DATE: October 1, 2010

BILL SUMMARY: The bill clarifies that if a product fits within the definition of little cigar, but at the same time also meets the revised/expanded definition of a cigarette, such product will be treated for purposes of the excise tax law as a cigarette.

Little cigars are currently classified as Other Tobacco Products (OTP) and taxed at a rate of 12.8% of wholesale price. This proposal modifies the definition of cigarettes adding certain weight and size requirements, which would also include little cigars. The modification increases the tax rate on little cigars to 45-cents per pack.

ASSUMPTIONS AND METHODOLOGY:
Fiscal Research estimates that classifying little cigars as cigarettes for excise tax purposes will generate roughly $1.37 million dollars in FY 10-11 and roughly $2.0 million in subsequent fiscal years. This estimate uses data from the National Association of Attorneys General, fiscal estimates in other states, as well as information from the Alcohol and Tobacco Tax and Trade Bureau and Phillip Morris U.S.A. to calculate the fiscal impact of reclassifying little cigars.

Fiscal Research relied on information from the Center for Disease Control and the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) to estimate the number little cigar packs sold in North Carolina each year. According to the TTB, 4.5 billion little cigars were sold in the U.S. between October 2008 and October 2009. CDC data from 2007 estimates that North Carolina accounts for 3.4% of national cigarette sales, a proxy for the state's little cigar market share. Multiplying North Carolina's market share for cigarettes (3.4%) by national little cigar sales (4.5 billion) and then dividing the result by the number of little cigars sold in a pack (20), Fiscal estimates that approximately 7.7 million little cigar packs are sold in North Carolina each year.

If the 7.7 million in little cigar pack sales were classified for purposes of the excise tax as cigarettes, the State would collect $3.2 million in cigarette excise taxes. The $3.2 million in cigarette excise taxes less the $1.6 million OTP taxes associated with little cigars equals $1.65 million in FY 08-09. This figure earmarked by an annual five percent growth rate (a conservative estimate given the national annual growth in sales as noted by the American Legacy Foundation), equals roughly $2.0 million per full fiscal year.

The estimate of current OTP tax collections associated with little cigars, $1.6 million, utilizes information from Phillip Morris. Phillip Morris' publication, "Cigarette Excise Taxes: a National View," indicates that in 2006 the manufacturer's price for cigarettes equaled $1.65 per pack. To be conservative, Fiscal utilized the manufacturer's 2006 pricing information for cigarettes as the FY 2008-09 pricing information for little cigars. Examples from the National Association of Attorneys General assume a 72-cents per pack wholesale cost for little cigars. A lower wholesale price than the assumed, $1.65 per pack would create a wider margin between the taxes North Carolina currently collects on little cigars creating a larger net gain for the General Fund than estimated.

Additional Revenue from Classifying Little Cigars as Cigarettes, FY 08-09	
Current OTP GF Revenue (Little Cigars)	$ (1,638,846)
Classifying Little Cigars as Cigarettes	$ 3,289,713.02
Additional Revenue	**$ 1,650,867**

Assumptions, Based on FY 08-09 Data	
Wholesale Price Per Pack	$1.65
Price elasticity	-0.4
Annual growth in consumption (National trend)	10%
Annual consumption growth used in estimate	5%
Cigarette Tax Per Pack	$0.45
Number of Little Cigars Sold in U.S.	4,564,522,838
NC Share of US Cigarette Sales	3.4%
Number of Little Cigar Packs Sold in NC (20 per pack)	7,759,689

SOURCES OF DATA:

American Legacy Foundation. "Cigars, Cigarillos, and Little Cigars Fact Sheet." Available at: http://www.legacyforhealth.org/PDFPublications/Cigars-Cigarillos-and-Little-Cigars_Fact-Sheet.pdf

Government of the District of Columbia Office of the Chief Financial Officer. "Fiscal Impact Statement: 'Fiscal Year 2010 Budget Support Emergency Act of 2009.' " Available at: http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/FY_2010_.pdf.

National Association of Attorneys General. "Petitioners seek the repeal of the definitions of "Cigar" and "Cigarette." Available at: http://www.naag.org/assets/files/pdf/20060519.FinalPetitionToTTBReLittleCigars.pdf

Phillip Morris USA. "Cigarette Excise Taxes: A National View." Available at: http://philipmorrisusa.com/en/cms/Responsibility/Government_Relations/Legislative_Issues/Cigt_Excise_Tax/default.aspx?src=top_nav

Tobacco Issues available at: http://www.tobaccoissues.com/listalerts.aspx?st=NC

United States Department of the Treasury. Alcohol and Tobacco Tax and Trade Bureau. Monthly Statistical Release October 2008-October 2009. Available at: http://www.ttb.gov/statistics/09tobstats.shtml

TECHNICAL CONSIDERATIONS: None

Revenue Laws Study Committee

February 3, 2010

Cost Factors of Stamping Cigarettes in N.C.

Presented By:
Sonny Wooten
President
N. C. Wholesalers Association

Direct Costs to the State of N.C.

1. Inventory - Costs for the State to purchase physical stamps
2. Labor - Costs for the recordkeeping and distribution of stamps
3. Overhead - Costs associated with the physical storage of stamps (examples include potentially - rent, utilities, etc.)

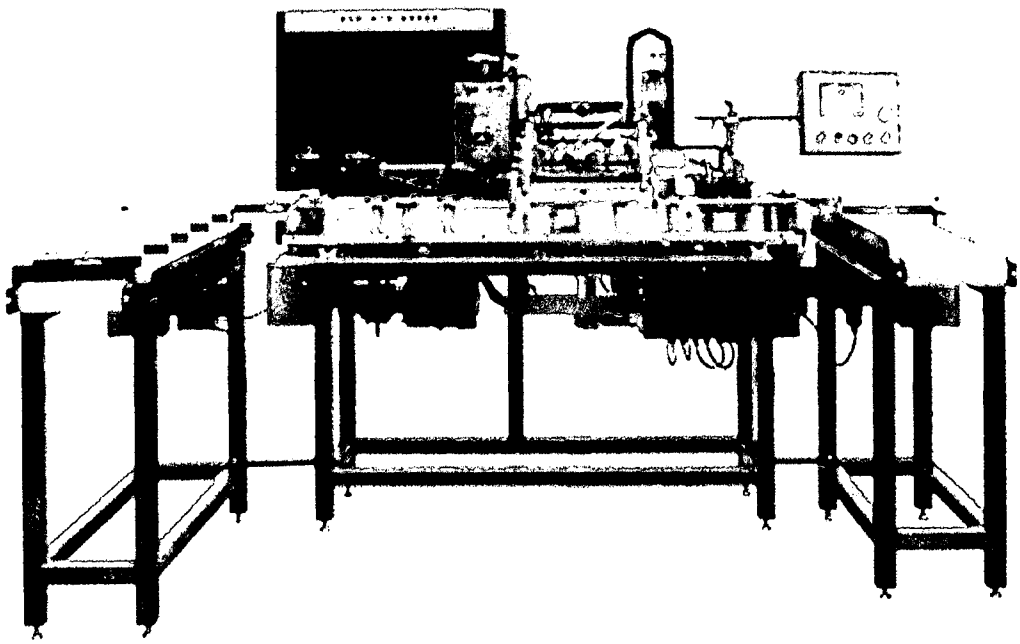
Costs to the Wholesale Community:

1. Machinery
   A. Stamping Machine - A single-head stamping machine costs approximately $80,000 new
      - based on an 8-hour shift per day, a single-head stamping machine can stamp approximately 5 million cartons per year
      - high volume wholesalers would require a "spare" machine for down time as repair technicians are not readily available
   B. Repacking Machine - Costs approximately $34,000 new
      - eliminates 1 full-time position and allows the Stamping Machine to achieve maximum output
2. Maintenance Contracts (Annually)
   A. Stamping Machine - Approximately $2,600
   B. Repacking Machine - Approximately $1,500

   (both of these contracts cover 4 quarterly preventive maintenance visits per year)
3. Repair Costs

   1 recent minor repair visit cost $2,004.50 including the replacement of 2 belts and 2 shocks
4. Supplies - Glue - Cost????
5. Damages - Machinery is in constant need of adjustments and damages products which can no longer be sold
6. Labor (based on a Stamping Machine running at or near capacity annually)
   A. 2 Full-time positions per Stamping Machine with a Repacking Machine - Estimate - $70,000
   B. 3 Full-time positions per Stamping Machine without a Repacking Machine - Estimate - $105,000

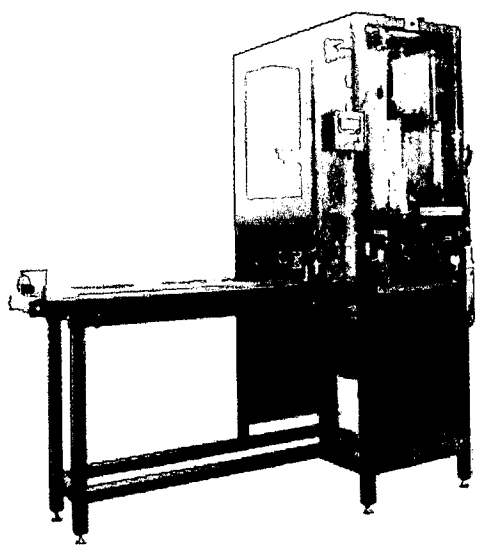
7. Bond, Pre-payment, or Reporting Basis
   A. Bond - Depending upon State requirements, a bond requirement with 30-day payment terms would result in a bond expense and an interest expense (estimate $500 bond expense for each 100,000 cartons in annual volume and approx. $1,500 in interest expense)
   B. Pre-payment - **Assuming financing is available**, prepayment for stamps would require an annual interest expense of approximately $3,750 for each 100,000 cartons in annual volume.
   C. Reporting Basis - remit payment with report (same as current system) - no additional expense
8. Other Costs
   A. Vehicle and Labor costs to pick up stamps **or** insured postage
   B. Possible costs associated with reconfiguration of warehousing facilities to accommodate stamping process



Machine Features

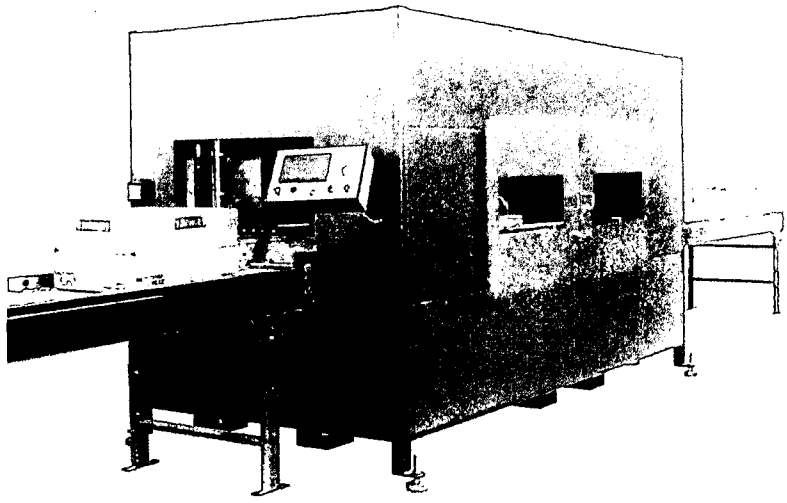
1. Heavy-duty construction.
2. Electrically powered actuator to raise and lower carton height.
3. Electrically powered actuator to change carton width.
4. Electra-mechanically operated.
5. Electronic temperature control stamp head, and hot glue pot via operator interface.
6. Color touch screen operator interface.
7. Adjustable roller carton closure unit.
8. Computer controlled, for ultimate flexibility and ease of trouble shooting.
9. 120s cartons can be stamped at estimated speed of 80 to 90 cartons per minute.
10. Powder coated frame for good looks and long life.

1. Heavy-duty construction, utilizing industrial components throughout the machine for long life and high dependability.
    - Ball bearing slides on all linear and rotary motions.
    - Precision, CNC machined anodized aluminum and stainless steel components.
    - Durable, powder coated, 2-inch by 2-inch (2" x 2") tubular steel framework.
    - Industrial duty drives motor and gearbox.
2. Case-packer is able to work left hand or right hand sides.
3. Adjustable push arm to allow for different cartons widths.
4. Cigarette carton tip and back-up sensors to prevent any jamming, and for reducing cigarette carton damage.
5. Adjustable for all 12M case sizes.
6. Modem for off-site programming support and recommended for troubleshooting.
7. Computer controlled, for ultimate and extreme degree of reliability and upgradability.
8. PLC indicates exact status of all input and output signals.



Specifications

Electrical	20 amps, 120 VAC
Air	5 CFM @ 90 PSI, clean and dry, 1/2" pipe supply
Weight	600 pounds
Speed	100+ Cartons per minute



Standard Machine Features

1. The CCU-6-12 handles both 6m and 12m cigarette cases sizes

- On cut tops mode, the CCU-6-12 handles cases sizes 7" to 24" in height and 6"x6" to 18"x29" in width and length.
- This represents the widest processing range of any case cutter currently on the market today

2. The CCU-6-12 throughput rate is 7 to 8 cases per minute

- This machine opens cases much faster with far less labor and product damage than manual operations
  - The CCU-6-12 is similar to a CNC machine tool design High efficiency servo motors with multi-axis operation for precise cuts
- Includes a unique four-razor head design for extended blade life

3. The CCU-6-12 uses high resolution sensors to electronically measure each case

- Sensors measure box dimensions to within 1/1000th for precision cutting

4. The CCU-6-12 includes three selectable cutting modes for operational flexibility
   - Box Tops Only - Candy and other dry goods
   - % of Height - Specials cut mode
- Sort By Height - Auto select between 6M and 12M
  - The CCU-6-12 is equipped with an operator touch screen display for its control center Color, touch-sensitive, user-friendly display
  - Allows changes to cutting modes by touching the display
  - Allows manual operation and troubleshooting of individual assemblies
- Cutting modes can be customized customer specifications

5. The CCU-6-12 has a small foot print that will allow it to operate effectively in both "in-line" or "off-line" installations

Specifications

Electrical:30 amps, 220 VAC, 60Hertz
Air:3 CFM @ 90 PSI, clean and dry, 1/2" NPT fitting
Weight:1550 pounds
Speed:7-8 cartons per minute

View the new cutter in action

Presentation to the North Carolina Revenue Laws Study Committee

February 3, 2010

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Altria Client Services

Past Contraband Activity in North Carolina

- According to law enforcement, North Carolina is a source of contraband cigarettes
  - Lower excise taxes
  - Lack of tax stamps

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Past Contraband Activity in North Carolina



The Charlotte Observer

www.charlotte.com

Brothers found guilty of plotting to aid terrorists

Prosecutors accused 2 Lebanese men of being part of local support cell for Hezbollah

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Past Contraband Activity in North Carolina

THE NEWS&OBSERVER
newsobserver.com

Published: Feb 15, 2006 12:00 AM
Modified: Feb 15, 2006 06:25 AM

Raleigh cigarette reseller targeted

ATF suspects a smuggling ring

SARAH OVASKA, Staff Writer
Comment on this story

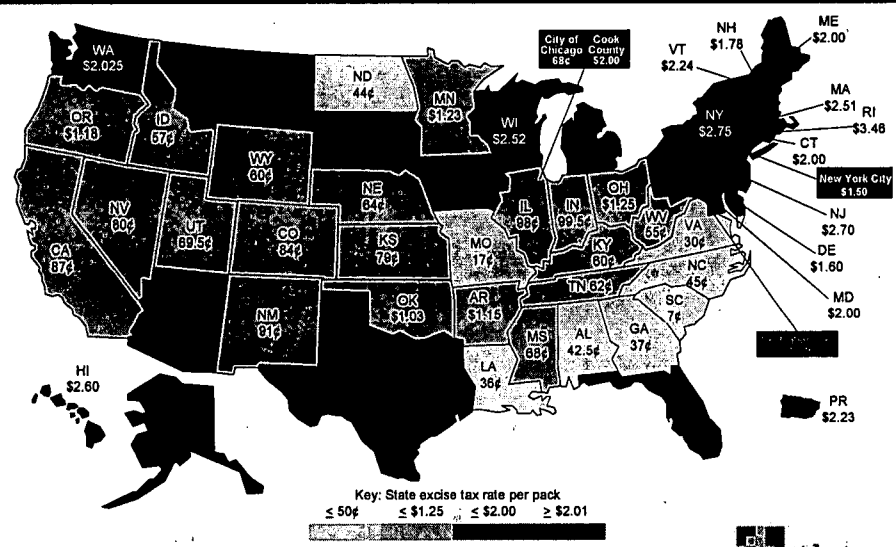
Federal agents think a warehouse in North Raleigh was the staging ground for an operation that smuggled millions of dollars worth of North Carolina cigarettes into California to avoid that state's higher taxes.

California officials think the sophisticated operation may have defrauded their state out of $4.3 million in cigarette taxes, according to a Bureau of Alcohol, Tobacco, Firearms and Explosives search warrant.

From the loading dock of Five Star Wholesale, run out of a strip mall on Gresham Lake Road near Triangle Town Center, nearly a quarter-million cartons of cigarettes left for California in a two-year period, according to the federal search warrant.

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State Excise Tax (SET) rates as of Feb. 1, 2010



Note: Federal excise tax rate of $1.01 per pack as April 1, 2009

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Contraband Activity in North Carolina Today

Two issues:

- Still used as a place for smugglers to purchase cigarettes and ship out-of-state
- With recent tax increases, NC is now vulnerable to smuggled cigarettes being brought *into-the-state*
  - No stamps in NC or SC
  - Tax difference of $3.80 per carton

Altria Client Services

Contraband Activity in North Carolina Today

Nine indicted in cigarette-smuggling ring

Posted: Nov. 16, 2009

Nine people from across North Carolina face federal charges in a cigarette-smuggling ring.

According to a 30-page federal indictment unsealed Monday, the operation had been going on since February 2003, and the seven defendants profited more than $5 million.

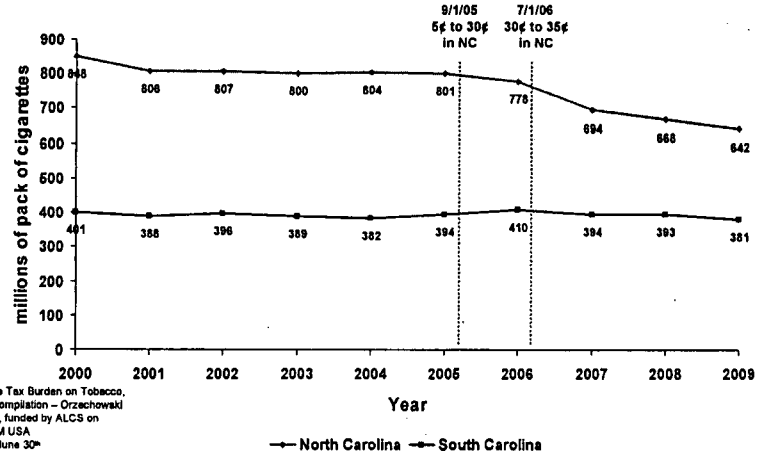
The indictment alleges that at least three of the defendants owned tobacco businesses and supplied cigarettes to the other defendants, who took them to sell in other states where the tobacco tax is higher.

Ana Rodriguez, Alphonso Rodriguez, Carlos Rodriquez, Heidi Rodriquez, Kenny Salcedo, Willard Perez, Nicholas Oxendine, Ghassan Dahir and Darrell Brigman face numerous charges, including transporting in interstate commerce goods of a value of $5,000.

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Reported SET Paid Cigarette Sales

Since 2006, NC cigarette sales have declined 17%



Source: The Tax Burden on Tobacco, Historical Compilation – Orzechowski and Walker, funded by ALCS on behalf of PM USA
FY ending June 30th

In 2008, NC cigarette tax revenue was $228 million

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Benefits of Cigarette Excise Tax Stamps

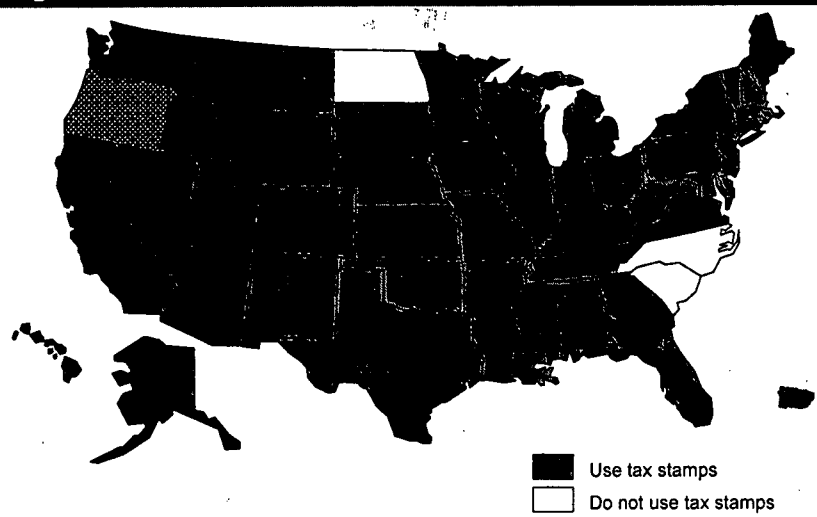
- Visual indicator of excise tax payment
- Protect tax revenue
- Deter cigarette smuggling (into and from)
- Provide traceability back to wholesaler

Tax Stamp



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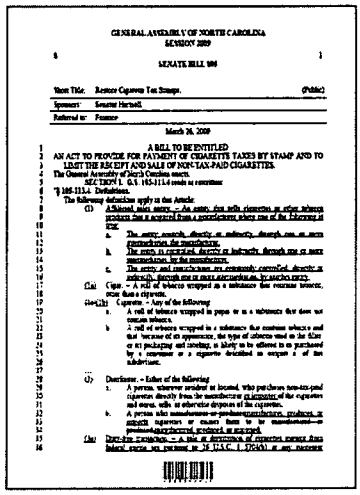
Cigarette Excise Tax Stamp Use



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North Carolina SB 895

- Restores cigarette excise tax stamps
- Helps ensure appropriate NC cigarette excise taxes are paid
- Compensates NC wholesalers for applying cigarette excise tax stamps
- Cost NC approximately $321,000 to purchase stamps[1]



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SENATE BILL 895

Short Title: Restore Cigarette Tax Stamps. (Public)
Sponsors: Senator Hartsell.
Referred to: Finance

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR PAYMENT OF CIGARETTE TAXES BY STAMP AND TO LIMIT THE RECEIPT AND SALE OF NON-TAX-PAID CIGARETTES.
The General Assembly of North Carolina enacts:
SECTION 1. G.S. 105-113.4 reads as rewritten:
"§ 105-113.4. Definitions.
The following definitions apply in this Article:
(1) ...
a. ...
b. ...
c. ...
(1a) Cigar. – A roll of tobacco wrapped in a substance that contains tobacco, other than a cigarette.
(1b) Cigarette. – Any of the following:
a. A roll of tobacco wrapped in paper or in a substance that does not contain tobacco.
b. A roll of tobacco wrapped in a substance that contains tobacco and that because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, a consumer or a cigarette described in paragraph a of this subdivision.
(2) ...
(3) Distributor. – Either of the following:
a. A person, wherever resident or located, who purchases non-tax-paid cigarettes directly from the manufacturer or importer of the cigarettes and stores, sells, or otherwise disposes of the cigarettes.
b. A person who manufactures or produces cigarettes, produces, or imports cigarettes or causes them to be manufactured, or produced, or imported, produced, or imported.
(3a) Direct-to-Consumer. – A sale or distribution of cigarettes exempt from federal excise tax pursuant to 26 U.S.C. § 5704(b) or any successor

[1]Based on 2009 tax paid volume of 642 million packs, The Tax Burden on Tobacco, Historical Compilation – Orzechowski and Walker, funded by ALCS on behalf of PM USA, and a cost of 50¢ per thousand for tax stamps

Altria
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PM USA's Position on Cigarette Excise Tax Stamps

- Every state should require that all cigarettes, even those that have no tax due, be stamped
- Stamps help signify that the appropriate excise taxes have been paid
- Each roll or sheet of stamps should have a unique serial number
- Stamps should have an anti-counterfeiting or authentication feature
- Stamp type should accommodate the needs of multi-state distributors

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Thank You



Altria
Altria Client Services

State weighs reintroduction of tax stamps for cigarettes
Winston-Salem Journal
February 2, 2010

By Richard Craver | Journal Reporter

North Carolina may no longer be able to cast a blind eye to where cigarettes sold in the state end up being smoked.

On Wednesday, an N.C. House committee on revenue laws will take up a proposal to reinstate the cigarette tax stamp, which hasn't been used in the state for 17 years.

The goal may be as much defensive -- trying to target cigarette smuggling into the state -- as cutting down on the number of cartons bought in North Carolina and sold for sizable profit in other states. Analysts say that $1 million in annual excise-tax revenue could be gained by reviving the stamp.

Reps. Paul Luebke, D-Durham, and Bill McGee, R-Forsyth, said that there appears to be support for reviving the stamp. "The committee membership consensus appeared to be that reinstatement made good sense" because of the twin smuggling issues, Luebke said.

The stamps serve as visual proof on the bottom of cigarette packs that the excise tax was collected at the wholesale level before the packs were distributed to retailers. Stamps make it harder for bootleggers, who then have to get rid of one state's stamp before putting on a fraudulent stamp representing another state.

North Carolina, North Dakota and South Carolina are the only states without the stamp.

The General Assembly eliminated the stamp in 1993, essentially saying that the revenue produced from the excise tax -- at that time 5 cents a pack, but now 45 cents -- wasn't worth the administrative, logistics and enforcement costs of the stamps.

The excise-tax difference benefited convenience stores, manufacturers and tobacco wholesalers in North Carolina over the years by increasing sales here, with customers sometimes filling up car trunks and smaller trailers while on vacation or just road trips. For many companies, what happened to the cartons once they were sold here was not their concern.

What stokes the illegal cigarette trade is the money to be made just from the difference in state excise taxes in tobacco states and those in the Northeast.

For instance, the state excise tax on a carton jumps from 70 cents in South Carolina and $4.50 in North Carolina to $25 in Washington and Massachusetts, $27.50 in New York and a high of $34.60 in Rhode Island.

However, with a $3.80 difference between cartons sold in South Carolina and North

Carolina, some wholesalers are complaining about lost business from consumers going across the border. The same carton is $1.50 cheaper in Virginia, which has a 30-cent excise tax.

Smugglers also now see North Carolina as a viable market, an interesting twist that has caught legislators' attention.

"This is a smuggler's dream, what they live for," said Jeff Lenard, a spokesman for the National Association of Convenience Stores. "Price disparities like these are what make it worth selling cigarettes out of duffle bags and in alleyways."

A pivotal component to reinstating the stamp is getting tobacco wholesalers and distributors on board. They now get a 2 percent discount on the excise taxes they handle -- to offset the cost they incur for administration, equipment and employees -- even though there is no stamp.

Jeff Smith, the executive director of the N.C. and Virginia Wholesalers and Distributors Association, said that groups in N.C. might ask for the discount to be restored to 4 percent.

"There is a cost to reinstituting the stamp, particularly if the goal is making the stamp an effective deterrent with new printing technology," Smith said. Some states, such as California, are studying using a stamp containing encryption.

Some anti-tobacco groups support the cigarette tax stamps because they make counterfeiting more difficult, as well as making it easier to track and trace illegally sold cigarettes.

"It's a good way for states to protect and increase their tobacco-product tax revenues, prevent or reduce criminal activity and, especially, promote public health,' said Eric Lindblom, a spokesman for the Campaign for Tobacco-Free Kids.

With North Carolina caught in the middle with cigarette smuggling, the time may be right to reintroduce the stamp, said Rodney Allen, an owner of R&R Distribution in Clemmons.

"There's really no way to police the sales now, so having a stamp would help improve the playing field and reduce the impact on our profits from cigarettes sold in South Carolina being smuggled here," Allen said.

rcraver@wsjournal.com

PROPERTY TAX RELIEF PROGRAMS



FISCAL RESEARCH DIVISION
A Staff Agency of the North Carolina General Assembly

S.L. 2009-574
Studies Bill

- Revenue Laws Study Committee authorized to study issues relating to the effects on local units of government of enacted property tax relief programs and exemptions



FISCAL RESEARCH DIVISION
A Staff Agency of the North Carolina General Assembly

Property Tax Relief Programs

- Property tax homestead exclusion
- Disabled veteran property tax homestead exclusion
- Property tax homestead circuit breaker
- Present use value property
- Builders' inventory property tax deferral

Property Tax Homestead Exclusion

- Amount excluded
  - The greater of the first $25,000 or 50% of the appraised value of the permanent residence of a qualifying owner



Property Tax Homestead Exclusion

- Who is a qualifying owner?
  1. Owner must be a North Carolina resident
  2. Owner must be at least 65 years of age or totally and permanently disabled
  3. Owner must have income for the preceding calendar year that does not exceed the income eligibility limit

Property Tax Homestead Exclusion

Year	Exclusion	Income Limit
1972	$5,000	$ 3,500
1974		$ 5,000
1976	Added disability	$ 7,500
1978	$7,500	$ 9,000
1982	$8,500	
1986	$10,000	$ 10,000
1987	$12,000	$ 11,000
1994	$15,000	
1997	$20,000	$ 15,000
2001	$20,00 or 50% value	$ 18,000/indexed
2007	$25,000 or 50%	$ 25,000/indexed

Disabled Veteran Homestead Exclusion

- What amount is excluded?
  - The first $45,000 of appraised value of permanent residence



Disabled Veteran Homestead Exclusion

- Who qualifies?
  - Veteran whose character of service at separation was honorable or under honorable conditions and who has a total and permanent service-connected disability **or** who received federal benefits for specially adapted housing

Disabled Veteran Homestead Exclusion

- Who qualifies
  - A surviving spouse of either (1) a disabled veteran, (2) a veteran who died as a result of a service-connected condition whose character of service at separation was honorable or under honorable conditions, or (3) a service member who died from a service-connected condition in the line of duty and not as a result of willful misconduct. The surviving spouse must not have remarried
  -

Disabled Veteran Homestead Exclusion

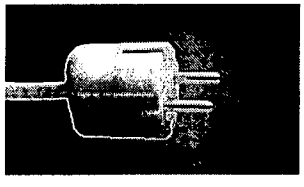
- How does a veteran show qualification?
  - Veteran has received federal benefits to adapt housing, or
  - Veteran has received certification by the U.S. Department of Veterans Affairs or another federal agency that the veteran has a service-connected, permanent, and total disability

Disabled Veteran Homestead Exclusion

- Prior to 2009, disabled veteran could exclude the first $38,000 in assessed value of housing if the veteran received federal benefits to adapt the housing for his or her special needs
- Federal benefit may not be more than 50% of cost of specially adapted housing up to a maximum of $50,000 (38 USC § 2101)

Property Tax Homestead Circuit Breaker

- New program effective July 1, 2009
- Defers property taxes owed on a permanent residence owned by an eligible taxpayer until a disqualifying event occurs
- Amount deferred based upon income of owner



Property Tax Homestead Circuit Breaker

- Who is a qualifying owner?
  1. Owner must be a North Carolina resident
  2. Owner must be at least 65 years of age or totally and permanently disabled
  3. Owner must have owned the permanent residence for five consecutive years and occupied the residence for at least five years
  4. Owner's income cannot exceed 150% of income eligibility limit for Property Tax Homestead Exclusion

Homestead Circuit Breaker

- What amount of property tax is deferred?
  - If income for the previous year does not exceed the homestead income eligibility limit for current year, taxes are limited to 4% of the owner's income
  - If income exceeds the income eligibility limit, but does not exceed 150% of the income eligibility limit, taxes are limited to 5% of the owner's income

Homestead Circuit Breaker

2009 income	2010 property taxes due
< $27,100	4% of income
$27,100 to $40,650	5% of income
>$40,650	no relief

Homestead Circuit Breaker

- What are disqualifying events?
  - Death of owner
  - Transfer of property
  - Owner ceases to use property as permanent residence

  Exceptions

  Transfers to co-owner or spouse and that person continues to occupy residence

Homestead Circuit Breaker

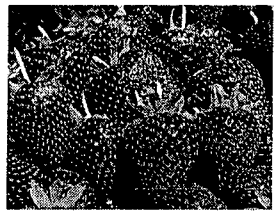
- When disqualifying event occurs, then the last three years of deferred taxes preceding the year that the disqualifying event occurs become due and payable, with interest, on the date of the disqualifying event

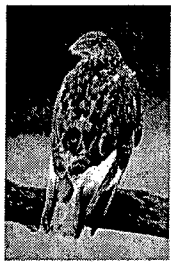
Homestead Circuit Breaker

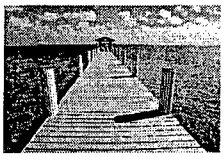
- Unlike the homestead exclusion, the circuit breaker program requires an annual application
- If there are multiple owners, other than husband and wife, no circuit breaker is allowed unless all owners qualify and elect to defer taxes

Present Use Value Property

- Agricultural, horticultural and forestland
- Wildlife conservation land
- Working waterfront property







Present Use Value Property

Agricultural, horticultural, and forestland

- Since 1974, farmland meeting certain ownership, size, and use requirements is appraised at PUV rather than market value under a PUV program
- Land must be in commercial production and under sound management program
- Disqualification results in deferred taxes for the preceding three years, with accrued interest, becoming due and payable. Taxes due and payable for the fiscal year that land becomes disqualified are computed at market value.

Present Use Value Property

Agricultural land

- Actively engaged in commercial production of growing of crops, plants, or animals
- At least one 10-acre tract in production
- At least one tract that produced at least $1,000 average gross income over three preceding years

Present Use Value Property

Horticultural land

- Actively engaged in commercial production of growing fruits, vegetables, nursery products, or floral products.
- At least one 5-acre tract in actual production
- At least one tract that produced average gross income of at least $1,000 over preceding three years

Present Use Value Property
Forestland

- Actively engaged in commercial growing of trees
- At least one 20-acre tract in actual production
- No income requirement

Present Use Value Property
Wildlife Conservation Land

- Effective July 1, 2010, wildlife conservation property will be appraised and taxed as if it were agricultural land
- Disqualification results in deferred taxes for the preceding three years with accrued interest becoming due and payable

Present Use Value Property
Wildlife Conservation Land

- What are requirements for qualification?
  - Use requirements
  - Size requirements
  - Ownership requirements

Present Use Value Property
Wildlife Conservation Land

- Use requirements
  - Land must be managed under a written wildlife habitat conservation agreement with the N.C. Wildlife Resources Commission (NCWRC)
  - Owner must either (1) protect an animal species that lives on the land and that is on a N.C. protected animal list published by the NCWRC, or (2) conserve any one of the following priority animal wildlife habitats:
    - Longleaf pine forest
    - Early successional habitat
    - Small wetland community
    - Stream and riparian zone
    - Rock outcrop
    - Bat cave

Present Use Value Property
Wildlife Conservation Land

- Size requirements
  - Minimum size requirement – The land must consist of at least 20 contiguous acres that meet the use requirements
  - Maximum size requirement – No more than 100 acres of an owner's land in a county may be classified as wildlife conservation land

Present Use Value Property
Wildlife Conservation Land

- Ownership requirements
  - Land must be owned by an individual, family business entity, or family trust
  - Land must have been owned by the qualifying owner for the previous five years, except:
    - When the land is owned by a family business or family trust, the land was owned by one or more members of the family business or family trust for the previous five years, or
    - When the owner acquires wildlife conservation land and the owner continues to use the land as wildlife conservation land, and the new owner signs the existing wildlife agreement for the land within 60 days of acquiring the land

Present Use Value Property

Wildlife Conservation Land

- Exceptions to payment of deferred taxes
  - When owner of wildlife conservation land previously classified as agricultural does not transfer the land and the land again becomes classified as agricultural land
  - When wildlife conservation land is transferred to owner who signs conservation agreement at time of transfer and continues to use land for wildlife conservation

Present Use Value Property

Working Waterfront Property

- Effective July 1, 2009, working waterfront property is appraised and taxed at its present use value as opposed to market value
- Disqualification results in deferred taxes for the three previous years with accrued interest becoming due and payable

Present Use Value Property
Working Waterfront Property

- What type of property qualifies?
  - Any of the following property that has produced an average gross income of at least $1,000 for the most recent three years:
    1. Pier that extends into coastal fishing waters and requires an access fee, or
    2. Real property that is adjacent to coastal fishing waters and primarily used for a commercial fishing operation or fish processing

Builders' Inventory Property Tax Deferral

- Effective July 1, 2010 until July 1, 2013, a licensed general contractor may defer taxes on an occupant-ready residence constructed and owned by contractor
- Deferred taxes become due at earliest of one of following disqualifying events:
  - Builder transfers the residence
  - Residence occupied by builder or person with builder's consent
  - Five years from date property was subject to being listed for taxation by builder
  - Three years from time property first received tax benefit



Helpful Websites

- North Carolina Department of Revenue
  - Includes Present Use Value Program Guide and applications for property tax relief
  - www.dornc.com

Fiscal Impacts of Property Tax Relief Programs

February 3, 2010

Rodney Bizzell
Fiscal Research Division

Fiscal Impact Data

- NCAAO conducted a survey in 2009 to determine the impact of recent property tax changes.
- 77 of 100 counties reported.

Homestead Exclusion

For Taxable Years beginning July 1, 2008:

- Income eligibility raised from $18,000/indexed to $25,000.
- Exclusion amount raised from $20,000 to $25,000.



Homestead Exclusion

Based on survey data by NCAAO . . .

	2007	2008	2009	% change 2007-09
Number of homes	95,254	96,550	105,645	12%
Value ($billions)	$3.4	$3.9	$4.8	43%
Revenue Loss ($millions)	$21.6	$24.2	$29.1	35%

Disabled Veterans Exclusion

For Taxable Years beginning on or after July 1, 2009:

- Expanded to include disabled veterans with permanent and total disability that is service-connected.
- Exclusion amount increased from $38,000 to $45,000.

Disabled Veterans Exclusion

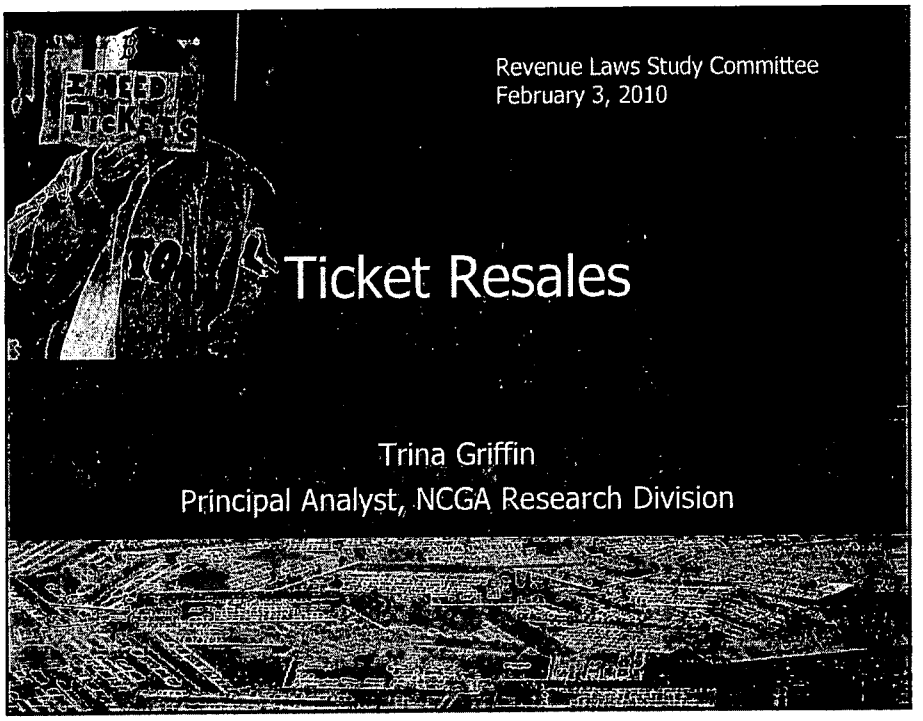
	2008	2009	% change 2008-2009
Number of qualified Veterans	241	7,467	3,000%
Value of Exclusion	$9,408,780	$345,571,849	3,572%
Revenue Loss	$66,476	$2,250,589	3,285%

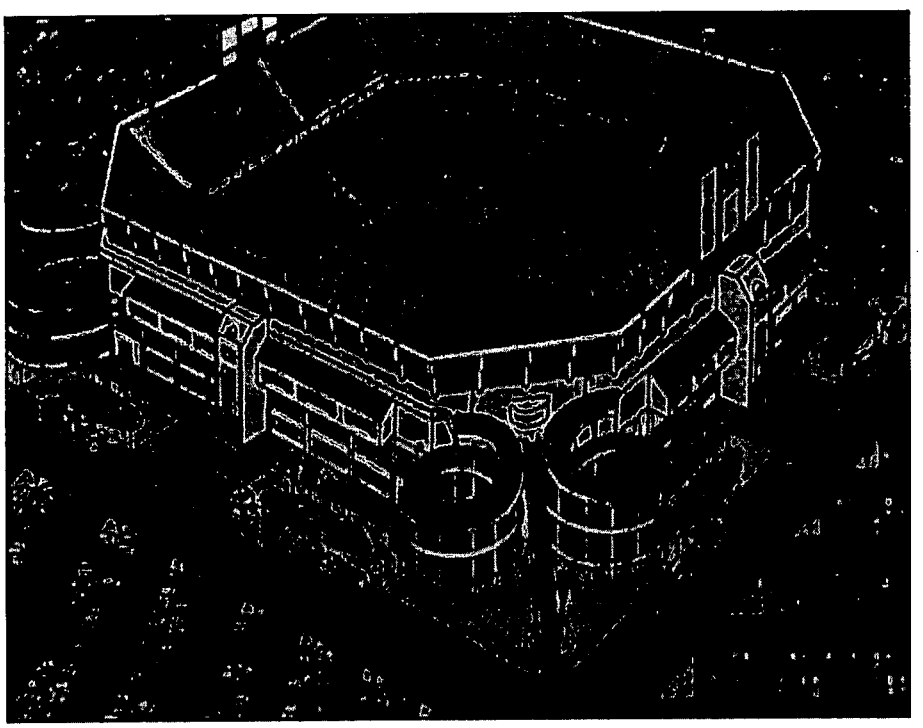
Circuitbreaker

- Effective Taxable Years beginning July 1, 2009
- 122 applicants approved
- $98,000 in deferred taxes.

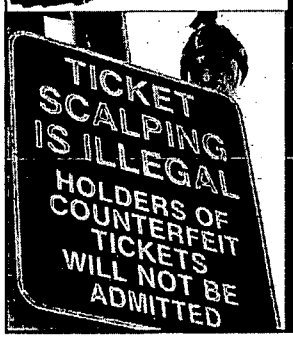
New for 2010

- Wildlife Conservation PUV – Wildlife Resources Commission has signed two conservation agreements for 2010.
- Builders Inventory Deferral – Will depend on how quickly the housing market improves.


Revenue Laws Study Committee
February 3, 2010
Ticket Resales
Trina Griffin
Principal Analyst, NCGA Research Division

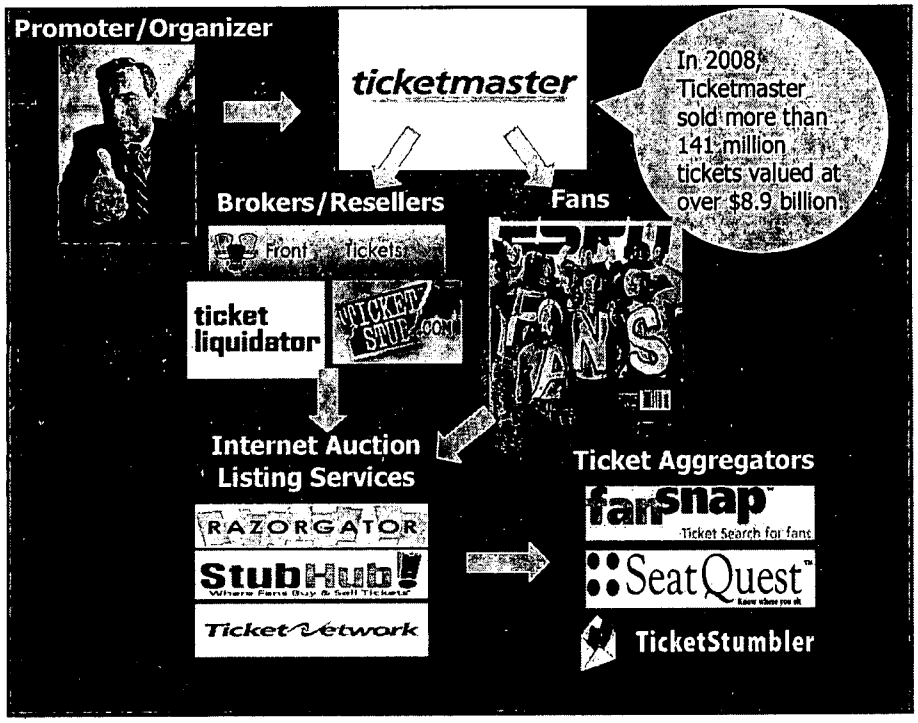






Ticket Scalping

- What? - Reselling tickets to popular entertainment or sporting events at whatever price the market will bear.
- Why? - Popularity of event + limited number of tickets + underpricing = higher demand
- Response? - Anti-scalping laws aimed at controlling location, price, and nuisance effect. Violation typically a criminal misdemeanor. Infrequently enforced.



Ticket Brokers/Resellers



- Physical or virtual business location.
- Vast network of ticket contacts (e.g. season ticket holders; pre-sales), use of automated computer software.
- Revenue model - markup price of tickets.
- Regulated in some states

Auction Listing Services

- Internet venue where 3rd parties buy sell tickets.
- Guarantee satisfaction.
- Buyers do not deal directly with sellers, but with the listing service.
- Revenue model - site collects purchase price from buyer, keeps a percentage as a fee, and remits balance to seller.

StubHub! Where Fans Buy & Sell Tickets™ RAZORGATOR Ticket Network

Ticket Aggregators



- A comparison shopping service for event tickets
- Operates like a search engine.
- Collects a fee for every lead it generates for its affiliates.
- Revenue model - ticket brokers pay 6%-16% of a ticket's selling price as a lead fee.

fanSnap Ticket Search for fans | SeatQuest Know where you sit | TicketStumbler

Some Statistics

- In 2008, there was $3.0 B in online secondary ticket sales, a 15% increase from previous year.
- Expected to grow to $4.5 B by 2012.
- It is estimated that 20-30% of tickets are sold on the secondary market.
- 40% of sales are for face value or less.
- In 2009, StubHub had a 65% increase in concert ticket volume, a 40% increase in gross concert sales, but the average ticket price dropped 16%. Majority of tickets sold are for sporting events.

The Industry Today

- Anti-scalping laws don't work and don't reflect current realities.
- Trend is toward deregulation, but with consumer protections.
- Artists/teams seek more control with regard to resale of their tickets.
- Consumers concerned about high prices and accessibility and predatory practices (e.g. Hannah Montana, Bruce Springsteen).

Legislative Response

- No federal law directly governing ticket resales.
  - Proposed legislation prohibiting resale of free inauguration tickets failed.
  - Proposed legislation to provide more transparency and create 48-hour waiting period before tickets may be resold still pending (BOSS ACT)
- State/local regulation of industry – at least 27 states
  - Caps
  - Licensure/Registration
  - Guarantees

North Carolina Law on Ticket Scalping

- A person who sells a ticket in excess of $3.00 above face value is guilty of a Class 2 misdemeanor. [G.S. 14-344]
- But, promoter/operator of event and ticket sales agency may agree in writing to a greater service fee for a first sale of tickets.

North Carolina Law on Internet Ticket Resales

- A person may resell an admission ticket on the Internet with no cap on price unless prohibited by the venue. [G.S. 14-344.1, eff. 8/1/2008]
- Ticket reseller must guarantee the purchaser a full refund if:
  - Event is cancelled.
  - Purchaser is denied admission (other than due to an act or omission by the purchaser).
  - Ticket is not delivered as promised resulting in purchaser's inability to attend event.

North Carolina Law on Prohibiting Internet Resales

- A venue may prohibit Internet resales if it files a notice of prohibition with and pays $125 fee to the Secretary of State.
- Venue and ticket seller must post notice conspicuously on their Web sites.
- Not valid until 30 days after notice is posted.
- Must be renewed annually.

Reporting Requirement

- 2008 legislation requires Internet ticket resellers to report to Revenue on monthly basis their gross receipts for NC events.
- Since August 2008, there have been 58 reports
  - Acquisition amt. = $872,171
  - Total sales = $1.37 million
  - Net proceeds = $502,296
- DOR has recommended repealing reporting requirement.

Taxation of Ticket Sales

- 3% privilege tax imposed on gross receipts of a person who offers or manages a taxable amusement:
  - A dance or athletic contest for which admission fee in excess of 50¢ is charged.
  - Amusement or entertainment for which an admission is charged.
  - A performance, show, or exhibition, such as a circus or dog show.

Taxation of Ticket Resales

- Resales are not subject to tax because the secondary seller is not "giving, offering, managing, or exhibiting" the amusement.
- Reseller doesn't fall within scope of statute.
- SB 1407 (2008 Session), as passed by the Senate Finance Committee, imposed a 3% privilege tax on an Internet ticket reseller's markup.
- The tax provision was deleted from the bill in the House Finance Committee.

Should the Markup Be Taxed?

- **Policy Arguments**
  - For
  - Against

Policy Arguments

For

- **Consistency**
  - Application of tax should be consistent with purpose.
  - Resales should be treated similarly.
- **Fairness** – Would equalize treatment of primary and secondary sellers.
- **Deterrence of Tax Avoidance**
- **Modernization** – Laws should reflect current practice.

Against

- More taxes in a lagging economy will slow sales.
- Resellers are providing a service rather than the sale of an admission.

Should the Markup Be Taxed?

- **Who should be required to collect the tax?**
  - Ticket brokers/resellers
  - Internet auction listing services
  - Ticket aggregators

Should the Markup Be Taxed?

- **Details to be Addressed**
  - Accounting for losses
  - Minimum threshold? Convert to sales tax and apply to those engaged in the business?
  - Equal treatment for non-Internet resales
  - Sourcing

Conclusion

- Neither industry is currently covered by the tax laws because they didn't exist when the tax laws were enacted.
- The issue of whether to tax the markup of OTCs and ticket resellers is similar to the digital download issue, which this Committee acted on last year.
- Strong tax policy reasons exist to support the extension of the applicable tax to OTCs and ticket resellers.
- The application and sourcing of the tax may turn on how the transactions are characterized (i.e. Do they provide a service or furnish accommodations or admissions?).

REVENUE LAWS STUDY COMMITTEE
Wednesday, March 31, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, March 31, 2010, in room 544 of the Legislative Office Building. Fourteen members of the committee were present. Representative Luebke presided as chair.

Economic Development Update

Reporting and Sunsets: A Look at Statutory Features that Aid the State in Tracking Incentives (Proposed Legislation)

Dan Ettefagh, a staff attorney with the Fiscal Division, was recognized to explain a proposed bill draft that increases uniformity in sunset and reporting requirements of economic incentives tools and eliminates non-utilized economic incentives. Copies of the power point presentation, bill draft, and summary are attached.

Status Report on Dell

Canaan Huie, the House Tax Counsel, was recognized for an overview of the Dell Incentives. He outlined the background and State and local incentives. A copy of his power point presentation is attached.

Economic Development Inventory Highlights

Overview of Expiring Tax Credits: Article 3J, Qualified Business Venture and Mill Rehabilitation

Distribution of Department of Commerce Clawback Report

Rodney Bizzell, a fiscal analyst with the Fiscal Research Division, was recognized. He presented an overview of the economic development inventory that included the spending involved, highlights by category of the spending, expiring tax credits, and the distribution of grants by county. He gave a detailed examination of the expiring tax credits (Article 3J, Qualified Business Investments (and Credits), and the Mill Rehabilitation Tax Credit) by stating the credit for creating jobs and credits generated by tier. He cited the UNC Center for Competitive Economies final report which evaluating the performance of North Carolina's economic development incentive program. A copy of Mr. Bizzell's power point presentation, a copy of the Department of Commerce's Clawback report, and a copy the UNC report is attached.

Proposed Legislation Related to Internet Ticket Resales

Trina Griffin, a staff attorney with the Research Division, was recognized. She explained the proposed bill draft to modernize the admissions tax. It would modernize and equalize the admissions tax by extending it to internet ticket resellers. A copy of the proposed bill draft and the summary is attached.

Overview of the Estate Tax

Betty Quick, a trust and estate attorney with Womble, Carlyle, Sandridge & Rice, was recognized to outline the 2010 changes in the federal estate tax law, its repeal, other taxes that were not repealed, the affects of the change and how it affects North Carolina law. Copies of her handouts are attached.

Mike Godwin, a trust and estate attorney with Schell Bray, was recognized to give a historical overview of the North Carolina Estate Tax over the last ten years. A copy of his outline is attached.

Cindy Avrette, a staff attorney with the Research Division, was recognized to explain issues and options regarding North Carolina's estate tax. She explained that the State could continue to follow federal law, create a stand alone tax, repeal the State estate tax, or create new tax terms that determine the intent of the decedent. A copy of her power point presentation is attached.

Improving the Efficiency of Tax Collection Compliance

Charles Helms, Director of Collection Division, Department of Revenue, was recognized. He thanked the legislature for clarifying language which improved the public's trust in the Revenue Department. He also offered recommendations further improve compliance such as a financial institution data exchange and a refund debt process for business entities. Secretary Lay was recognized for attending the meeting.

Proposed Legislation for Revenue Laws Technical, Clarifying and Administrative Changes, Part I

Cindy Avrette was recognized. She briefly explained the proposed bill draft which makes changes to various tax statutes and related laws. Martha Walston was recognized to explain the proposed changes to property tax laws. A copy of the proposed bill draft and the summary is attached.

The meeting adjourned at 12:11 p.m.

Rep. Paul Luebke, Presiding Chair

DeAnne Mangum, Committee Clerk

REVENUE LAWS STUDY COMMITTEE AGENDA

Sen. Daniel Clodfelter Rep. Paul Luebke

Wednesday, March 31, 2010
Room 544, Legislative Office Building
9:30 a.m.

I. **Approval of Minutes from February 3, 2010 Meeting**

II. **Economic Development Update**

- **Reporting and Sunsets: A Look at Statutory Features that Aid the State in Tracking Incentives (Proposed Legislation)**
  – Dan Ettefagh, Legislative Drafting Division
- **Status Report on Dell**
  – Canaan Huie, House Tax Counsel
- **Economic Development Inventory Highlights**
- **Overview of Expiring Tax Credits: Article 3J, Qualified Business Venture, and Mill Rehabilitation**
- **Distribution of Department of Commerce Clawback Report**
  – Rodney Bizzell, Fiscal Research Division

III. **Proposed Legislation Related to Internet Ticket Resales**
– Trina Griffin, Research Division

IV. **Overview of the Estate Tax**

– Mike Godwin and Betty Quick,
Estate Planning Section of the NC Bar Association
– Cindy Avrette, Research Division

V. **Improving the Efficiency of Tax Collection Compliance**
– Charles Helms, Director of Collection Division, Department of Revenue

VI. **Proposed Legislation for Revenue Laws Technical, Clarifying, and Administrative Changes, Part I**
– Cindy Avrette, Research Division

VII. **Adjournment**

Next Meeting Date: Wednesday, April 21, 2010
in Room 544, LOB, at 9:30 a.m.

VISITOR REGISTRATION SHEET

Revenue Laws
Name of Committee

March 31, 2010
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Wendy Kelly	POLICY Group
Joe Lanier	Nelson [illegible]
[illegible]	Policy Group
John Shaw	POS
Meg Gray	NCBTC

VISITOR REGISTRATION SHEET

Revenue Laws — March 31, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Michelle Frazier	MFS
Tracy Kimbrell	Parker Poe

VISITOR REGISTRATION SHEET

Revenue Laws — **Name of Committee**

March 31, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jim Mancuso	State Controller's Office
Gail Beamon	DOR
Doug McCorquodale	SAS
Marcus Boaz	Smith Anderson
Amy McConkey	NC Ben Assoc
Amy Hobbs	MWC
Allison Cooper	KKW Attys, P.A.
Doug Harris	City of Salisbury
Chip Killian	Nelson Mullins
Ken Crouch	NCBA
Paul Stam	NCBA

VISITOR REGISTRATION SHEET

Revenue Laws — March 31, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Marc Hoag	BLMH
[illegible]	Mac-
Kathy Hawkins	Progress Energy
[illegible]	
Michael Flanagan	NC DOR
John McAlister	NC Chamber
David Baker	NC DOR
Rebecca Troxler	NCACC
Lennie Collins	DOR
Eric Wayne	DOR
John Peterson	NCEOA

VISITOR REGISTRATION SHEET

Revenue Laws — March 31, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Lu-Ann Cheryan	ITW
Heather Rosson	NCDENR
Doug Lassiter	NCSTA
John Palombo	NCBMA
[illegible]	Not w/ McGuire Woods
[illegible]	[illegible] & Asso.
CS Hollis	JSS
Joe Lanier	Nelson Mullins
Emily Wilbourne	TPG
W. Gordon Culpepper	Personal Interest
Will Culpepper	Moore & Van Allen

VISITOR REGISTRATION SHEET

Revenue Laws — March 31, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Matt Faulk	TPG
Daniel Baum	Troutman Sanders
Deatrice Williams	CUCA
M. Howard	Preservation NC
Mac Boxley	NC Aggregates
Larry Bewley	LBA
Sandy Sands	WCSP
Sam Taylor	NCBIO
Bo Heath	McGuire Woods
Doug Mizeon	Williams Mullen
L. Andrews	NCFB

REVENUE LAWS STUDY COMMITTEE
Wednesday, February 3, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, January 6, 2010, in room 544 of the Legislative Office Building. Twenty members of the committee were present. Senator Clodfelter presided as chair.

Proposed Legislation Related to Cigarettes and Little Cigars

Heather Fennell, a staff attorney with the Research Division, was recognized to present two proposed bill drafts. The first draft, "Restore Cigarette Tax Stamps", provides for payment of cigarette taxes by stamp and creates a criminal penalty for the counterfeiting of cigarette tax stamps. The second draft, "Tax Little Cigar", defines little cigars and taxes them as cigarettes. After explaining the proposed bill drafts, Ms. Fennell and Sandra Johnson, a fiscal analyst with the Fiscal Research Division, answered questions from the Committee. Copies of the bill drafts, the summaries and the fiscal analyses are attached.

Sonny Wooten, President of the NC Wholesalers Association, was recognized for comments. He outlined the State's cost of stamping cigarettes (inventorying, distribution, and storage of stamps) and the wholesalers' costs (stamping and repackaging machinery, maintenance and repair, supplies, damages, labor, and reporting). A copy of his handout is attached.

Sandy Sands, lobbyist for Altria Client Services, was recognized. He cited past contraband activity in North Carolina, benefits and current users of tax stamps, and a list of procedural recommendations. A copy of his handout is attached.

An Overview of Recently Enacted Property Tax Relief Programs

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized. She explained the effects on local units of government of enacted property tax relief programs and exemptions (Property Tax Homestead Exclusion, Disabled Veteran Homestead Exclusion, Homestead Circuit Breaker, Present Use Value Property, and Builders' inventory Property Tax Deferral). Rodney Bizzell, a fiscal analyst with the Fiscal Research Division, was recognized to explain the fiscal impacts of the property tax relief program on local governments. A copy of the Ms. Walston's power point presentation and a copy of Mr. Bizzell's presentation are attached.

Rebecca Troutman, NC Association of County Commissioners, was recognized for comments. She requested a periodic costs and benefits review of the tax relief programs and opposes the expansion of exclusions and exemptions due to the loss of counties' revenues.

Paul Meyer, NC League of Municipalities, was recognized. He voiced concern over municipal governments suffering from economic downturns of revenue since property revenues are decreasing.

Pete Rodda, NC Tax Assessors/Collectors, was recognized. He said that future tax bases will be flat or reduced, new construction permit applications are down, and business property is down and is considered a depreciating asset. Tax assessors are not expecting any growth taxes.

Internet Ticket Resales

Trina Griffin, a staff attorney with the Research Division, was recognized. She explained internet ticket resales by outlining the definitions of ticket scalpers, ticket brokers/ resellers, auction listing services and ticket aggregators. She presented online ticket statistics, how anti-scalping laws are not working, the need for consumer protection, the proposed federal and state legislation, and issues regarding possible taxation of online sales. A copy of Ms. Griffin's power point is attached.

The meeting adjourned at 11:45 a.m.

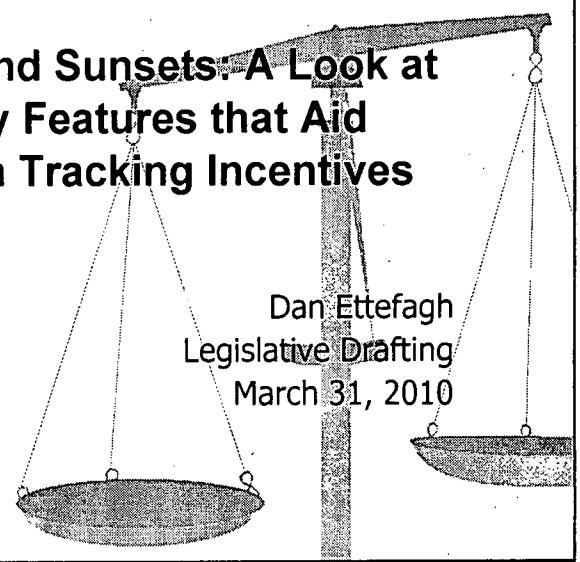
_____

Senator Dan Clodfelter, Presiding Chair

_____

DeAnne Mangum, Committee Clerk

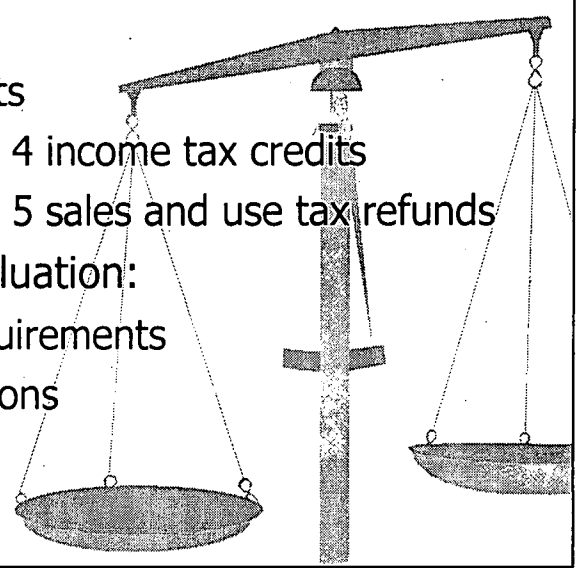
Reporting and Sunsets: A Look at Statutory Features that Aid the State in Tracking Incentives



Dan Ettefagh
Legislative Drafting
March 31, 2010

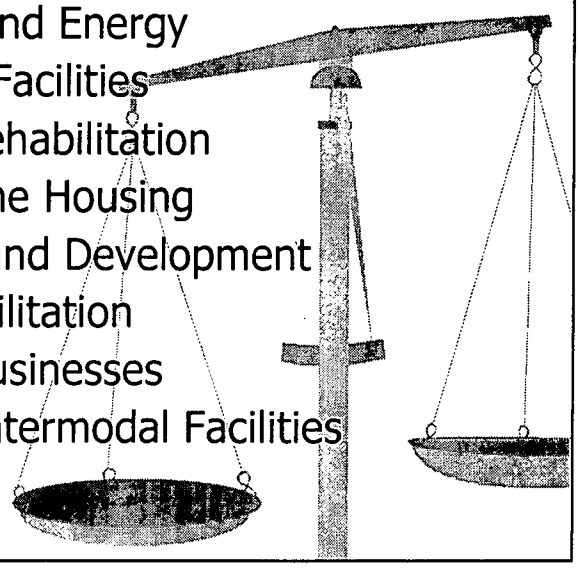
Categories of and Methods of Evaluating Economic Incentives

- Categories:
  - Article 3 credits
  - Certain Article 4 income tax credits
  - Certain Article 5 sales and use tax refunds
- Methods of evaluation:
  - Reporting requirements
  - Sunset provisions

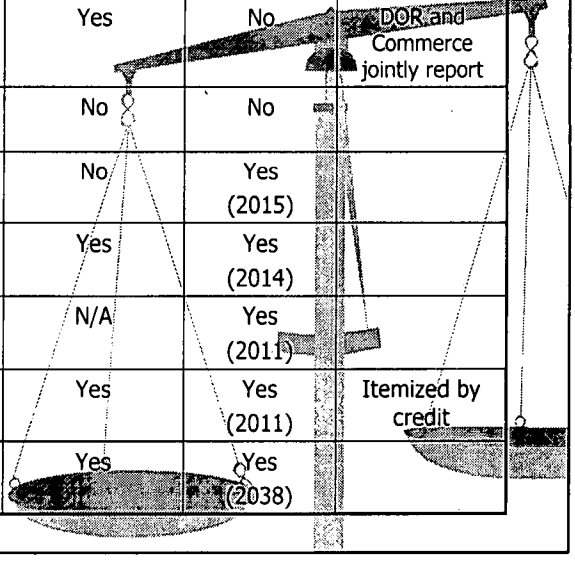


Article 3 Credits

- 3B: Business and Energy
- 3C: Recycling Facilities
- 3D: Historic Rehabilitation
- 3E: Low-Income Housing
- 3F: Research and Development
- 3H: Mill Rehabilitation
- 3J: Growing Businesses
- 3K: Railroad Intermodal Facilities

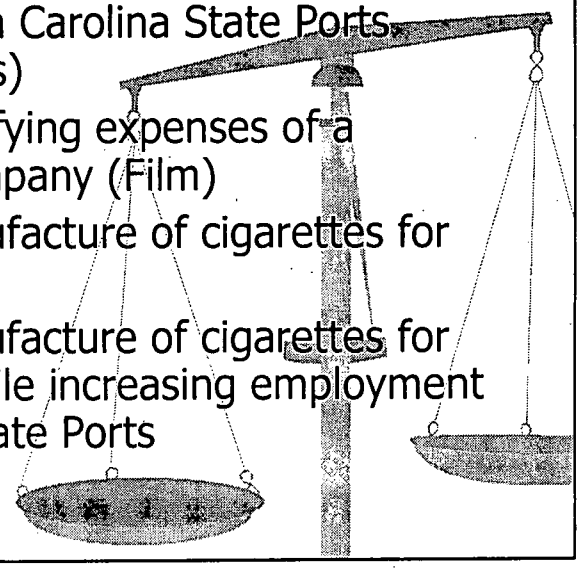


Article	Report	Itemized by taxpayer	Sunset	Misc.
3B	Yes	No	Yes (varies)	Not itemized by credit
3C	Yes	Yes	No	DOR and Commerce jointly report
3D	Yes	No	No	
3E	Yes	No	Yes (2015)	
3F	Yes	Yes	Yes (2014)	
3H	No	N/A	Yes (2011)	
3J	Yes	Yes	Yes (2011)	Itemized by credit
3K	Yes	Yes	Yes (2038)	

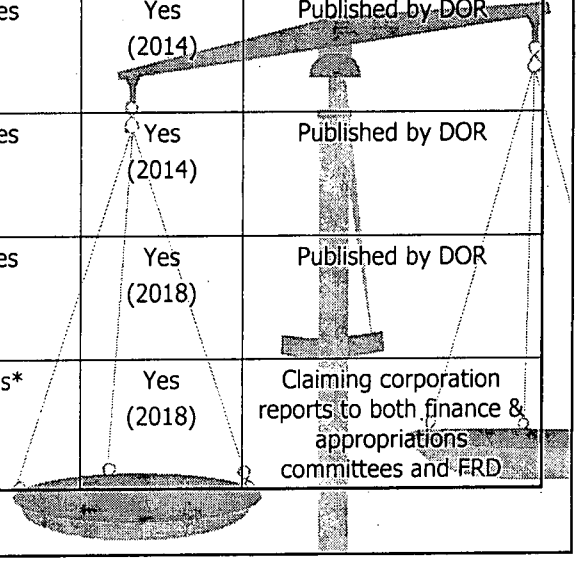


Article 4 Income Tax Credits

- Credit for North Carolina State Ports Authority (Ports)
- Credit for qualifying expenses of a production company (Film)
- Credit for manufacture of cigarettes for exportation
- Credit for manufacture of cigarettes for exportation while increasing employment and utilizing State Ports

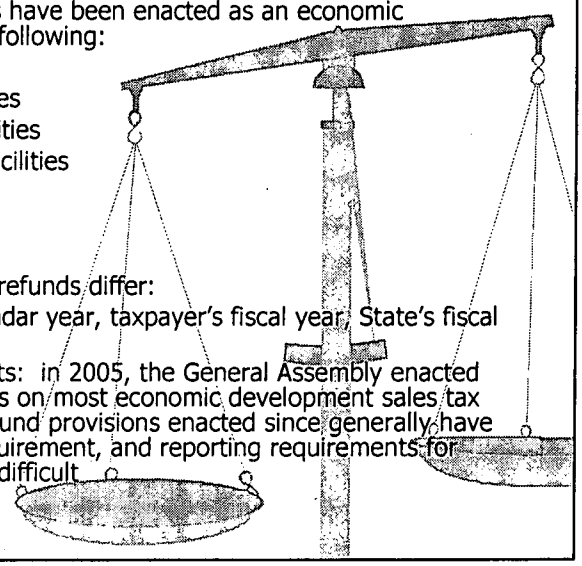


Credit	Report	Itemized by taxpayer	Sunset	Misc.
Ports	Yes	Yes	Yes (2014)	Published by DOR
Film	Yes	Yes	Yes (2014)	Published by DOR
Cigarettes	Yes	Yes	Yes (2018)	Published by DOR
Cigarettes/ Empl't/ Ports	Yes	Yes*	Yes (2018)	Claiming corporation reports to both finance & appropriations committees and FRD



Sales and Use Tax Refunds

- Sales and use tax refunds have been enacted as an economic development tool for the following:
  - Passenger air carriers
  - Major recycling facilities
  - Certain industrial facilities
  - Railroad intermodal facilities
  - Low-tier machinery
  - Motorsports
  - Analytical services
- Variables on which these refunds differ:
  - Period covered: calendar year, taxpayer's fiscal year, State's fiscal year
  - Reporting requirements: in 2005, the General Assembly enacted reporting requirements on most economic development sales tax benefits; however, refund provisions enacted since generally have not picked up this requirement, and reporting requirements for exemptions would be difficult
  - Sunsets

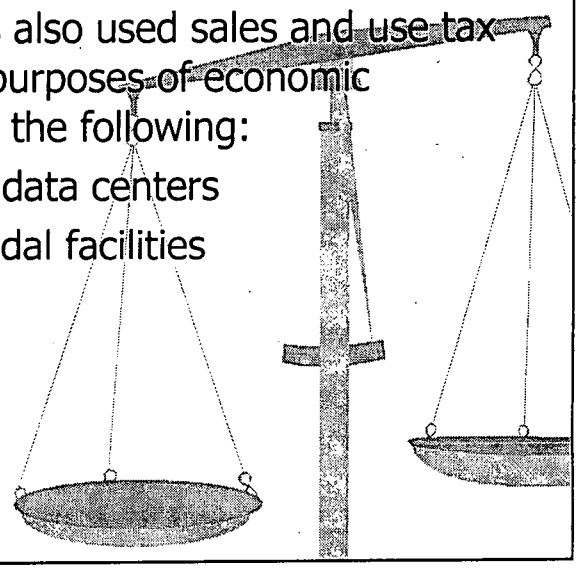


	Report	Itemized by taxpayer	Sunset	Period covered
Passenger Air Carriers	Yes	Yes	Yes	Calendar year
Major recycling facilities	Yes	Yes	No	Taxpayer's fiscal year
Low-tier machinery	Yes	Yes	No	State's fiscal year
Certain industrial facilities	Yes	Yes	Yes	State's fiscal year
Motorsports	Yes for aviation fuel; No for vehicle parts	Yes for aviation fuel; N/A for vehicle parts	Yes for aviation fuel; No for vehicle parts	State's fiscal year
Analytical services	No	N/A	No	State's fiscal year
Railroad intermodal facilities	No	N/A	No	State's fiscal year

Sales and Use Tax Exemptions

North Carolina has also used sales and use tax exemptions for purposes of economic development for the following:

- Eligible Internet data centers
- Railroad intermodal facilities



Exemption	Report	Itemized by taxpayer	Sunset
Eligible Internet data center	No	N/A	No
Railroad Intermodal Facility	No	N/A	No

Next Steps



- Harmonize economic incentives reporting and sunset requirements?
- Reduce "odds and ends" inconsistencies?
- Create a collective reporting requirement?
- Eliminate non-utilized & obsolete economic incentive tools

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-MCxz-234 [v.8] (02/18)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/30/2010 5:16:32 PM

Short Title: Economic Incentives Alignment & Changes. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCREASE UNIFORMITY IN SUNSET AND REPORTING REQUIREMENTS OF ECONOMIC INCENTIVES TOOLS AND TO ELIMINATE NON-UTILIZED ECONOMIC INCENTIVES.

The General Assembly of North Carolina enacts:

PART I: ECONOMIC INCENTIVES REPORTING AND SUNSETS

SECTION 1.1. G.S. 105-129.19 reads as rewritten:

"**§ 105-129.19. Reports.**

The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information ~~for the 12-month period ending the preceding December 31:~~ itemized by credit and by taxpayer:

(1) The number of taxpayers that took the credits allowed in this Article.

(2) The cost of business property and renewable energy property with respect to which credits were taken.

(2a) Repealed by Session Laws 2002-87, s. 6, effective August 22, 2002.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.2. G.S. 105-129.26(e) reads as rewritten:

"(e) Reports. – The ~~Department of Commerce and the~~ Department ~~of Revenue shall jointly publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number and location of large and major recycling facilities qualified under this Article.

(2) The number of new jobs created by each recycling facility.

(3) The amount of investment in each recycling facility.

(4) The amount of credits taken under this Article."

SECTION 1.3. Article 3C of Chapter 105 of the General Statutes is amended by adding the following section to read:

"**§ 105-129.29. Sunset.**

This Article is repealed for taxable years beginning on or after January 1, ____."

SECTION 1.4. G.S. 105-129.38 reads as rewritten:

"**§ 105-129.38. Reports.**

The Department ~~of Revenue must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information ~~for the 12 month period ending the preceding December 31:~~ itemized by taxpayer:

(1) The number of taxpayers that took the credits allowed in this Article.

(2) The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.5. Article 3D of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.39. Sunset.**

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, ____."

SECTION 1.6. G.S. 105-129.44 reads as rewritten:

"**§ 105-129.44. Report.**

The Department ~~of Revenue must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information ~~for the 12 month period ending the preceding December 31:~~itemized by taxpayer:

(1) The number of taxpayers that took the credit allowed in this Article.

(2) The location of each qualified North Carolina low-income building or housing development for which a credit was taken.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.7. G.S. 105-129.54 reads as rewritten:

"**§ 105-129.54. Reports.**

The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256(a) the following information itemized by ~~taxpayer for the 12 month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers that took a credit allowed in this Article, itemized by the categories of small business, low-tier, other, and university research.

(2) The amount of each credit taken in each category.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.8. Article 3H of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.75A. Reports.**

The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

(1) The number of taxpayers that took the credits allowed in this Article.

(2) The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.9. G.S. 105-129.85(b) reads as rewritten:

(b) Reports. – The Department ~~of Revenue shall publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by ~~taxpayer for the 12 month period ending the preceding December 31:~~taxpayer:

(1) The number and amount of credits generated and taken for each credit allowed in this Article.

(2) The number and development tier area of new jobs with respect to which credits were generated and to which credits were taken.

(3) The cost and development tier area of business property with respect to which credits were generated and to which credits were taken.

(4) The cost and development tier area of real property investment with respect to which credits were generated and to which credits were taken."

SECTION 1.10. G.S. 105-129.98 reads as rewritten:

"**§ 105-129.98. Reports.**

The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following ~~information,~~information itemized by ~~taxpayer, for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers that claimed a credit allowed in this Article.

(2) The amount of each credit claimed and the taxes against which it was applied.

(3) The total cost to the General Fund of the credits claimed."

SECTION 1.11. G.S. 105-130.41(c1) reads as rewritten:

"(c1) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges assessed for the taxable year.

(2a) The amount of the charges attributable to imports.

(2b) The amount of the charges attributable to exports.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.12. G.S. 105-130.45(f) reads as rewritten:

"(f) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of exports with respect to which credits were taken.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.13. G.S. 105-130.46(k) reads as rewritten:

"(k) Reports. ~~– Any corporation that takes a credit under this section must submit an annual report by May 1 of each year to the Senate Finance Committee, the House of Representatives Finance Committee, the Senate Appropriations Committee, the House of Representatives Appropriations Committee, and the Fiscal Research Division of the General Assembly. The report must state the amount of credit earned by the corporation during the previous year, the amount of credit including carryforwards claimed by the corporation during the previous year, and the percentage of domestic leaf content in cigarettes produced by the corporation during the previous year. The first reports required under this section are due by May 1, 2006.~~ The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

(1) The number of taxpayers that took the credit allowed in this section.

(2) The amount of cigarettes and other tobacco products exported through the North Carolina State Ports with respect to which credits were taken.

(3) The percentage of domestic leaf content in cigarettes produced during the previous year, as reported by the taxpayer.

(4) The total cost to the General Fund of the credits taken."

SECTION 1.14. G.S. 105-130.47(h) reads as rewritten:

"(h) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information, itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The location of sites used in a production for which a credit was taken.

(2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.
(3) The number of people employed in the State with respect to credits taken.
(4) The total cost to the General Fund of the credits taken."

SECTION 1.15. G.S. 105-151.22(c1) reads as rewritten:

"(c1) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers taking a credit allowed in this section.
(2) The total amount of charges assessed for the taxable year.
(2a) The amount of the charges attributable to imports.
(2b) The amount of the charges attributable to exports.
(3) The total cost to the General Fund of the credits taken."

SECTION 1.16. G.S. 105-151.29(h) reads as rewritten:

"(h) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following ~~information,~~information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The location of sites used in a production for which a credit was taken.
(2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.
(3) The number of people employed in the State with respect to credits taken.
(4) The total cost to the General Fund of the credits taken."

SECTION 1.17. G.S. 105-164.14(a1), (f), (g), (h), (j), (k), (*l*), (m), (n), and (o) are repealed.

SECTION 1.18. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.14A. Economic incentive refunds.**

(a) Definitions. – The following definitions apply in this section:
(1) Reserved.
(2) Reserved.
(3) Reserved.
(4) Machinery and equipment. – Engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.4(a) or G.S. 105-129.83(a).
(5) Motorsports accessories. – The term includes instrumentation, telemetry, consumables, and paint.
(6) Motorsports event. – The term includes a motorsports race, a motorsports sponsor event, and motor sports testing.

(b) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:
(1) Passenger Plane Maximum. -- An interstate passenger air carrier is allowed a refund of the sales and use taxes paid by it on fuel in excess of two million five hundred thousand dollars ($2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under 105-164.14(a). This subdivision is repealed for purchases made on or after January 1, 2011.
(2) Major Recycling Facilities. -- An owner of a major recycling facility is allowed a refund of the sales and use taxes paid by it on building materials,

building supplies, fixtures, and equipment that become a part of the real property of the recycling facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner. This subdivision is repealed for purchases made on or after January 1, ____."

(3) Low Enterprise or Development Tier Machinery. -- A taxpayer is allowed a refund of the sales and use taxes paid by it on machinery and equipment if all the conditions in this subdivision are met. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. The sunset for Article 3J of Chapter 105 of the General Statutes for development tier one areas applies to this subdivision. The conditions are:

a. The taxpayer is engaged primarily in one of the businesses either listed in G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3, or listed in G.S. 105-129.83(a) in a development tier one area, as defined in G.S. 143B-437.08.

b. The taxpayer places the machinery and equipment in service in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105 129.3, or a development tier one area, as defined in G.S. 143B 437.08, capitalizes them for tax purposes under the Code, and does not lease them to another party.

(4) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. This subdivision is repealed for purchases made on or after January 1, 2011.

(5) Professional Motor Racing Vehicles. – A professional motorsports racing team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motor racing vehicle. This subdivision is repealed for purchases made on or after January 1, ____.

(6) Analytical Services Supplies. -- A taxpayer engaged in analytical services in this State is allowed a refund of sales and use tax paid by it. This subdivision is repealed for purchases made on or after January 1, 2013. The amount of the refund is the greater of the following:

a. Fifty percent (50%) of the eligible amount of sales and use tax paid by it on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use taxes paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year.

b. Fifty percent (50%) of the amount of sales and use tax paid by it in the fiscal year on medical reagents.

(7) Railroad Intermodal Facilities. -- The owner or lessee of an eligible railroad intermodal facility is allowed a refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the facility. Liability incurred indirectly by the owner or lessee of the facility for sales and use taxes on

these items is considered tax paid by the owner or lessee. This subdivision is repealed for purchases made on or after January 1, 2038.

(c) Administration. – A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(d) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by refund and by taxpayer:

(1) The number of taxpayers claiming a refund allowed in this section.

(2) The total amount of purchases with respect to which refunds were claimed.

(3) The total cost to the General Fund of the refunds claimed."

SECTION 1.19. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.14B. Certain industrial facilities refunds.**

(a) Definitions. – The following definitions apply in this section:

(1) Air courier services. – Defined in G.S. 105-129.2.

(2) Aircraft manufacturing. – The manufacturing or assembling of complete aircraft or of aircraft engines, blisks, fuselage sections, flight decks, flight deck systems or components, wings, fuselage fairings, fins, moving leading and trailing wing edges, wing boxes, nose sections, tailplanes, passenger doors, nacelles, thrust reversers, landing gear, braking systems, or any combination thereof.

(3) Bioprocessing. – Biomanufacturing or processing that includes the culture of cells to make commercial products, the purification of biomolecules from cells, or the use of these molecules in manufacturing.

(4) Financial services, securities operations, and related systems development. – One or both of the following functions:

a. Performing analysis, operations, trading, or sales functions for investment banking, securities dealing and brokering, securities trading and underwriting, investment portfolio/mutual fund management, retirement services, or employee benefit administration.

b. Developing information technology systems and applications, managing and enhancing operating applications and databases, or providing, operating, and maintaining telecommunications networks and distributed and mainframe computing resources for investment banking, securities dealing and brokering, securities trading and underwriting, investment portfolio/mutual fund management, retirement services, or employee benefit administration.

(5) Motor vehicle manufacturing. – Any of the following:

a. Manufacturing complete automobiles and light-duty motor vehicles.

b. Manufacturing heavy-duty truck chassis and assembling complete heavy-duty trucks, buses, heavy-duty motor homes, and other special purpose heavy-duty motor vehicles for highway use.

c. Manufacturing complete military armored vehicles, nonarmored military universal carriers, combat tanks, and specialized components for combat tanks.

(6) Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines. – Any of the following:

a. Manufacturing biological and medicinal products. For the purpose of this sub-subdivision, a biological product is a preparation that is

synthesized from living organisms or their products and used medically as a diagnostic, preventive, or therapeutic agent. For the purpose of this sub-subdivision, bacteria, viruses, and their parts are considered living organisms.

b. Processing botanical drugs and herbs by grading, grinding, and milling.

c. Isolating active medicinal principals from botanical drugs and herbs.

d. Manufacturing pharmaceutical products intended for internal and external consumption in forms such as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions.

(7) Semiconductor manufacturing. – The development and production of semiconductor material, devices, or components.

(8) Solar electricity generating materials manufacturing. – The development and production of one or more of the following:

a. Photovoltaic materials or modules used in producing electricity.

b. Polymers or polymer films primarily intended for incorporation into photovoltaic materials or modules used in producing electricity.

(b) Refund. – An owner of an industrial facility meeting the eligibility requirements of subsection (c) of this section is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that are installed in the construction of the facility and that become a part of the real property of the facility. Liability incurred indirectly by the owner for sales and use taxes on those items is considered tax paid by the owner.

(c) Eligibility. – In order to receive a refund authorized by this section, the facility must meet the following business, minimum investment, and industry-specific requirements:

(1) Business requirement. -- The facility is primarily engaged in one or more of the following:

a. Air courier services.

b. Aircraft manufacturing.

c. Bioprocessing.

d. Financial services, securities operations, and related systems development.

e. Motor vehicle manufacturing.

f. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines.

g. Semiconductor manufacturing.

h. Solar electricity generating materials manufacturing.

(2) Minimum investment requirement. -- The Secretary of Commerce has certified that the owner of the facility will invest at least the required amount of private funds to construct the facility in this State. For the purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in a development tier one area as defined in G.S. 143B 437.08 the required amount is fifty million dollars ($50,000,000). For all other facilities, the required amount is one hundred million dollars ($100,000,000). In the case of a computer manufacturing facility, the owner may invest these funds either directly or indirectly through a related entity or strategic partner as those terms are defined in G.S. 105-129.61. For the purpose of this subsection, the term "facility" has the same meaning as under G.S. 105-129.61.

(3) Industry-specific requirements:

a. If the facility is primarily engaged in financial services, securities operations, and related systems development, it satisfies all of the following conditions:

1. It is owned and operated by the business for which the services are provided or by a related entity of that business as defined in G.S. 105-130.7A.

2. No part of it is leased to a third-party tenant that is not a related entity of the business.

b. If the facility is primarily engaged in solar electricity generating materials manufacturing, the business satisfies a wage standard at the facility. The wage standard is equal to one hundred five percent (105%) of the lesser of the average weekly wage for all insured private employers in the State and the average weekly wage for all insured private employers in the county. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to the amount required by this sub-subdivision. In making the wage calculation, the business must include any jobs that were filled for at least 1,600 hours during the calendar year.

(d) Forfeiture. – If the owner of an eligible facility does not make the required minimum investment within five years after the first refund under this section with respect to the facility, the facility loses its eligibility and the owner forfeits all refunds already received under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the amount of all past taxes refunded under this section, plus interest at the rate established in G.S. 105-241.21, computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236.

(e) Administration. – A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(f) Reports. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by refund and taxpayer:

(1) The number of taxpayers claiming a refund allowed in this section.

(2) The total amount of purchases with respect to which refunds were claimed.

(3) The location of facilities with respect to which refunds were claimed.

(4) The total cost to the General Fund of the refunds claimed.

(g) Sunsets. -- This section is repealed for sales made on or after January 1, 2013."

SECTION 1.20. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29B. Information to counties and cities.**

The Secretary must give information on refunds of tax made under this Article to a designated county or city official within 30 days after the official makes a written request to the Secretary for the information. For a request made by a county official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one thousand dollars ($1,000) of tax paid to the county. For a request made by a city official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one thousand dollars ($1,000) of tax paid to all the counties in which the city is located. The list must include the name and address of each of these claimants and the amount of the refund received from each county covered by the request.

A claimant that has received a refund under this Article of tax paid to a county must give information on the refund to a designated official of the county or a city located in the county.

The claimant must give the information to the county or city official within 30 days after the official makes a written request to the claimant for the information. For a request by a county or city official, the claimant must give the official a copy of the request for the refund and any supporting documentation requested by the official to verify the request. If a claimant determines that a refund it has received under this Article is incorrect, the claimant must file an amended request for a refund.

For the purpose of this section, a designated county official is the chair of the board of county commissioners or a county official designated in a resolution adopted by the Board, and a designated city official is the mayor of the city or a city official designated in a resolution adopted by the city's governing board. Information given to a county or city official under this section is not a public record and may not be disclosed except as provided in G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 1.21. G.S. 105-256(a) is amended by adding the following subdivision to read:

"(a) Publications. – The Secretary shall prepare and publish the following:

(1) At least every two years, statistics concerning taxes imposed by this Chapter, including amounts collected, classifications of taxpayers, geographic distribution of taxes, and other facts considered pertinent and valuable.

(2) At least every two years, a tax expenditure report that lists the tax expenditures made by a provision in this Chapter, other than a provision in Subchapter II, and gives an estimate of the amount by which revenue is reduced by each tax expenditure. A "tax expenditure" is an exemption, an exclusion, a deduction, an allowance, a credit, a refund, a preferential tax rate, or another device that reduces the amount of tax revenue that would otherwise be available to the State. An estimate of the amount by which revenue is reduced by a tax expenditure may be stated as ranging between two amounts if the Department does not have sufficient data to make a more specific estimate.

(2a) By May 1 of each year, an Economic Incentives Report that contains information on tax credits and tax refunds, itemized by credit or refund and by taxpayer, for the previous calendar year.

PART II: OBSOLETE ECONOMIC INCENTIVES

SECTION 2.1. Article 3C of Chapter 105 of the General Statutes reads as rewritten:

"Article 3C.

"Tax Incentives For Recycling Facilities.

"§ 105-129.25. Definitions.

The following definitions apply in this Article:

...

~~(3) Large recycling facility. – A recycling facility that qualifies under G.S. 105-129.26(b).~~

...

"§ 105-129.26. Qualification; forfeiture.

(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits provided in this Article and in Article 5 of this Chapter for major recycling facilities if it meets all of the following conditions:

(1) The facility is located in an area that, at the time the owner began construction of the facility, was an enterprise tier one area pursuant to G.S. 105-129.3.

(2) The Secretary of Commerce has certified that the owner will, by the end of the fourth year after the year the owner begins construction of the recycling facility, invest at least three hundred million dollars ($300,000,000) in the facility and create at least 250 new, full-time jobs at the facility.

(3) The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.

~~(b) Large Recycling Facility. – A recycling facility qualifies for the tax credit provided in G.S. 105-129.27 for large recycling facilities if it meets all of the following conditions:~~

~~(1) The facility is located in an area that, at the time the owner began construction of the facility, was an enterprise tier one area pursuant to G.S. 105-129.3.~~

~~(2) The Secretary of Commerce has certified that the owner will, by the end of the second year after the year the owner begins construction of the recycling facility, invest at least one hundred fifty million dollars ($150,000,000) in the facility and create at least 155 new, full-time jobs at the facility.~~

~~(3) The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.~~

...

(e) Reports. – The Department of Commerce and the Department of Revenue shall jointly publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

(1) The number and location of ~~large and~~ major recycling facilities qualified under this Article.

(2) The number of new jobs created by each recycling facility.

(3) The amount of investment in each recycling facility.

(4) The amount of credits taken under this Article.

"§ 105-129.27. Credit for investing in ~~large or~~ major recycling facility.

(a) Credit. – An owner that purchases or leases machinery and equipment for a major recycling facility in this State during the taxable year is allowed a credit equal to fifty percent (50%) of the amount payable by the owner during the taxable year to purchase or lease the machinery and equipment. ~~An owner that purchases or leases machinery and equipment for a large recycling facility in this State during the taxable year is allowed a credit equal to twenty percent (20%) of the amount payable by the owner during the taxable year to purchase or lease the machinery and equipment.~~

..."

SECTION 2.2. Article 3G of Chapter 105 of the General Statutes is repealed.

PART III: EFFECTIVE DATE

SECTION 3. This act becomes effective July 1, 2010. The first economic incentives report required by G.S. 105-256, as amended by this act, is due by May 1, 2011. The first claim for refund by a taxpayer whose sales tax refund period is changed by this act is due within six months after July 1, 2010, and applies to purchases during the time period not included in their last claim for refund.

2009-MCxz-234: Economic Incentives Alignment and Changes

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	March 31, 2010
Introduced by:		**Prepared by:**	Dan Ettefagh Committee counsel
Analysis of:	2009-MCxz-234		

SUMMARY: This bill would (1) harmonize sunset and reporting features and requirements across the State's various economic incentives, (2) create a single, unified economic incentives report that contains the information currently reported in separate reports for each economic incentive, and (2) delete obsolete credits under Articles 3C and 3G.

CURRENT LAW: Under current law, many of the economic incentives enacted as the Article 3 credits, the income tax credits, and the sales and use tax benefits have some combination of reporting requirements and sunset provisions; however, those requirements are not uniformly set out in each incentive. Where reporting requirements are set out, there are inconsistencies with respect to itemization by taxpayer, the reporting entity, and other miscellaneous differences.

Under current law, there are two economic incentives that are not utilized. The first is the credit in Article 3C for large recycling facilities. This credit was intended for Wisconsin Tissue; however that company never located in North Carolina. The second credit is the credit for major computer manufacturing facilities in Article 3G. With Dell closing the facility for which the credit was enacted, no other taxpayer utilizes that credit.

BILL ANALYSIS: Part I of the bill requires each separate report for the State's economic incentives to be reported in a new, unified annual report. The bill also inserts a placeholder for a sunset for economic incentives that do not currently have a sunset provision. In addition, the bill sections make the following changes to the reporting requirements:

Section 1.1 adds the requirement that the reporting be itemized by taxpayer and by credit to the report already required by Art. 3B.

Sections 1.4 and 1.6 add the requirement that the reporting be itemized by taxpayer to the report already required, respectively, by Arts. 3C and 3D.

Section 1.8 adds a reporting requirement for Art. 3H and requires the reporting to be itemized by taxpayer.

Section 1.13 replaces the corporation reporting requirement for G.S. 105-130.46 with a reporting requirement by the Department of Revenue to be itemized by taxpayer.

Sections 1.2, 1.7, 1.9, 1.10, 1.11, 1.12, 1.14, 1.15, 1.16 make only conforming changes to the reporting requirement necessary to move the discreet reports required into the new, unified report.

Sections 1.17, 1.18, 1.19 separate and categorize the current sales and use tax refunds. Currently, all sales and use tax refunds are in G.S. 105-164.14. The bill would separate and categorize these refunds into three types: (1) refunds that were enacted for non-industrial facility economic incentives purposes, (2) refunds that were been enacted for industrial facilities for economic incentives purposes, and (3) refunds that were not enacted for economic incentives purposes. The first two categories would be found in the newly created G.S. 105-164.14A and G.S. 105-164.14B, respectively. Section 1.20 makes conforming changes. Section 1.21 creates the new, unified report requirement.

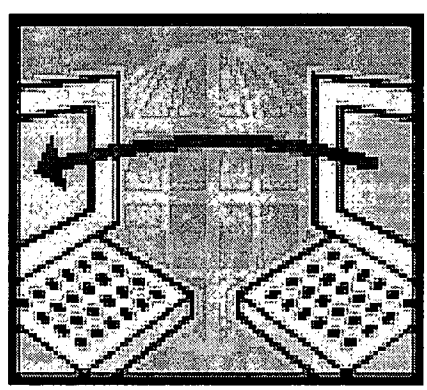
Part II of the bill repeals economic incentives that are obsolete from Arts. 3C and 3G.

Update on Dell Incentives

Y. Canaan Huie
House Finance Counsel
Revenue Laws Study Committee
March 31, 2010

Overview

- Background
- State Incentives
- Local Incentives
- Conclusions



Background

- Throughout 2004, discussions were underway with Dell about locating a facility in North Carolina
- Special incentives were approved in a one-day special session on November 4, 2004
- All amendments failed
  - 1 amendment in Senate Committee
  - 1 amendment on Senate floor
  - 6 amendments in House Finance Committee
  - 5 amendments on House floor
- House Finance Committee was told that amendments would "break the deal" and that if any changes were made "the deal is dead"
- Local incentives approved in Spring 2005

Background

- Some "typical" provisions were omitted or modified from special legislation
  - No wage standard
  - A longer carryforward period
  - Credit could offset 100% of tax liability for multiple taxes
  - Specifically omitted forfeiture provisions relating to investment and job creation thresholds
  - Credit was allowed to a taxpayer for activities conducted by a "strategic partner" or "related entity"
  - Credit specifically allowed company to reduce workforce while remaining eligible for the full credit amount

Background

- **Specifics of the legislation were not widely known before the special session, but there were some rumblings**

  "Dell would get millions; N.C. jobs not guaranteed

  "The economic incentives package that Gov. Mike Easley will propose in a special legislative session today would give the computer maker Dell millions in tax credits for creating low-wage, low-skill jobs -- and keep paying even if the company eventually eliminated most of those jobs."

  News & Observer, November 4, 2004, News A1

Background

- Facility opened on September 19, 2005
- In October 2009, Dell announced the facility would close by January 31, 2010
- Deadline extended 3 times
  - April 30, 2010
  - July 31, 2010
  - October 31, 2010
- No suggestion that delays indicate a change in strategy

State Incentives

- Special tax credits
- Existing tax credits
- Sales tax refunds
- Grant programs
- Worker training



State Incentives

- Credit for large computer manufacturing facility
  - $225 million (maximum allowable)
  - $106,000 claimed on returns processed in 2007
  - No clawback applies
- Bill Lee Act enhancements
  - $21.4 million (estimated maximum)
  - $6.5 million in credits generated, $81,475 in credits taken for returns processed in 2006
  - $10 million in credits generated, $3.2 million in credits taken for returns processed in 2008
  - No clawback applies to amounts taken, some amounts generated may be forfeited

State Incentives

- Sales tax refunds for building materials
  - No specific estimate or numbers
  - No clawback provisions apply
- JDIG grants
  - $14.1 million maximum
  - Approximately $1.5 million disbursed
  - All of that has been recovered

State Incentives

- Worker Training
  - Worker training efforts valued at $3.6 million were supported by the Golden LEAF and the New and Expanding Industrial Training program
  - No clawback provisions apply

Local Incentives

- Component parts
  - Land
  - Site Development
  - Grants based on property taxes
  - Workforce development
- Amounts repaid
  - City of Winston-Salem -- $15.6 million
  - Forsyth County -- $7.9 million
  - Millennium Fund -- $2.8 million
  - Forsyth County Development Corporation -- $308,622

Conclusions

- Changing economic conditions and business models can upset incentive plans
- Clawbacks and reporting requirements are valuable, when included
- Performance requirements are important

State out ~$6million

The North Carolina Economic Development Inventory

Rodney Bizzell
Fiscal Research Division
Revenue Laws Study Committee
March 31, 2010

FISCAL RESEARCH DIVISION
A Staff Agency of the North Carolina General Assembly

Economic Development Inventory

Overview

- What spending is in the Economic Development Inventory (EDI)?
- Highlights of spending by category
- What's new this year?
- Expiring tax credits

What spending is included in the EDI?

- All State spending with an economic development purpose
  - **Three spending areas:**
    - Tax Incentives
    - General Fund Appropriations
      - Commerce
      - NCCCS
      - UNC
    - Transportation

How was State spending determined?

- Budgeted appropriations and actual expenditures
- Department of Revenue reports
  - Article 3A and 3J reports; other tax credit reports
  - Biennial Tax expenditure reports, 2005, 2007 and 2009
- Compilation is a joint effort between FRD Finance, NER, Education and Transportation teams.

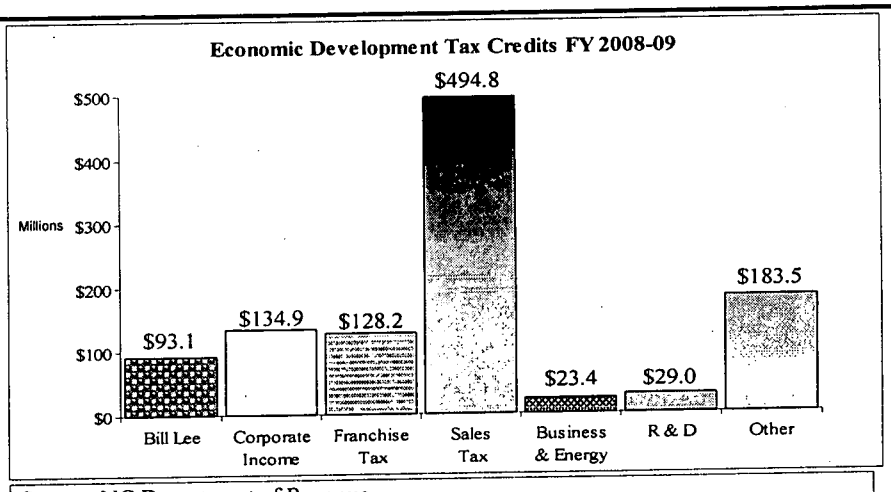
EDI Highlights

- State spending on economic development for FY 2008-09 was $1.22 billion
  - Tax Incentives = $1.1 billion
  - General Fund Appropriations = $121 million
  - Transportation = $14 million

Tax Incentives

- Article 3A and 3J tax incentives
  - Job creation and business investment
  - Tax Credits
    - Corporate and Personal Income Tax
    - Franchise Tax
    - Gross Premiums Tax
- Other tax incentives
  - Exemptions
  - Deductions
  - Refunds
  - Caps
  - Preferential rates

Tax Incentives

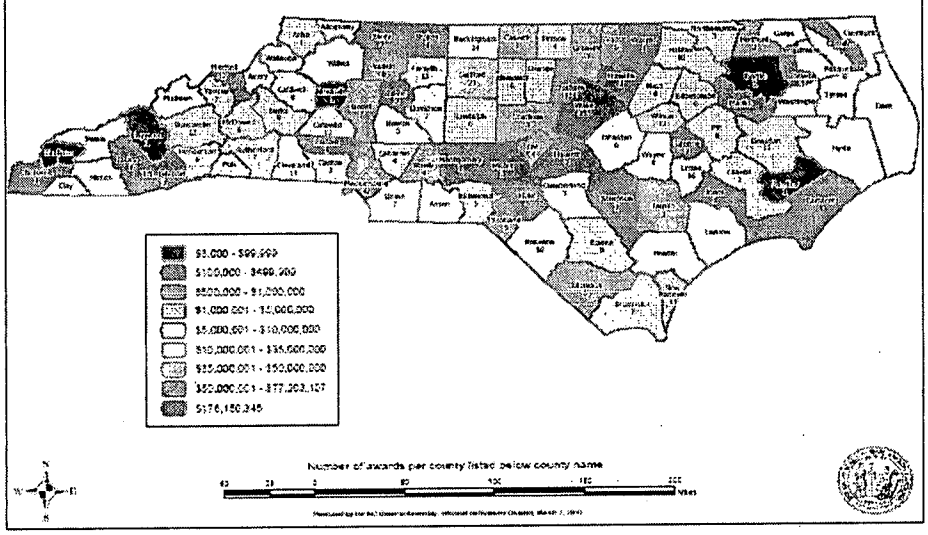


Source: NC Department of Revenue

General Fund Appropriations

- **Commerce** – the primary agency for economic development
- FY 2009-10,
  - $54.8 million appropriated
  - Commerce administer 9 direct incentive programs
  - 3 *direct incentive* programs received an appropriation, totaling $32.6 million
  - JDIG received 95% of *direct incentive* appropriations
  - $34.5 million for *support programs,* 72% is pass-through funding to non-State entities

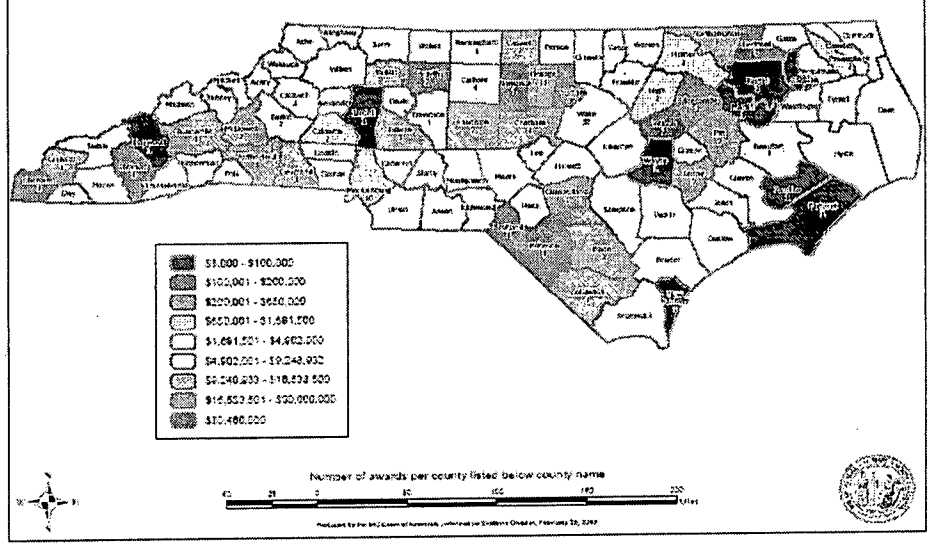
All Grants by County FY 2003-04 to FY 2008-09



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All Grants by County FY 08-09



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General Fund Appropriations

- Higher Education
  - Community Colleges (FY 2009-10)
    - $12.5 million for direct, company specific support and training
    - $8.1 million for support programs such as the Textile Center and the Center for Emerging Manufacturing Solutions
  - Universities (FY 2009-10)
    - $13.8 million in support programs (e.g., Cooperative Extension Service, Industrial Extension Service)
    - Additional $2.1 million appropriated for various campus initiated programs (e.g., Ben Craig Center at UNCC)

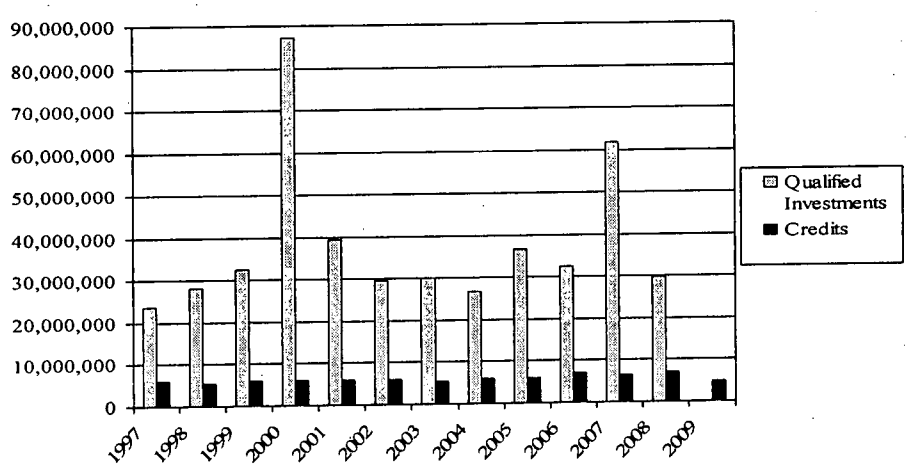
Transportation

- There is a close relationship between a State's transportation infrastructure and economic development
- Direct programs
  - Includes small scale programs for individual projects and railroad improvements

Expiring Tax Credits

- Tax Credits for Qualified Business Investments
  - Originally enacted in 1987
  - Allowed only for individuals and pass-through entities
  - Provides a tax credit of 25% of amount invested in a qualified business venture (maximum of $50,000).
  - Total investment since 1997 = $450 million
  - Total credits allowed since 1997 = $78 million
  - Projected Cost (FY 2009-10) = $7 million per year (cap)

Qualified Business Investments: Investments and Credits



Source: NC Department of Revenue

Expiring Tax Credits

- Mill Rehabilitation Tax Credit
  - Originally enacted in 2006
  - Provides a tax credit of 30% to 40% of the cost of the project depending on tier location.
  - Available for income and non-income producing projects. Federal credit is also available for income producing properties.
  - Projected Cost (FY 2009-10) = $6 million per year

Expiring Tax Credits

- Mill Rehabilitation Tax Credit (cont.)
  - Since authorization, 11 mill projects have been completed, with a total of $169 million in investment
  - 15 projects are proposed or on-going, with projected cost of $150 million.
  - Total tax credits to date = $18 million

Source: State Historic Preservation Office

Expiring Tax Credits

- Tax Credits for Growing Businesses (Art 3J)
  - Replaced William S. Lee Act Incentives in 2007
  - Credit for Creating Jobs
  - Credit for Investing in Business Property
  - Credit for Investing in Real Property (Tier 1 counties only)
  - Projected Cost (FY 2009-10) = $25 million

Source: NC Department of Revenue

Article 3J Credits Generated

Credit for Creating Jobs – Credits Generated in 2008

	Number of New Jobs	Credits Generated
Tier 1	954	$12 million
Tier 2	599	$3 million
Tier 3	1,895	$1.6 million
TOTAL	3,448	$16.6 million

Source: NC Department of Revenue

Article 3J Credits Generated

Credit for Investing in Business Property – Credits Generated in 2008

	Business Property Investment	Credits Generated
Tier 1	$130 million	$16.5 million
Tier 2	$97 million	$4.8 million
Tier 3	$300 million	$11.2 million
TOTAL	$527 million	$32.7 million

Source: NC Department of Revenue

Study Findings

- In 2008, the General Assembly contracted with the UNC Center for Competitive Economies to assist the Joint Select Committee on Economic Development Incentives in evaluating the performance of North Carolina's economic development incentive programs.
- Focused on 1996-2006
  - Lee Act credits consumed 98% of North Carolina's incentive portfolio
  - Most firms get small amounts (too small to induce changes in behavior); few get large amounts
  - Most incentives went to investments, not job creation
  - Most tax credits (50%) were generated in the least distressed counties

Source: UNC Center for Competitive Economies

Study Recommendations

- Eliminate Statutory Tax Credits
  - Research showed the most effective incentives are tailored to address company-specific location decisions.
- Expand JDIG and One NC Programs
  - Strong potential for success in targeting distressed counties.
- Final report is available.

Source: UNC Center for Competitive Economies

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An Evaluation of North Carolina's Economic Development Incentive Programs

Final Report

July 2009

Prepared for

North Carolina General Assembly
Joint Select Committee on Economic Development Incentives

University of North Carolina Center for Competitive Economies

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Final Report Summary

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The UNC Center for Competitive Economies (C^3E) is part of the Frank Hawkins Kenan Institute of Private Enterprise and UNC's Kenan-Flagler Business School of the University of North Carolina at Chapel Hill. The Center brings the considerable resources of the University to help communities in North Carolina, the United States and beyond address critical challenges of competitiveness and economic development. In that role, C^3E conducts economic policy studies for local, state and national governments across the spectrum of economic development issues.

Executive Summary

In March 2007, the President Pro Tempore of the North Carolina State Senate and the Speaker of the North Carolina House of Representatives established a Joint Select Committee on Economic Development Incentives to examine the state's economic incentive programs. In January 2008, the North Carolina General Assembly contracted with the University of North Carolina's Center for Competitive Economies (C^3E) to assist the Joint Select Committee on Economic Development Incentives in evaluating the performance North Carolina's economic development incentive programs.

C^3E undertook this 18-month research program with the goal of addressing a set of questions deemed key to the committee's efforts:

1. What is an economic incentive and which ones are most appropriate for the committee to assess?

2. How is the success of economic incentives to be judged and which outcomes are the highest economic development priorities for North Carolina?

3. What companies have received economic incentives, how much have they gotten, and how much more will be granted under current policies?

4. What have been the benefits from economic incentives and how do programs and types of recipients differ in their economic impact?

5. To what extent do North Carolina's economic incentives affect the state's economy?

6. How would the economic impact of reducing the state's corporate tax rate compare to that of current economic incentives?

This summary of findings discusses the importance of each critical research question under examination, reviews the research approaches utilized to examine these questions, and highlights key findings from the research. More detailed analysis and secondary research findings can be found in the complete report and appendices.

Executive Summary: Research Methodology

Study Period: 1996-2006

At the time of the committee's formation, North Carolina had recently completed its first decade of experience between 1996 and 2006 in the use of financial incentives in economic development. This span of time encompassed a dynamic period in the state's economic history. Much of the state's economic foundation in "traditional industries" – textiles, furniture, and agriculture – came under tremendous global competitive pressure, resulting in numerous plant closures and workforce reductions. Meanwhile, more technology-intensive industries such as pharmaceuticals, telecommunications, and computer hardware and software experienced both rapid growth and retrenchment in the "dot com" boom and bust of the late 1990s.

Data Sources

This economic dynamism, combined with the expanded use of incentives during the 1996 to 2006 study period, provided an abundance of both quantitative and qualitative information. Much of the required relevant information resided at the North Carolina Departments of Commerce and Revenue:

- The North Carolina Department of Commerce provided information on Job Development Investment Grant (JDIG) and One North Carolina Fund (One NC) incentive recipients.
- The General Assembly passed legislation authorizing the Department of Revenue to release tax filings for William S. Lee tax credit recipients to C^3E to complete the study. Electronic tax filings were available for companies receiving Lee tax credits from 1996 to 2006; and hard copies of tax returns, which included additional information on type of credit claimed, were released for 2002 to 2006 returns.
- The North Carolina Employment Security Commission provided quarterly employment history from 1990 to 2006 for incented firms based on information provided by the North Carolina Department of Revenue and Department of Commerce. In total, this database exceeds 250,000 observations used to track the pre- and post-employment performance of incented companies.

Executive Summary: Case Studies and Surveys

Quantitative employment and incentive data was then augmented by qualitative data from company case studies and surveys. Executives from 36 companies receiving Lee Act incentives participated in confidential interviews to discuss the impact of the Lee Act on their companies' business expansion and location decisions. Sixteen detailed case studies were conducted on JDIG/One NC companies, including documentation of local and state incentives received. Another four case studies (two in South Carolina and two in Virginia) were performed to examine companies North Carolina had unsuccessfully competed to attract into the state.

Additionally, a survey was utilized to determine the perspective of incented and non-incented companies on the importance of economic development incentives to their business expansion and location decisions and on the state's business climate.

Research Analysis

The majority of the research was completed between February and December 2008, although additional analysis will be performed to assist the legislature in its deliberations. C^3E researchers provided research results to the committee and its staff frequently in the course of the committee's meetings throughout 2008. Those findings addressed the initial key questions and are summarized below:

1) What Is An Economic Incentive And Which Ones Are Most Appropriate For The Committee To Assess?

C^3E worked with the Joint Select Committee and the legislative staff to define the relevant population of economic development incentives to be addressed in the study. As anticipated, this apparently simple question was complicated by differing understandings as to the definition of incentives and the state's history of experience in their use.

North Carolina offers a wide range of economic development assistance that could be included in an expansive definition of economic incentives. Types of assistance range from highly specialized services, such university-based technology transfer programs, to broadly available small business training programs offered through the community college system. Historically, the state has also offered direct industrial development assistance such as industrial revenue bond financing, customized job training programs and industrial development.

Studied Incentives

However, in the early 1990s the state undertook a specific effort to develop a program of economic development incentives in response to its perceived weakening competitive position with economic development rival states. This program of statutory tax credits, which came to be known as the William S. Lee Act incentives program, was later expanded through the addition of the discretionary incentive programs of the Job Development Investment Grant (JDIG) and One North Carolina Fund.

The implementation of these incentive programs marked a significant strategic shift in North Carolina's economic development efforts. Accordingly, the committee chose to limit the analysis to these programs and the state's Research and Development tax credits. The study did not measure or examine the effectiveness of local economic development incentive packages, although some data were collected on the types and amounts of local incentives in the JDIG/One NC case studies and surveys of incented companies.

2) How Can The Success Of Economic Incentives Be Judged And Which Measures Are The Highest Priorities For North Carolina?

North Carolina was a late entrant in establishing an economic development incentive program, relative to many other southern states. The William S. Lee Act was created in 1996 and has undergone multiple revisions to expand eligibility, refine criteria, and modify thresholds since the original legislation. The One North Carolina Fund and Job Development Investment Grants are also economic development incentive tools utilized by the state for economic development purposes. As North Carolina's palette of economic incentives has expanded, often in response to unanticipated circumstances, the core goals of the economic incentives may have been perceived as muddled, inconsistent, or even contradictory. Therefore, to assess the performance of North Carolina's economic incentives, it was first necessary to freshly define the standards by which such performance was to be measured.

Performance Criteria

The justification for economic incentives in the public arena is typically and simplistically presented as "job creation". But there are a wide range of other legitimate desired outcomes to consider in judging performance. The relevance and priority of these outcomes is a function of public policy as articulated by the General Assembly. Working with the Joint Select Committee and supported by legislative staff, C^3E defined three parameters to utilize in measuring the effectiveness of the state's economic development incentive programs:

Quality Job Creation

- Job creation measures included the number of new jobs created and/or existing jobs maintained after receiving an incentive, the wage level of created jobs, whether or not the job was in a targeted industry sector/cluster, the location of the job, and whether incented companies were hiring existing residents for new jobs and creating upward employment opportunities.

Distressed Areas Benefit

- Benefit measures in distressed areas included examining the share of new job creation in distressed areas (classified as Tier One counties) and the wage levels associated with those jobs. Additional prospective measures included reemployment of displaced workers and replacement of declining industries.

North Carolina's Economic Competitiveness

- Economic competitiveness was examined through the lens of economic diversification and insulation from any negative effects of globalization. Focusing on the location of headquarters, entrepreneurship, and high-value industry clusters were also prospective measures. These key measures were examined

through a portfolio approach designed to determine which economic incentive programs were offering the best return on investment.

3) What Companies Have Received Economic Incentives, How Much Have They Gotten, And How Much More Will Be Granted Under Current Policies?

The examination of the statutory and discretionary incentive programs activity between 1996 and 2006 revealed that, in many ways, North Carolina's economic incentives were being used differently than how the public widely perceived them. The study found that the focus by the media – and therefore the public – on a few "high profile" examples (such as Dell, Google, Goodyear, etc.) tended to distort the public's understanding of both the participation in and the costs of the state's incentive programs.

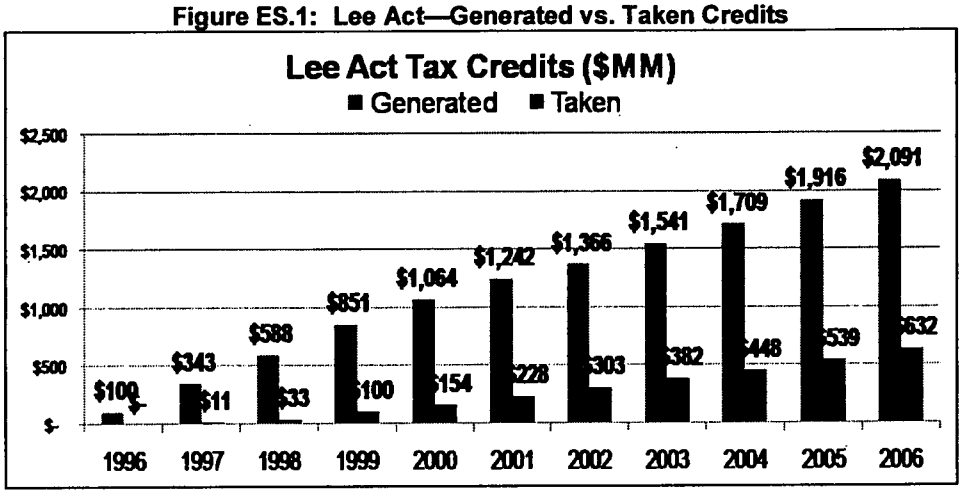
Incentive Use Differs from Assumptions

Between 1996 and 2006, approximately 5,000 companies participated in one or more of the North Carolina economic incentive programs covered in this research. Analysis of this population found the following disparities between public and legislative expectations and actual participation:

Costs are High but Typically Overstated

- By 2006 the total maximum amount of incentives "generated" or awarded by the state since 1996 exceeded $2 billion, but the eventual actual cost will be less.
- Media accounts typically cite maximum possible incentive amounts, whereas the eventual actual cost will be significantly less because most incentives are in the form of tax credits that historically are not fully utilized.
- The amount of tax credits used or "taken" in the period totaled $632 million (Figure ES.1); an estimated 35% of the $2.1 billion generated credits will never be used.

Figure ES.1: Lee Act—Generated vs. Taken Credits

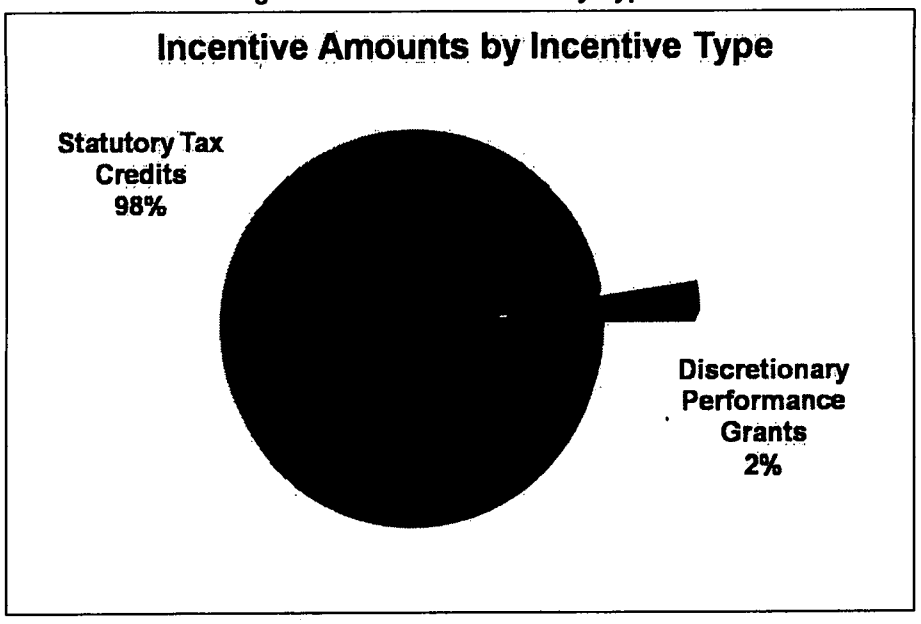


High-Profile Discretionary Incentives are Atypical

- Media studies found that discretionary incentive (JDIG, One NC) deals receive a disproportionate level of coverage compared to Lee Act tax credit recipients, thus creating a distorted perception of incentive use.

- Lee Act tax credits consume the majority of North Carolina's incentive "portfolio" allocation (Figure ES.2), representing 98% of the allocation, while discretionary incentives only comprise 2%.

Figure ES.2: Incentive Use by Type



Most Firms Get Small Incentives, Only a Few Get Large Amounts

- Media attention focused on the large incentive deals also distorts perceptions of the typical incentive amount received by a company.

- Between 2002 and 2006, 1,967 companies received $875 million in Lee Act tax credit incentives. But of these, 860 companies (44%) received less than $25,000 each, calling into question the effectiveness of such small amounts on business behavior.

- By contrast, for the same period just 46 companies (2%) received an average of more than $11 million each, for a total of $523 million or nearly 40% of the total tax credits generated.

4) What Have Been The Benefits From Economic Incentives And How Do Programs And Types Of Recipients Differ In Their Economic Impact?

The economic and job creation impact of economic incentives is an issue of much debate for policymakers. Most academic studies have demonstrated that economic development incentives, particularly statutory tax credits, yield limited effectiveness in job creation and usually succeed only under competitive scenarios where other factors are deemed equal among competing areas. Dr. Michael Luger, Dean of the Manchester Business School (UK) and former UNC professor, conducted several prior assessments of the William S. Lee Act and created a simulation model to examine the possible job creation impacts of the Lee Act. Dr. Luger's simulations found that the Lee Act had a modest impact on job creation in North Carolina.

Incentives Usage Inconsistent with Performance Criteria

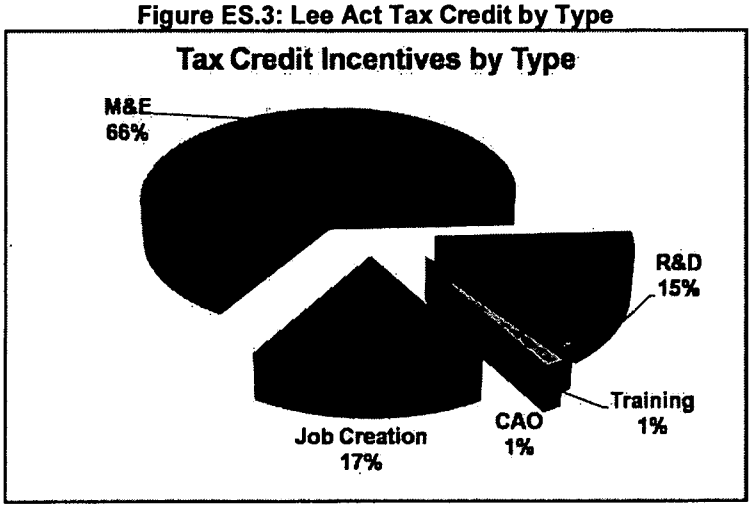
While there may be many objectives for the use of incentives in economic development, the criteria established by the Select Committee for evaluating the performance of North Carolina economic incentives specifically emphasized their contribution to job creation in the state's distressed counties. By those measures, the use of economic incentives between 1996 and 2006 failed to achieve those goals.

Most Incentives Went to Investments, Not Job Creation

- The popular perception is that job creation is the major focus on economic development incentives, yet only a small amount of Lee Act tax credits are directly attributed to job creation activities.

- Only 18% of Lee Act tax credits generated from 1996 to 2006 were used specifically for job creation or employee training, whereas two-thirds (66%) were used for machinery and equipment (M&E) investment (Figure ES.3).

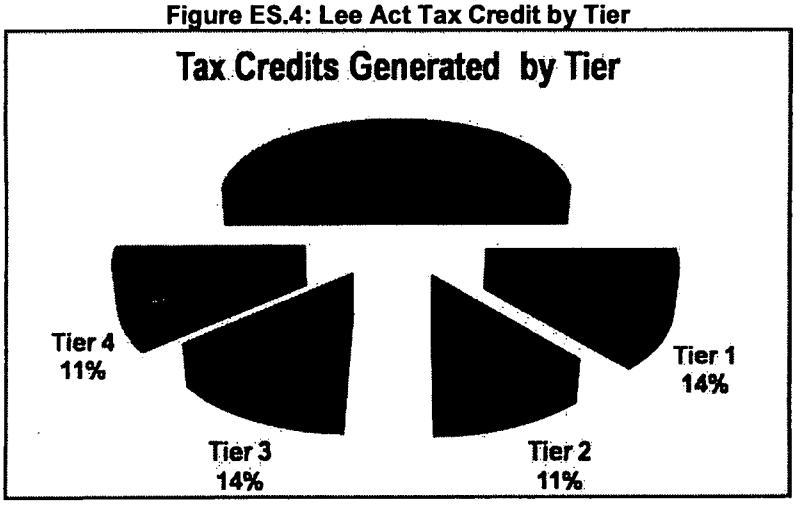
Figure ES.3: Lee Act Tax Credit by Type



Few Incentives Benefitted Distressed Areas

- While the Lee Act provided favorable incentives in the state's poorest counties (Tier 1), most tax credits went to the least distressed counties (Tier 5) (Figure ES.4).

Figure ES.4: Lee Act Tax Credit by Tier



- During the most recent period of 2002 to 2006, companies receiving Lee Act incentives generated $875 million in tax credits. Of that amount, half of the incentives went to companies in the least distressed counties (Tier 5) while only 14% went to companies in the most distressed counties (Tier 1) (Figure ES.4).

Job Creation by Incented Firms is Generally Lacking

This study was enhanced when the General Assembly legislatively empowered C^3E to obtain and analyze confidential data unavailable to previous analysts. C^3E obtained

quarterly employment history for all firms that receive a Lee Act tax credit and report employment levels to the NC Employment Security Commission. These data were analyzed to examine the pre- and post-tax-credit employment trends of incented companies. Data analysis required that C^3E hold counties' tier status constant across the analysis, using 2006 tier designations, and limit some of the analysis to companies with single locations and/or companies existing throughout the study period. Additionally, data on the type of credit claimed by companies under the Lee Act was only available from 2002 to 2006. These methodological procedures are not expected to significantly alter the findings or trends.

Single location companies in the study period were examined to determine the growth rate and levels of employment change of companies receiving one or more Lee Act tax credits from 1996 to 2006. Surprisingly, the examination revealed that only 57.46% of companies receiving a Lee Act tax credit had a positive growth rate (i.e., more employees) in 2006 than they did in 1996 (Figures ES.5 and ES.6). Over 41% of the companies had a declining growth rate, leading to fewer employees at these businesses in 2006 than in 1996. These trends were also analyzed for each tier (see subsequent sections of the full report for charts/tables).

Figure ES.5: Employment Growth Rate for Lee Act Companies

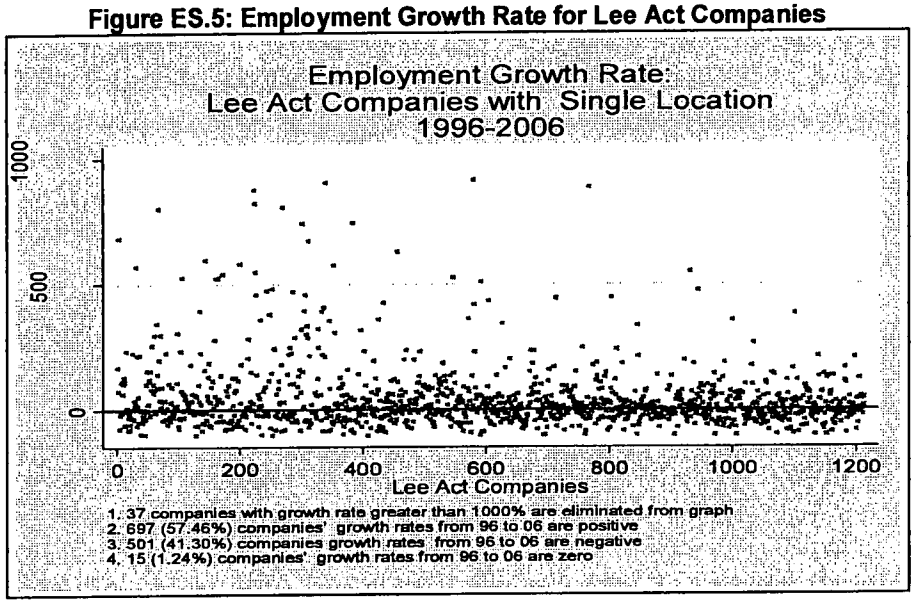
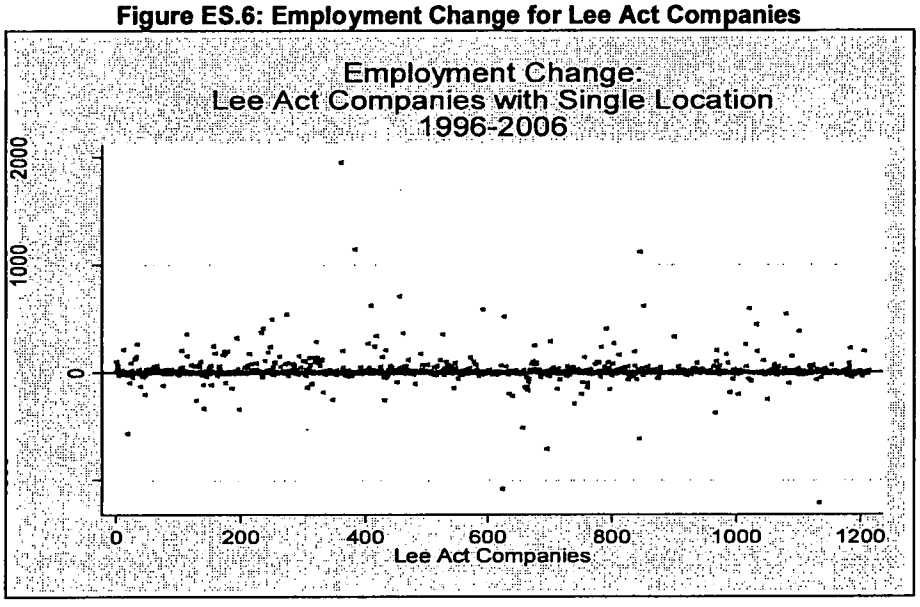


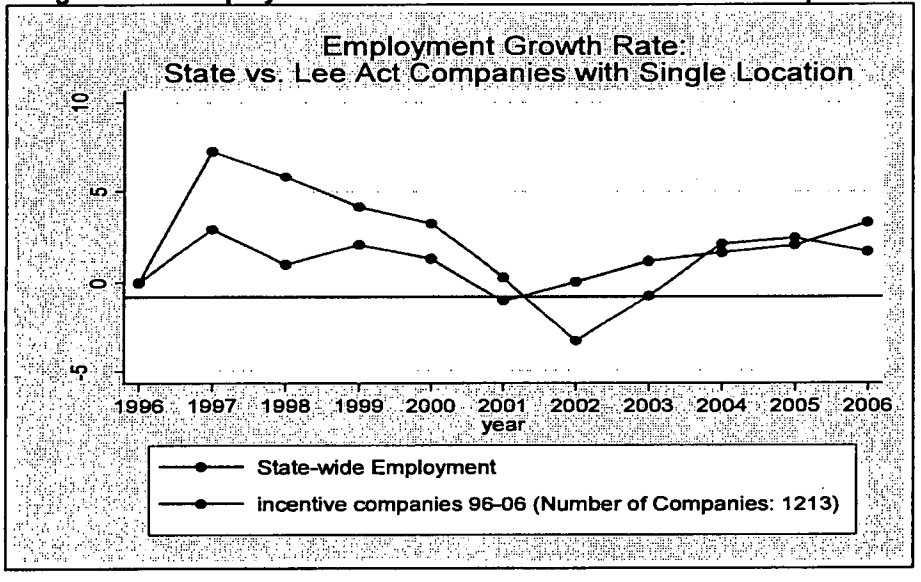
Figure ES.6: Employment Change for Lee Act Companies



Job Creation by Incented Firms Lagging State Economy in Recent Years

Next, the employment growth rates of incented firms existing from 1996 to 2006 and existing from 2002 to 2006 were examined against the overall employment growth for the state. Data on the growth rate comparison for each tier is available in the full report. Incented companies did demonstrate a slightly higher employment growth rate in the 1990s, yet the gap between incented companies and the state average closed over time and is nearly negligible now (Figure ES.7).

Figure ES.7: Employment Growth Rate for State vs. Lee Act Companies



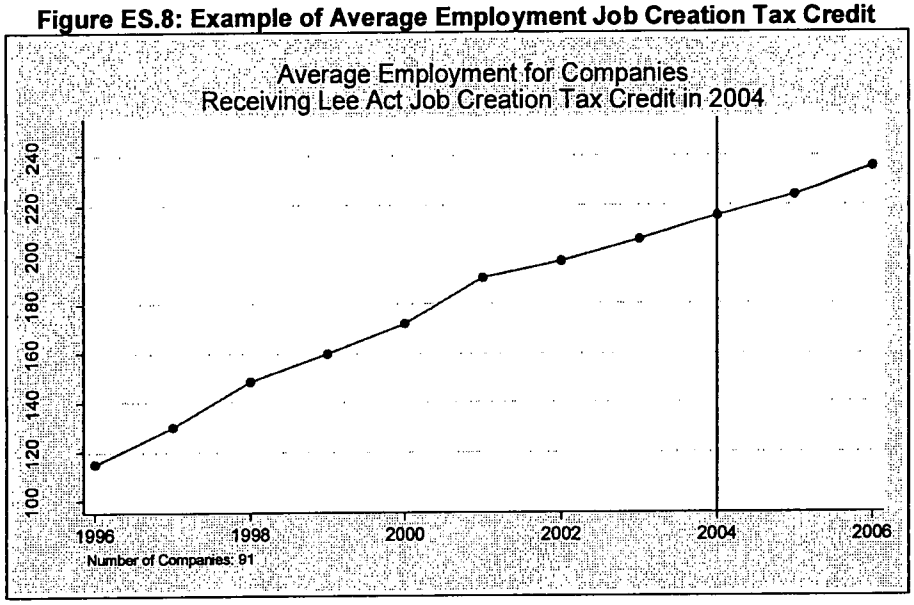
Pre- and Post-Tax-Credit Incentive Analysis Shows Lack of Job Creation

To fully assess the Lee Act's impact on employment levels, it was important to contrast the pre- and post-incentive employment levels of incented firms. An analysis was conducted to examine the difference in pre- and post-incentive employment by both tier and credit type.

As an illustration, data on companies receiving a Lee Act tax credit in 2004 are provided (Figure ES.8). Yearly performance data by credit and tier are available in the full report.

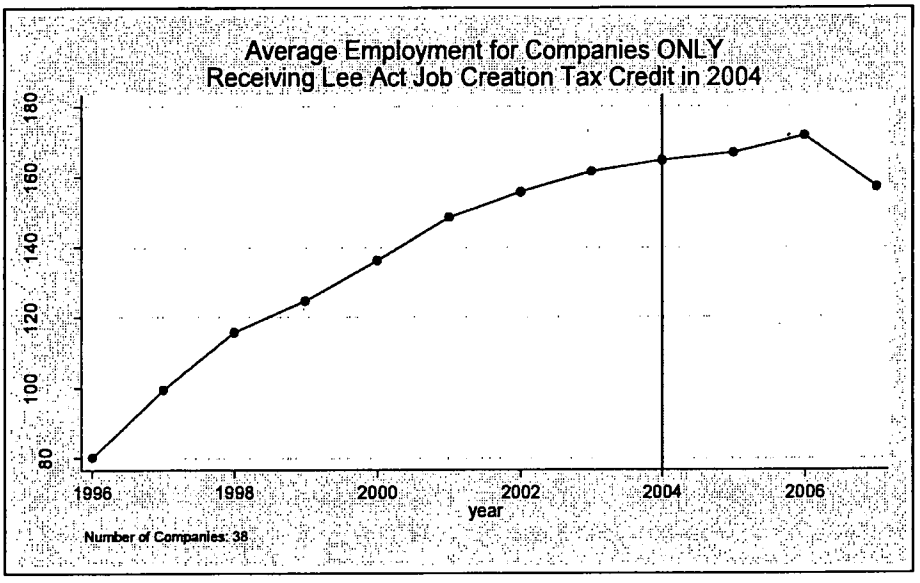
This graph illustrates the average employment for companies receiving a job creation tax credit in 2004 through the William S. Lee Act. Companies are not excluded if they also received another type of tax credit. On average, job creation after the tax credit is positive, yet the tax credit does not appear to cause an increase in the rate of job growth.

Figure ES.8: Example of Average Employment Job Creation Tax Credit



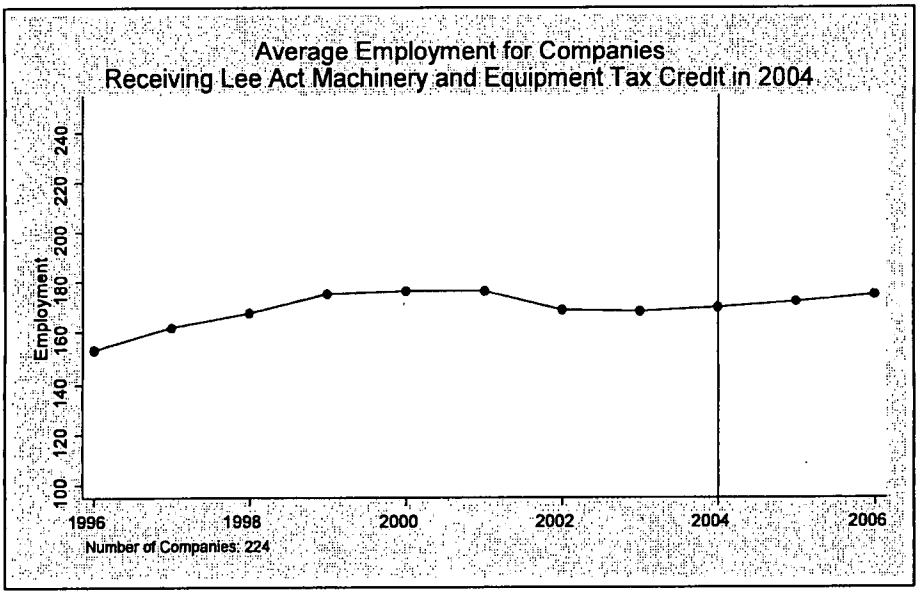
In an effort to isolate the impact of the job creation tax credit, firms only receiving a job creation tax credit and no other tax credits in 2004 were also examined (Figure ES.9). Again, the slope of average employment after the tax credit was generally positive, but the credit does not appear to influence the rate of job creation.

Figure ES.9: Example of Average Employment Job Creation Tax Credit ONLY



Similar analyses are presented for machinery and equipment and research and development tax credits for 2004. The first graph (Figure ES.10) demonstrates the average pre- and post-credit employment levels for businesses receiving a machinery and equipment tax credit in 2004, but does not exclude the company if it received other tax credits.

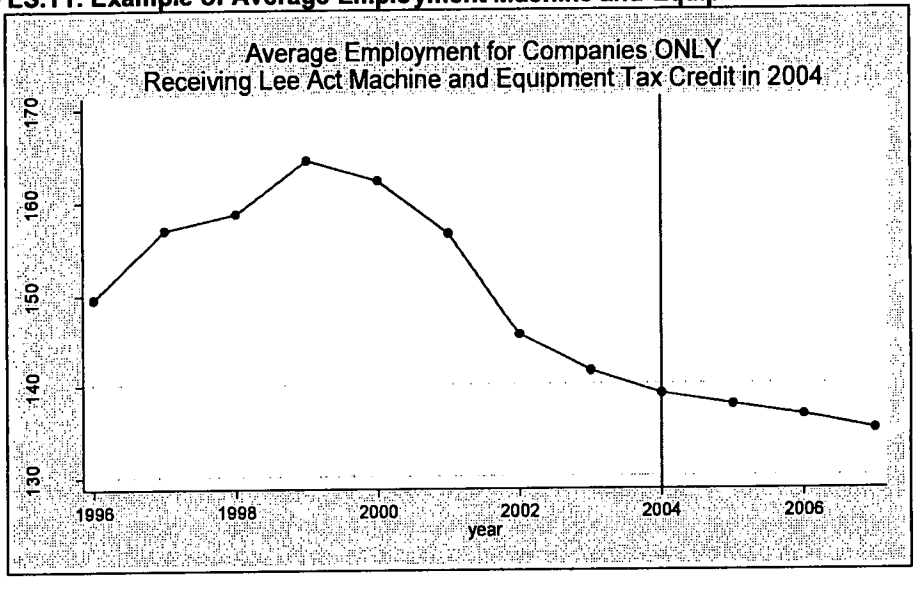
Figure ES.10: Example of Average Employment Machinery and Equipment Tax Credit



The second graph (Figure ES.11) focuses on companies only receiving a machinery and equipment tax credit in 2004. Taken in conjunction with other tax credits, the M&E credit does not appear to increase average employment levels at all. Companies only taking the M&E tax credit in 2004 demonstrate an employment loss in subsequent

years, which may illustrate that companies taking the M&E credit are more susceptible to economic downturns or that these companies are engaging in capitalization—the substitution of labor with capital (i.e., machinery and equipment).

Figure ES.11: Example of Average Employment Machine and Equipment Tax Credit ONLY



An examination of research and development tax credits for 2004 reveals positive employment growth for companies taking an R&D tax credit with other credits (Figure ES.12) and R&D tax credit only (Figure ES.13).

Figure ES.12: Example of Average Employment Research and Development Tax Credit

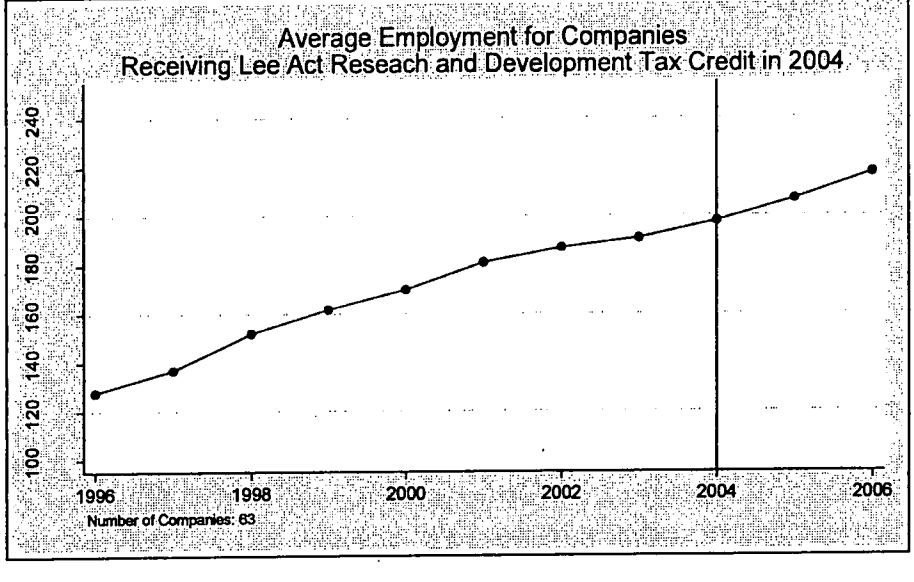
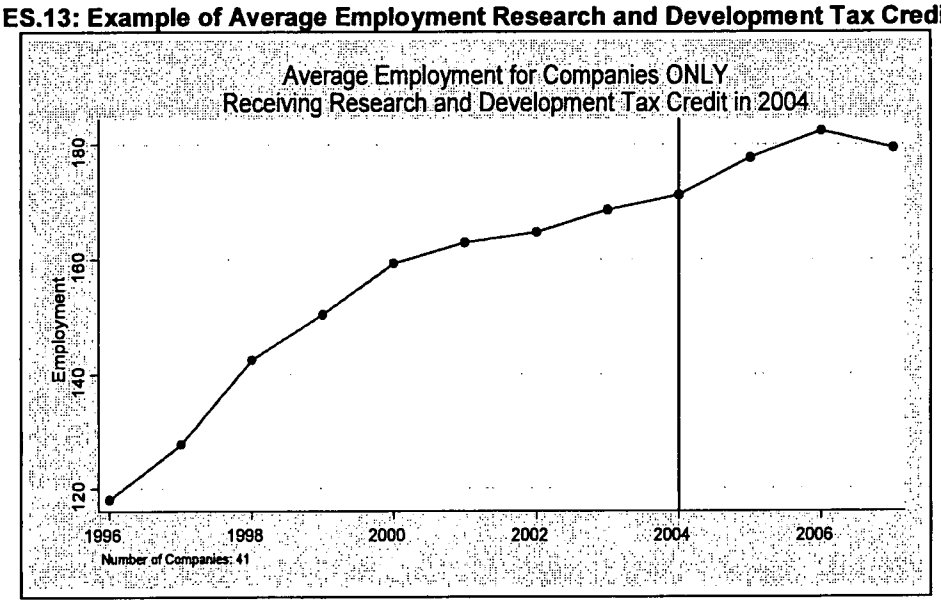


Figure ES.13: Example of Average Employment Research and Development Tax Credit ONLY



This illustrative snapshot of 2004 is indicative of the general findings on the performance of the William S. Lee Act. Statutory tax credits are having little to no effect on employment growth and a limited impact on company expansion/location decisions in North Carolina.

Discretionary Incentives Offer Advantages over Tax Credits

Unlike statutory tax credits, the state's discretionary programs are better directed toward the state's targeted industry clusters and are more likely to influence a company's location or expansion decision. In remarks to the Joint Select Committee on Economic Development Incentives, North Carolina Secretary of Commerce Jim Fain said that in the JDIG program, "81% of the jobs induced to date have been in our targeted sectors."

A panel of economic development scholars assembled by the C^3E for a Symposium on Economic Development Incentives also acknowledged that discretionary programs are more likely to allow for economic development targeting to key industry clusters, and these programs are more likely to assist in economic transformation of distressed regions. Like the statutory tax credits, the majority of discretionary economic development incentives are utilized in the state's less distressed counties.

Scholars also acknowledge that incented job creation in growing metropolitan areas must generate sufficiently large wages and investment levels to offset the fiscal costs incurred by local and state governments by the influx of new residents. Discretionary incentives leading to investment and job creation have a much larger economic impact when existing residents are employed, especially in distressed areas.

5) To What Extent Do North Carolina's Economic Incentives Affect the State's Economy?

North Carolina is a large state, ranking 10th in population (9,061,032). The state's workforce exceeds 4.6 million people and the gross state product (GSP) is $400 billion (9th largest), exceeding the GSPs of Georgia, Virginia, Michigan, and Massachusetts. If North Carolina were a country, it would have the 23rd largest national economy.

Economic Incentives Have Limited Potential

Currently, North Carolina has more than 500,000 businesses. The state is limited to providing direct assistance to only a few thousand companies per year through statutory tax credits, and to a few dozen firms annually through targeted discretionary incentives. To generate just a 1% gain in employment, the state would need to incent the creation of 90,000 new jobs.

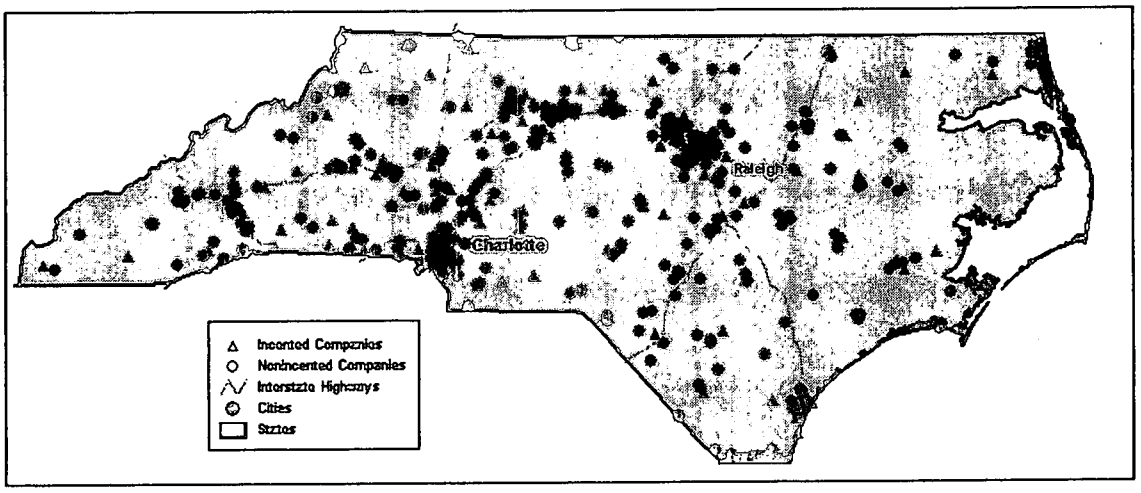
The large number of businesses claiming and generating small amounts of Lee Act tax credits suggests that the state's statutory tax credit programs are having a limited effect on the state's economy. The size of the state's economy makes it challenging for an incentive program to greatly stimulate statewide economic growth. However, discretionary programs provide an opportunity for a transformative effect on the state's most distressed regions by laying the groundwork for future growth and employment in areas struggling with economic adjustment and unemployment.

State Survey and Case Studies Indicate Incentives are Low Priority

Academic research suggests that economic development incentives play a limited role in influencing company location decisions and usually are effective only when other factors are equal among competing states. A survey of companies receiving the Lee Act tax credit indicated that incentives ranked low on the list of priorities for business executives. Similar surveys by national site selection magazines also demonstrate that incentives are generally less important than a skilled, well-educated workforce, adequate infrastructure, state tax rates, and regulatory climate.

C^3E surveyed North Carolina companies to determine their perception of the effectiveness and importance of economic development incentives. The survey included 150 Lee Act recipients and 465 non-incented companies (Figure ES.13).

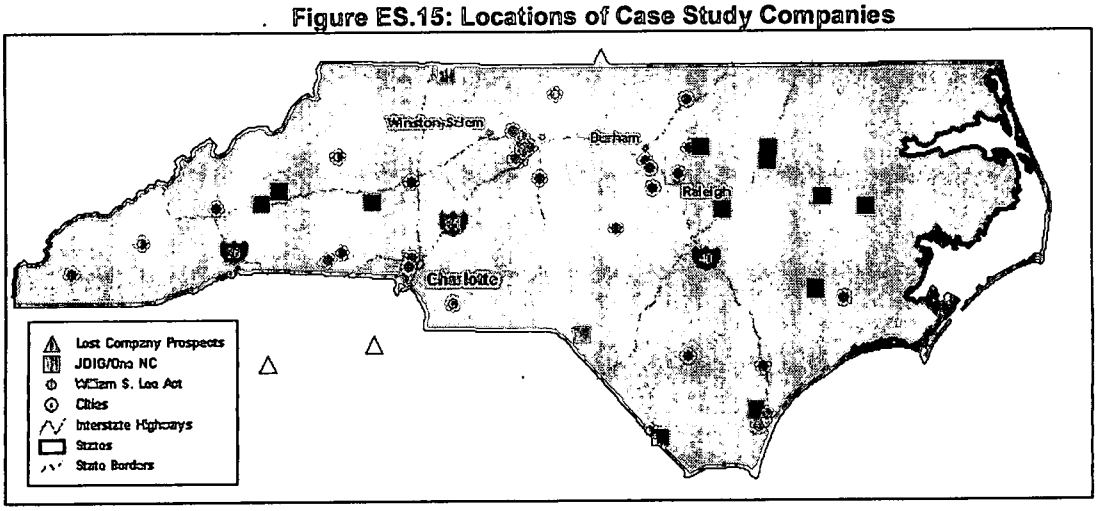
Figure ES.14: Lee Act Recipients and Non-Incented Companies



The survey revealed several interesting findings about the perception of incentives among North Carolina businesses. Incentives ranked well below other factors such as skilled labor availability, highway access, tax rates, and regulatory climate. Incented businesses ranked incentives 12th and non-incented ranked incentives 13th, respectively. Surprisingly, 62% of surveyed NC executives were unaware that their company received an incentive. This lack of awareness by a majority of executives indicates that incentives in the form of tax credits have little impact on business decisions.

Case studies were also conducted with 36 companies receiving a Lee Act tax credit, 16 companies receiving a JDIG or One NC grant, and four companies that North Carolina tried to recruit but lost to other states (Virginia and South Carolina). The map (Figure ES. 14) below identifies the general location of case study companies.

Figure ES.15: Locations of Case Study Companies



Brief highlights of case study findings are provided here. In general, interviews with executives whose company received a Lee Act credit revealed that the credit had little impact on the company's decision to engage in economic growth or expansion. Most

executives viewed the credit as an "after the fact" accounting function. Many executives interviewed were unaware that their company even received an incentive.

JDIG and One NC case studies tracked the investment levels of incented companies using publicly available data and interviews with relevant officials. These case studies documented the amount of local investment utilized to incent the company's expansion or location choice. In most instances, the case studies revealed that consultants played a much smaller role in incentive receipt than popularly perceived. Only one of the 36 Lee Act companies interviewed had been approached by a consultant regarding available incentives. Consultants continue to play a role in some high-profile incentive deals, but the case studies revealed that few are paid as a percentage of the incentive received.

When Incentives are Most Effective

To the extent incentives have been found to substantially influence company location decisions, they are most effective when:

- the targeted prospects are highly mobile and less resource constrained
- the incentives are tailored to the company's specific priorities
- used proactively to target growth companies with substantial job creation "upside," rather than reacting to an individual company's "auction" opportunities
- used to strengthen existing industrial clusters through buyer-supplier chain enhancements
- used to target firms with the best match for existing labor market availability, thus maximizing the net economic benefit of a location success

6) How would the economic impact of reducing the state's corporate tax rate compare to that of current economic incentives?

The last major task in the study examined the extent to which the corporate tax rate could be reduced if the state abolished economic incentives. An analysis by Dr. Roby Sawyers, Professor of Accounting at North Carolina State University, revealed that if the statutory tax credits had been abolished, the corporate tax rate could have been reduced from 6.9% to 6.19% in 2003, 6.24% in 2004, and 6.25% in 2005.

Currently, North Carolina has one of the highest corporate tax rates in the southeast (Figure ES.15) which is perceived to be a significant disadvantage for North Carolina to attract companies.

Table ES.1: Corporate Tax Rate

State	Corporate Tax Rate
North Carolina	6.90%
Alabama	6.50%
Tennessee	6.50%
Georgia	6.00%
Virginia	6.00%
Florida	5.50%
South Carolina	5.00%

NC Company Surveys Reveal Preference for Tax Reduction

The study's survey of incented and non-incented firms asked the following question: "Some people believe that it is better for North Carolina's economy to offer select incentives to certain businesses, while other people believe it is better to reduce taxes impacting business taxpayers and their owners. Which strategy do you think is better for NC's economy?" Approximately 14.5% of non-incented companies and 21.7% of incented companies stated it was better to offer select incentives to certain businesses, while 85.5% of non-incented companies and 78.3% of incented companies stated it was better to reduce taxes impacting businesses taxpayers and their owners. **A majority of companies in both groups favored reduced taxes over incentives.**

Executive Summary: Research Findings Summary

NC incentives are most effective in influencing business decisions when:

- Prospects are mobile
- Prospects are well matched to local resources
- Other location factors are competitive
- Incentives are tailored to companies' specific priorities
- Benefits are front-loaded and packaged with other assistance
- Incentives are used proactively early in a firm's location process

NC incentives have the greatest economic benefit when the:

- Company employs local residents, especially displaced workers
- Location has excess capacity in local infrastructure, minimizing public service outlays
- Company has a catalytic effect on local suppliers
- Company is in growth mode, dependent on local advantage
- Company is a headquarters in an export industry
- Incentives match NC economic development strategic priorities

NC Statutory Tax Credits Findings:

- Statutory tax credit spending vastly exceeds discretionary incentive spending.
- Statutory tax credits are not tied to NC's strategic economic development goals.
- The majority of tax credits are claimed by companies in less distressed areas.
- Large numbers of claimed tax credits are too small in amount to induce businesses to change their behavior.
- The majority of tax credits claimed are for machinery and equipment investment and are not directly related to job creation.
- Lee Act incentives are often viewed as an "after the fact" tax credit or accounting function.
- Company executives were unaware that their company received an incentive.
- Statutory tax credits are not significantly benefiting distressed counties.
- Tax credits have a positive marketing effect as a program to benefit existing businesses and are utilized as a marketing tool by economic developers.

Discretionary Incentive Programs Findings:

- Discretionary incentive programs provide a better opportunity for strategic economic development targeting.
- Discretionary incentives are likely more effective than tax credits at inducing companies to create jobs and investment.
- Unlike statutory tax credits, a set of defined metrics are utilized prior to approval and disbursements of discretionary grants.
- The absence of a wage standard can undermine discretionary incentive programs' economic benefit.
- The local match requirement is a significant burden on distressed counties.

- Legislative goal setting and independent oversight would enhance the program's administration and accountability.

Corporate Tax Rate Findings:

- Reducing North Carolina's corporate tax rate is a viable alternative to statutory tax credits.
- Reducing business taxes is preferred by both incented and non-incented companies as an alternative to selected tax credits.
- Corporate tax rate reduction would bring North Carolina "in line" with our competitor states.
- Eliminating the William S. Lee Act would have allowed for a revenue-neutral offset corporate tax rate reduction of approximately 6.25% (down from 6.9%) in 2005.
- Corporate tax rate reduction has lower transaction costs than statutory tax credits for tax filings and reporting..

Economic Incentives Utilization Findings:

- North Carolina's economic incentives can affect only a few businesses and therefore should be strategically targeted to maximize benefits.
- North Carolina can gain competitive advantages over rival states through proactive use of incentives to initiate location decisions by firms in strategic industrial clusters.
- Targeting efforts should incorporate emphasis on workforce availability and development capabilities to maximize incumbent worker employment.
- North Carolina state leaders lack objective data analysis on the state of North Carolina's economy and the performance of the state's economic development programs.
- While the data analysis is complex, North Carolina does have the available data to better track the performance of the state's economy and the state's economic development programs.

Executive Summary: Recommendations

1. Retain North Carolina's Research and Development Tax Credit.

North Carolina offers a Research and Development ("R&D") tax credit based on the percentage of qualified research expenses that a business pays or incurs during the year. This credit has been modified by the legislature several times. Recently the General Assembly extended the tax credit, which had been scheduled to expire on January 1, 2009, for five years.

The R&D tax credit was the only investment-based tax credit incentive examined that was correlated with companies adding new jobs both before and after receiving the incentive. Moreover, job quality goals are admirably intrinsic as the credit is premised on companies satisfying several "employment quality" eligibility criteria, including wage standards, health insurance, and occupational safety regulatory compliance.

The R&D credit is also distinct from other investment-based tax credits in that it is available to companies regardless of their industry, business type, or size. Therefore, corporations, partnerships, and limited liability companies are eligible. This flexibility enhances the prospect of its use by firms in distressed areas and incents (or rewards) innovative corporate strategies that undergird "growth companies" regardless of industry.

North Carolina firms generated $221 million in state R&D tax credits between 2003 and 2008. Retaining the R&D tax credit will cost an estimated $250 million in credits generated and $124 million taken during 2010 to 2015.

2. Eliminate North Carolina's Statutory Tax Credits (i.e. Article 3J Program).

North Carolina's current economic incentive portfolio is heavily allocated toward the statutory tax credits constituting the William S. Lee Act and the Article 3J program. Of the more than $2 billion in economic incentives committed between 1996 and 2006, 98% of the incentives were in the form of statutory tax credits.

Such tax credits were the basis of North Carolina's original foray into economic incentives. The process that devised what became the William S. Lee Act was a thorough and thoughtful one that drew on the best available information to devise appropriate incentives for the economy of the mid-1990s. In fact, the incentives appeared to have succeeded for several years as the companies receiving them outperformed the overall North Carolina economy throughout the 1990s.

Unfortunately, by the end of that decade companies receiving statutory tax credits no longer outperformed – or even matched – the state's economy. The explanation for this performance decline may be attributable to several factors, including legislative amendments that expanded the number of eligible firms and possibly diluted the net employment effect. But the economic circumstances and growth industries of the early 1990s had clearly changed by 2001, and they have changed even more dramatically in 2009. Thus it is reasonable that an incentive portfolio highly reliant on tax credits should be reconsidered based on updated information.

Research has shown that the most effective incentives are those that can be tailored to address company-specific location decision matrices. Statutory tax credits, while having the advantage of certainty based on stated eligibility criteria, lack the flexibility needed to develop customized incentive packages. Moreover, despite significant modifications over the years, statutory tax credits have consistently failed to significantly benefit distressed counties.

Tax credits can have a positive marketing effect as a program to benefit existing businesses, and they have been commonly utilized as a marketing tool by economic developers. While employment outcome research and even the company executives themselves have minimized the effectiveness of tax credits, undoubtedly among the more than 3,000 firms receiving such tax credits in North Carolina between 1996 and 2006, there were numerous instances where such credits were essential. Unfortunately, the rigidity of the credits' statutory nature makes North Carolina's current tax credits expensively inefficient for targeting such opportunities selectively.

We recommend eliminating the Article 3J program in advance of its scheduled "sunset" date. North Carolina's statutory tax credits accounted for an estimated $783 million in credits generated between 2003 and 2008. Forecasting tax credit generation and usage is complicated by the transition from the Lee Act to Article 3J credit programs, as well as the dampening effect of the current economic downturn. Nonetheless, eliminating the Article 3J program is predicted to result in total savings of $574 million in retained tax revenues during 2010 to 2015, with the great majority of savings being realized in the later years due to the lag effect of the carry-forward nature of current credits.

3. *Expand JDIG and One NC Programs in Number of Annual Projects and Annual Threshold with Increased Amounts Targeted to Distressed Counties.*

Many of the deficiencies of North Carolina's statutory tax credit incentives have been addressed in the development and implementation of the state's discretionary incentive programs, the Jobs Development Investment Grants and the One North Carolina Fund. While to date the discretionary incentives have shown limited success in targeting distressed counties, a strong potential for enhancing such outcomes nonetheless exists within the program.

Administration of the program through the Department of Commerce provides for the deliberate evaluation of potential net economic benefits. Such analysis provides a basis for calculating the appropriate scale of offered incentives and the capability to incorporate economic incentives within a broader package of assistance resources. The inclusion of specific performance outcomes as the prerequisite for incentive payments provides a powerful enforcement mechanism absent from the statutory tax credits.

We recommend that the JDIG and One NC programs be expanded, committing additional funding to distressed counties. To maximize the net economic benefit of discretionary incentive projects, the Department of Commerce's cost-benefit model should be modified to emphasize a stronger preference for incumbent workforce utilization, location of corporate headquarters, and consistency with Commerce's targeted industry clusters.

Achieving these objectives will require a more proactive effort to use incentives in targeting firms whose workforce and other location criteria provide better matches for the characteristics of North Carolina's distressed counties. We therefore also recommend increasing state and regional economic development research and marketing budgets for proactive targeting of growth-stage companies in targeted industry clusters.

Doubling the JDIG program with increased amounts targeted to distressed counties will require an estimated additional cost of $74 million total from 2010 to 2015. Enhancing economic development research and marketing will require an additional $1.5 million per year.

4. *Utilize Savings from Elimination of Statutory Tax Credits to Support Phased Reduction of Corporate Tax Rate to Competitive Neutral Rate of 6.5%.*

North Carolina's corporate tax rate is conspicuously higher than the next highest rates of its primary rival states. We recommend that a portion of the future saving achieved by the elimination of the Article 3J statutory tax credits be used in a multi-year reduction of the current rate of 6.9% to a competitive neutral rate of 6.5%.

Reducing North Carolina's corporate tax rate was found to be a viable alternative to continuing the existing statutory tax credits. Corporate tax rate reduction is economically preferable in that it has lower transaction costs for tax filings and reporting than statutory tax credits. Our surveys also found that reducing business taxes was preferred by both incented and non-incented companies as an alternative to selected tax credits.

Such corporate tax rate reduction would bring North Carolina "in line" with our competitor states. At 6.9%, North Carolina's corporate tax rate is 0.4% higher than Alabama and Tennessee (6.5%). A reduction to 6.5% would still leave the North

NORTH CAROLINA
DEPARTMENT OF COMMERCE

April 1, 2010 Report

Information current as of March 24, 2010

This report is made to the Revenue Laws Study Committee, pursuant to N.C. Gen. Stat. § 143B-435.1(d). The following provides information on clawbacks in various programs administered by the Dept. of Commerce.

PROGRAM	COMPANY	TOTAL AMT TO BE REPAID	AMT REPAID	DATE AND/OR TERMS OF RECOVERY	AMT TO BE REPAID	TRIGGERING EVENT
One NC[1]	Philip Morris USA	$ 750,000.00	$ 750,000.00	7-5-07	0	Facility closed. Moved operations to Va.
One NC	Pulte Mortgage	$ 55,000.00	$ 55,000.00	10-6-08	0	Facility closed
One NC	IWCO Direct	$ 93,750.00	$ 20,833.32	$5208.33 to be paid monthly from 12/21/09 thru 5/21/11	$72,916.68	Facility closed
JDIG[2]	Brunswick Corporation	$ 83,524.00	$ 83,524.00	4-23-09	0	Facility closed
JDIG	Dell	$ 1,512,000 .00	$ 1,512,000.00	10-23-09	0	Facility closed
JDIG	Volvo Construction Equipment	$ 69,247.00	$ 69,247.00	1-4-10	0	Termination of project operations
JDIG	Chris Craft	$ 54,212.00	$ 4,517.74	$4517.66 to be paid quarterly from 6/1/10 thru 12/1/12	$49,694.26	Termination of project operations
JDIG	ITG	$ 13,780.00	$ 4,593.34	$4593.33 to be paid on 6/1/10 and 9/1/10	$ 9,186.66	Project terminated due to lay-offs
Green Business Fund[3]	Evans Environmental Energies, Inc.	$ 15,540.42	$ 15,540.42	10-28-09	0	Project terminated due to industrial accident and declining economy; unspent money returned

[1] The One North Carolina Fund statute requires that grant agreement include, and grant agreement do include, the ability to recapture funds for a grantee's failure to comply with the agreement. *See N.C. Gen. Stat. §143B-437.72(b)(7)*. Section 2.7 of The Guidelines for One North Carolina, promulgated under the One NC Statute also requires that agreements contain recapture provisions for nonperformance.

[2] Job Development Investment Grant Program. The ability to recapture funds for failing to maintain operations at the project location for at least 150% of the grant term is statutorily required to be, and is in fact, reflected in JDIG Agreements. This requirement is also reiterated in Section 11.3 of the Criteria for Operation and Implementation of the Job Development Investment Grant Program.

[3] The ability to recapture funds for performance failures is statutorily required to be, and is in fact, reflected in the N.C. Green Business Fund grant agreements. *See* §143B-437.6(5).

Contact: Karen West, General Counsel, Commerce kwest@nccommerce.com 919 715-5579

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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BILL DRAFT 2009-SVxz-17 [v.4] (03/22)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/30/2010 8:17:20 PM

Short Title:	Modernize Admissions Tax.	(Public)
Sponsors:	Unknown.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE AND EQUALIZE THE ADMISSIONS TAX BY EXTENDING IT TO INTERNET TICKET RESELLERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

(a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(4) The business of reselling admission tickets on the Internet under G.S. 14-344.1 for an event venue located in this State.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this section. For taxes imposed under subdivision (a)(4) of this section, gross receipts exclude the price printed on the face of the ticket. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. – A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location. Cities may not levy a license tax on a person taxed under subdivision (a)(4) of this section.

~~Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section.~~ Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a ~~city.~~city, but a county may not levy a license tax on a person taxed under any other subdivision of this section."

SECTION 2. G.S. 14-344.1(e) is repealed.

SECTION 3. If any provision of this act is declared by a court to violate the Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found to be invalid, then G.S. 14-344.1 is repealed.

SECTION 4. Sections 1 and 2 of this act become effective January 1, 2011, and apply to tickets resold on or after that date. The remainder of this act is effective when it becomes law.

Bill Draft 2009-SVxz-17: Modernize Admissions Tax.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	March 31, 2010
Introduced by:		**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	2009-SVxz-17		

SUMMARY: ***This proposal modernizes and equalizes the admissions tax by treating the Internet resale of tickets the same as the first sale. Under this proposal, a person engaged in the business of reselling tickets on the Internet would be required to pay a 3% gross receipts tax on the difference between the face value and the resale price of tickets sold to events in this State.***

CURRENT LAW:

Admissions tax – North Carolina imposes a 3% privilege tax on the gross receipts of a person who offers or manages any of the following taxable amusements:

- A dance or athletic contest for which admission fee in excess of 50¢ is charged.
- Amusement or entertainment for which an admission is charged.
- A performance, show, or exhibition, such as a circus or dog show.

Ticket scalping – G.S. 14-344 limits the total amount a seller or reseller of an admission ticket may charge to "...the combined face value of the ticket, tax and the authorized service fee." The service fee may not exceed $3.00 unless the promoter of the event and the ticket sales agency agree in writing to a different amount and that amount is made known to the public in writing. A violation of this section is punishable as a Class 2 misdemeanor.

Internet ticket resales – In 2008, as part of Senate Bill 1407, the General Assembly enacted G.S. 14-344.1. This statute authorizes a person to resell an admission ticket on the Internet with no cap on price unless the resale is prohibited by the venue. A person who resells an admission ticket under this statute is required to provide a ticket guarantee that must be conspicuously displayed on the person's Website and to direct a prospective purchaser to the ticket guarantee before completion of the resale transaction. The guarantee must provide that a purchaser will be given a full refund if any of the following occurs:

- The event is cancelled.
- The purchaser is denied admission other than due to an act or omission by the purchaser.
- The ticket is not delivered as promised resulting in purchaser's inability to attend event.

Ticket resales are not subject to the admissions tax because the secondary seller is not "giving, offering, managing, or exhibiting" the amusement. The reseller does not fall within the scope of the statute.

Reporting requirement – Internet ticket resellers must report their gross receipts for North Carolina events to the Department of Revenue on monthly basis. Since August 2008, there have been 58 reports showing $1.37 million in total sales and net proceeds for resellers of $502,296.

BILL ANALYSIS: This proposal would do the following:

- Extend the 3% admissions tax to the gross receipts of a person who is engaged in the business of reselling tickets under G.S. 14-344.1. The gross receipts would exclude the price printed on the face of the ticket. Thus, the tax would be imposed on the difference between the price sold and the face value of the ticket. This same tax provision passed the Senate when Senate Bill 1407 was being considered during the 2008 Regular Session, but it was removed when the bill was considered in the

House Finance Committee. This provision would modernize the admissions tax by recognizing the current business model for the sale and resale of tickets, which did not exist at the time the admissions tax was originally enacted in the 1930s. It would also equalize the admissions tax by treating the markup in a resale transaction the same as the face value price in the first sale.

- Prohibit cities or counties from imposing a privilege license tax on Internet ticket resellers.
- Repeal the reporting requirement. The reporting requirement was added to Senate Bill 1407 when the tax provision was removed. The act originally included a sunset, which required the General Assembly to revisit the legislation. At the time, the rationale for the reporting requirement was to provide the General Assembly with data for when it reconsidered the legislation. By taxing these transactions, there is no need for a reporting requirement.
- Provide for the repeal of G.S. 14-344.1 if a court finds that the privilege tax violates the Internet Tax Freedom Act (ITFA) or is otherwise invalid. ITFA temporarily prohibits states from imposing multiple or discriminatory taxes on electronic commerce. A discriminatory tax is one that is not generally imposed and legally collectible on transactions involving similar property, goods, services or information accomplished through other means. Arguments have been raised as to whether this legislation might violate ITFA because it taxes only those ticket resales that occur on the Internet. However, face-to-face ticket resales for greater than face value are generally illegal in North Carolina. As such, an argument can be made that Internet ticket resales are, in fact, given preferential treatment to the extent they are authorized, with no cap, whereas face-to-face ticket resales are essentially prohibited. A similar transaction cannot be conducted by a means other than the Internet. However, since the issue has been raised, the proposal provides that if a court finds that the privilege tax violates ITFA, then the authority to resell tickets on the Internet is repealed.

EFFECTIVE DATE: This bill would become effective January 1, 2011, and would apply to tickets resold on or after that date.

2009-SVxz-17-SMSV-110 v3

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2010 CHANGES IN FEDERAL ESTATE TAX LAW

In December, 2009, the United States Congress adjourned without reaching a compromise agreement on the U.S. estate tax. As a result, on January 1, 2010, the U.S. estate tax and generation-skipping transfer (GST) tax were repealed for one year. The U.S. gift tax was not repealed.

- **What are the major changes in the Federal transfer tax law that took effect on January 1, 2010?** For the estates of decedents dying and gifts made on or after January 1, 2010, the following major changes apply in 2010:

  - The estate tax is repealed, and no estate tax will be due regardless of the size of the estate. In 2009, every decedent's estate was eligible for up to a $3,500,000 estate tax exemption, and the estate tax rate was 45%.

  - The GST tax is repealed, and transfers during lifetime by gift or upon death to grandchildren or more remote descendants and other "third generation beneficiaries" will not result in GST tax regardless of the size of the transfer. In 2009, the maximum GST tax exemption and rate were the same as the estate tax exemption ($3,500,000) and rate (45%).

  - The gift tax is not repealed, however, the gift tax rate is reduced from 45% to 35%. The lifetime gift tax exemption of $1,000,000 remains the same.

  - The basis of property acquired from a decedent will not be "stepped-up" to the value of the property at the time of the decedent's death. Instead, the heirs' basis in the property will be the lesser of the decedent's basis in the property or the value of the property at the time of the decedent's death. This change in the law is sometimes referred to as "carryover basis," and it could potentially have significant income tax consequences to heirs who inherit low basis assets from an estate.

  - The assets of every decedent's estate will be eligible for up to a $1,300,000 increase in basis, and some assets passing to a surviving spouse will be eligible for an additional $3,000,000 increase in basis. Both the $1,300,000 increase in basis and the additional $3,000,000 increase in basis for assets passing to a

surviving spouse require the executor of the estate to take affirmative action in order to be effective.

- **How did this happen?** In 2001, the United States Congress enacted a law (the "2001 Tax Act") that phased out the estate and GST taxes and made many other important changes to the Federal transfer tax laws. The 2001 Tax Act provided that the estate and GST taxes would be repealed in 2010 unless Congress took action by December 31, 2009. In December, 2009, the United States House of Representatives passed a bill that would have permanently extended the estate, gift and GST tax law in effect in 2009. That bill would have made permanent a $3,500,000 estate tax and GST tax exemption, a $1,000,000 gift tax exemption, and a 45% rate. The United States Senate adjourned in December, 2009, without approving that bill or passing any other bill to extend the 2009 estate tax law.

- **Will these changes in the Federal transfer tax law be permanent?** The 2001 Tax Act included a "Sunset Provision" that repeals all of the changes made by that Act as of December 31, 2010, unless future legislation extends those changes. Therefore, unless Congress takes action in 2010, on January 1, 2011, the estate and GST taxes will be reinstated as those tax laws were in effect prior to 2002. That means that the estate, gift and GST tax exemption will be $1,000,000, and the estate, gift and GST tax rate will be 55% (with a 5% "surtax" on some estates larger than $10,000,000). In addition, many other significant changes made to the Federal transfer tax laws by the 2001 Tax Act will be repealed.

- **What is likely to happen in Congress in 2010?** Reports predicting what Congress will do are mere speculation. There are generally four possible legislative outcomes in 2010.

    - Congress could either permanently or temporarily extend the estate, gift and GST tax law that was in effect in 2009.

    - Congress could enact legislation that makes permanent, comprehensive changes to the estate, gift and GST tax law. At the end of 2009, there were numerous bills that had been proposed in both the House of Representatives and the Senate that would have made permanent changes in the Federal transfer tax laws, including the amount of the estate, gift and GST tax exemption (for example, from as little as $2,000,000 to as much as $5,000,000) and the maximum rate (for example, from as low as 15% to as high as 55%).

    - Congress could do nothing, in which case the estate and GST taxes will be reinstated in 2011 as described above.

    - Congress could permanently repeal the estate tax. Although this legislative outcome remains a possibility, given the current political

alignment in Congress, repeal is not likely to occur in this Session of Congress.

- **Will any Federal transfer tax legislation enacted in 2010 be retroactive to January 1, 2010?** The Democratic leadership in Congress has stated that it plans to enact legislation early in 2010 to retroactively reinstate the estate and GST taxes as of January 1, 2010. The Republican leadership has so far opposed any such retroactive legislation. Any such retroactive legislation would likely be challenged in Federal courts on constitutional grounds. However, the final resolution of such litigation could take many years.

- **How are wills and trusts affected by the current repeal of the estate tax?** Many wills and trust agreements include "formulas" to determine what amounts of the estate will pass to different beneficiaries or to trusts for the benefit of different beneficiaries. Those kinds of "formula provisions" are usually based upon the estate and GST tax law in effect at the time of the testator's death. For example, a will or trust agreement could include a formula provision allocating the largest amount or percentage of the testator's estate that can pass free of estate tax to a "Family Trust" for the benefit of the testator's children and the remainder of the estate to a "Marital Trust" for the benefit of the testator's surviving spouse. Depending upon the exact wording of the will or trust agreement, it is possible that this kind of provision would result in the entire estate passing to the Family Trust and nothing passing to the Marital Trust. Formula provisions allocating the "GST exempt" and "GST nonexempt" shares of the estate and formula provisions allocating charitable and noncharitable shares of the estate could present similar problems.

- **How will the change in the Federal estate tax law affect the North Carolina estate tax law?** As long as there is no federal estate tax, under current North Carolina law, there will be no North Carolina estate tax. If Congress enacts the estate tax law in effect in 2009, enacts new estate tax legislation, or allows the 2001 law to be reinstated, then North Carolina estate tax will be due in those estates paying a federal estate tax.

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U.S. and N.C. ESTATE TAX COMPARISON BY YEAR OF DEATH

	2009[1]		2010[2]		2011[3]	
	$1.5 M	**$4 M**	**$1.5 M**	**$4 M**	**$1.5 M**	**$4 M**
U.S. Estate Tax	0	$123,750	0	0	$145,600	$1,495,000
N.C. Estate Tax	0	$225,000	0	0	$64,400	$274,160
Total	0	$348,750	0	0	$210,000	$1,769,160

1 $3.5 M exemption in effect.
2 Estate tax repealed.
3 Assumes the current laws remain in effect, and U.S. Tax reverts to pre-2002 law with a $1 M exemption.

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Historical Overview of N.C. Estate Tax

(1) For many years prior to January 1, 1999, N.C. had an inheritance tax system.
   (a) Taxed the right to receive property at death.
   (b) Tax measured by amount of property received by the beneficiary and proximity of kinship to decedent.

(2) N.C. estate tax is closely tied to federal state death tax credit under Section 2011 of the Code ("SDTC').
   (a) For many years federal tax law allowed a federal estate tax credit for state death taxes paid.
   (b) Credit was equal to state death taxes actually paid, but not more than amounts shown in schedule contained in Section 2011 that ranged from 8/10 of 1% for the smallest estates to 16% for largest estates (Marginal rate on $1,000,000 taxable estate is 5.6%).
   (c) Payment to state of amount allowed by Section 2011 would not "cost" estate any money, so many states adopted a "pick up tax" that simply taxed the estate for the amount allowed as SDTC under Section 2011.

(3) As of January 1, 1999 when inheritance tax was repealed, NC had two death taxes:
   (a) Inheritance tax.
   (b) Estate tax equal to difference between the SDTC allowed by federal system and N.C. inheritance tax on that same estate.

(4) As of January 1, 1999, N.C. repealed the inheritance tax and adopted a "pick up tax" system.
   (a) N.C. estate tax only imposed when a federal estate tax imposed.
   (b) N.C. estate tax equal to maximum SDTC under Code Section 2011.
   (c) Example: In 2001, the federal applicable exclusion amount was $675,000. With taxable estate of $1,500,000, federal estate tax would be $335,250 with a SDTC of $64,400, for net federal estate tax of $270,850; NC estate tax would be $64,400.

(5) Game Changer!! Effective January 1, 2002 Congress enacted Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")

(a) Increased applicable exclusion amount:
  (i) $1,000,000 for 2002 and 2003.
  (ii) $1,500,000 for 2004 and 2005.
  (iii) $2,000,000 for 2006, 2007 and 2008.
  (iv) $3,500,000 for 2009.

(b) Maximum estate tax rate reduced gradually from 55% in 2001 to 45% in 2009.

(c) Chapter 11 (estate tax provisions) not applicable to estates of decedents dying after December 31, 2009 (so-called "repeal").

(d) After repeal, basis of assets received from a decedent no longer stepped-up to date of death value; basis would carry-over from the decedent's basis.

(e) Gift tax not repealed but top gift tax rate dropped to 35% after January 1, 2010.

(f) Sunset provision.
  (i) All changes made by EGTRRA expire on December 31, 2010.
  (ii) After December 31, 2010, tax law "shall be applied . . . . as if the provisions and amendments [of EGTRRA] had never been enacted."
  (iii) Applicable credit amount is $1,000,000 after December 31, 2010.

(g) SDTC reduced, then eliminated.

  (i) SDTC allowed under the statutory table reduced by 25% in 2002, 50% in 2003 and 75% in 2004.
  (ii) SDTC repealed for decedents dying after December 31, 2004.
  (iii) Beginning January 1, 2005, SDTC replaced by a deduction, so benefit depends on size of estate and estate tax bracket.

(6) N.C. problems caused by EGTRRA.

(a) N.C. law was linked to Internal Revenue Code in effect on January 1, 2001. Without amendment, N.C. law would not take into account any changes in EGTRRA.

(b) Threshold for filing N.C. estate tax return would not match threshold for filing federal estate tax return.

(c) N.C. would continue to impose estate tax equal to federal SDTC under 2001 law

(d) There would be an N.C. estate tax on estates with no federal estate tax liability.

(e) With estates owing a federal estate tax, the N.C. tax would exceed the credit that estate received for state taxes on its federal return.

(7) Legislative reaction to EGTRRA-Senate Bill 1115, effective May 1, 2002.
   (a) Changed statutory reference to the "Internal Revenue Code as enacted as of May, 1, 2002".
   (b) Reference to updated Internal Revenue Code made changes in EGTRRA effective in N.C., including increased applicable credit (new threshold for taxation).
   (c) Imposed N.C. estate tax equal to maximum credit for state death taxes allowed under Section 2011 of the Internal Revenue Code "without regard to the phase-out of that credit under subdivision (b)(2) of that section."
   (d) Without this change, the phase out of the SDTC would have eliminated all revenue to N.C. from the estate tax.
   (e) G.S. 105-32.2 has been "tweaked" by Legislature in 2003, 2004 and 2006.

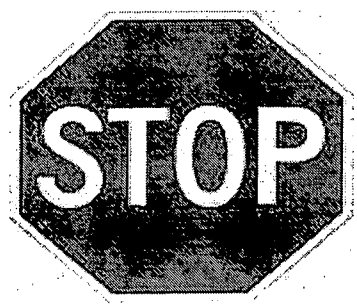
(8) Status of N.C. estate tax law as of December 31, 2009.
   (a) No N.C. estate tax on taxable estates not exceeding $3,500,000.
   (b) No N.C. estate tax return unless federal return is required.
   (c) For taxable estates exceeding $3,500,000, N.C. estate tax was equal to SDTC in effect pre-EGTRRA.
   (d) But N.C. estate tax cannot exceed "amount of federal tax due under the Code".
      (i) Limitation in law because in some cases SDTC due to N.C. could greatly exceed federal estate tax.
      (ii) Limitation calculates federal estate tax without taking into account any credits, such as SDTC.
   (e) Example: $4,000,000 taxable estate; state death tax credit computed under 2001 law=$280,400; federal estate tax computed without taking into account any credits=$225,000; N.C. estate tax imposed=$225,000; federal estate tax imposed= $123,750.
   (f) Before EGTRRA, N.C. estate tax cost estate nothing because of full credit; in 2009, estate actually pays more total tax; total tax is increased by 55% of amount of N.C tax.
   (g) As of December 31, 2009, N.C. was:
      (i) "coupled" with federal law as to filing requirement and exemption equivalent.
      (ii) "decoupled" from federal law for determining estate tax without regard to repeal of SDTC.

Estate Tax Issues & Options

Revenue Laws Study Committee
March 31, 2010
Cindy Avrette, Research Division

North Carolina Estate Tax

- When is a NC estate tax imposed?
  - When a federal estate tax is imposed under section 2001 of the Code.
- **No federal estate tax in 2010**
- **No State estate tax in 2010**



NC's 2010-2011 Forecast Outlook

- Budget Revenue Outlook for March recognizes loss for estate tax revenue
- $85-$90 million loss for FY 2010-11
- $40 million loss for FY 2011-12
- No estate tax = No stepped-up basis
- Modified carryover basis in 2010
- Higher capital gains may result in a modest increase in personal income tax collections

Estate Tax Applicability & Impact

- Federal Data
  - CBO Issue Brief, December 18, 2009
  - In 2007, 17,400 taxable estate tax returns filed
  - Represented ~ 0.7% of adult deaths in that year
  - Accounts for 1% to 2% of total revenues in most of the past 60 years
- North Carolina Data
  - DOR Statistical Abstract of NC Taxes
  - FY08-09, $104 million estate tax collections
  - Accounted for .54% of General Fund revenues
  - Over past 10 years, 1.24% to .54% of General Fund revenues

NC Estate Tax Options

- Continue to follow federal law
- Create stand alone NC law
- Repeal estate tax
- Clarify construction of wills and revocable trusts during the hiatus period

Option 1: Follow Federal Law

- WILL REQUIRE PATIENCE!!
- Many possible variations
  - Nothing – Return to 2001 law in 2011
  - Make 2009 law permanent
  - Modify 2009 law and make it permanent
  - Create inheritance tax
  - Permanently repeal the estate tax
- States with a 'pick-up tax'
  - Illinois & NC – No estate tax, effective 1-1-10
  - 25 other states –No estate tax, effective 1-1-05

Option 2: Go Separate Ways

- NC had its own inheritance tax prior to 1998
- Create new, stand alone State tax
  - Estate tax
  - Inheritance tax
- 19 states and the District of Columbia impose their own estate and/or inheritance tax
  - 11 states = estate tax
  - 6 states = inheritance tax
  - 2 states = estate tax and inheritance tax

Option 3: Repeal NC Estate Tax

- What would the basis of the property be?
- Revenue loss associated with the repeal?
- Arizona (2006) & Virginia (2007) repealed their estate tax
- Kansas' & Oklahoma's estate tax expired 2010

Option 4: Determination of Intent

- 'Hiatus death' documents
  - Wills and revocable trusts often rely on estate tax terms to describe the division between parties
  - These terms have no legal meaning while estate tax expired
- Options
  - Construe tax terms as if federal estate tax existed
  - Construe decedent's 'probable intent' without requiring court to use federal tax law to define terms
  - Common law construction
  - Family settlement agreements

NC Estate Tax Options

- Continue to follow federal law
  - No legislation needed at this time
- Create stand alone NC law
  - Legislation needed
- Repeal estate tax
  - Legislation needed
- Clarify construction of wills and revocable trusts during the hiatus period
  - Legislation needed

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-TDx-23 [v.12] (02/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/31/2010 8:05:44 AM

Short Title: Rev. Laws Technical & Admin. Changes. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. The introductory language to G.S. 105-113.40A reads as rewritten:

"The Secretary must credit the net proceeds of the tax collected under this ~~Article~~ Part as follows:"

SECTION 2. G.S. 105-159.1(a) reads as rewritten:

"(a) Every individual whose income tax liability for the taxable year is three dollars ($3.00) or more may designate on his or her income tax return that three dollars ($3.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund for the use of the political party designated by the taxpayer. In the case of a married couple filing a joint return whose income tax liability for the taxable year is six dollars ($6.00) or more, each spouse may designate on the income tax return that three dollars ($3.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund for the use of the political party designated by the taxpayer. Amounts credited to the Fund shall be allocated among the political parties according to the designation of the taxpayer. Where any taxpayer elects to designate but does not specify a particular political party, those funds shall be distributed among the political parties on a pro rata basis according to their respective party voter registrations as determined by the most recent certification of the State Board of Elections. As used in this section, the term "political party" has the same meaning as defined in G.S. 163-96.~~means one of the following that has at least one percent (1%) of the total number of registered voters in the State~~:

~~(1) A political party that at the last preceding general State election received at least ten percent (10%) of the entire vote cast in the State for Governor or for presidential electors.~~

~~(2) A group of voters who by July 1 of the preceding calendar year, by virtue of a petition as a new political party, had duly qualified as a new political party within the meaning of Chapter 163 of the General Statutes.~~"

SECTION 3.(a) G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(23) A public library created pursuant to an act of the General Assembly."

SECTION 3.(b) This section is effective July 1, 2008 and applies to purchases made on or after that date.

SECTION 4. G.S. 105-187.3 reads as rewritten:

"...

(b) Retail Value. – The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle, including all accessories attached to the vehicle when it is delivered to the purchaser, less the amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. ~~The~~

The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a seller who is not a retailer is the market value of the vehicle, less the amount of any allowance given by the seller for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. A transaction in which two parties exchange motor vehicles is considered a sale regardless of whether either party gives additional consideration as part of the transaction. ~~The~~

The retail value of a motor vehicle for which a certificate of title is issued because of a reason other than the sale of the motor vehicle is the market value of the vehicle. The market value of a vehicle is presumed to be the value of the vehicle set in a schedule of values adopted by the Commissioner.

~~(b1) Retail Value of Transferred Department of Defense Vehicles.~~ The retail value of a vehicle for which a certificate of title is issued because of a transfer by a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad is the sales price paid by the State agency, unit of local government, volunteer fire department, or volunteer rescue squad.

..."

SECTION 5.(a) G.S. 105-263 reads as rewritten:

§ 105-263. ~~Extensions of time for filing a report or return.~~Timely filing of mailed documents and requests for extensions.

(a) Mailed Document. – Section 7502 of the Code governs when a return, report, payment, or any other document that is mailed to the Department is timely filed.

(b) Extension. – The Secretary may extend the time in which a person must file a report or return with the Secretary. To obtain an extension of time for filing a report or return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing a report or any return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a report or return extends the time for paying the tax expected to be due with the report or return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the report or return to the date the tax is paid."

SECTION 5.(b) G.S. 105-241.11(b) reads as rewritten:

"(b) Filing. – A request for a Departmental review of a proposed denial of a refund or a proposed assessment is considered filed on the following dates:

(1) For a request that is delivered in person, the date it is delivered.

(2) For a request that is mailed, the date determined in accordance with G.S. 105-263.

(3) For a request ~~not delivered in person,~~ delivered by another method, the date the Department receives it."

SECTION 6. G.S. 105-241.16 reads as rewritten:

"**§ 105-241.16. Judicial review of decision after contested case hearing.**

A taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings may seek judicial review of the decision in accordance with Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition for judicial review must be filed in the Superior Court of Wake County and in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). ~~A taxpayer who files~~ Before filing a petition for judicial ~~review~~ review, a taxpayer must pay the amount of tax, penalties, and interest the final decision states is due. A taxpayer may appeal a decision of the Business Court to the appellate division in accordance with G.S. 150B-52."

PROPERTY TAX CHANGES

SECTION 12. G.S. 105-275(29a) reads as rewritten:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

...

(29a) Land that is within an historic district and is held by a nonprofit corporation organized for historic preservation purposes for use as a future site for an historic structure that is to be moved to the site from another location. Property may be classified under this subdivision for no more than five years. The taxes that would otherwise be due on land classified under this subdivision shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when an historic structure is not moved to the property within five years from the first day of the fiscal year the property was classified under this subdivision. In addition to the provisions in G.S. 105-277.1F, all liens arising under this subdivision are extinguished upon the location of an historic structure on the site within the time period allowed under this subdivision."

SECTION 13. G.S. 105-277.1C(b)(1) reads as rewritten:

(b) Definitions. – The following definitions apply in this section:

(1) Disabled veteran. – A veteran of any branch of the Armed Forces of the United States whose character of service at separation was honorable or under honorable conditions and who satisfies one of the following requirements:

a. As of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, the veteran had received benefits under 38 U.S.C. § 2101.

b. The veteran has received a certification by the United States Department of Veterans Affairs or another federal agency indicating that, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, he or she has a service-connected, permanent, and total disability.

c. ~~If the veteran is deceased, the certificate must indicate that he or she had the disability prior to the date of death or that the death was~~ The veteran is deceased and the United States Department of Veterans Affairs or another federal agency has certified that, as of January 1 preceding the taxable year for which the exclusion allowed by this

section is claimed, the veteran's death was the result of a service-connected condition.

(2) Repealed by Session Laws 2009-445, s. 22(c), effective for taxes imposed for taxable years beginning on or after July 1, 2009.

(3) Permanent residence. – Defined in G.S. 105-277.1.

(4) Property tax relief. – Defined in G.S. 105-277.1.

(4a) Qualifying owner. – An owner, as defined in G.S. 105-277.1, who is a North Carolina resident and one of the following:

a. A disabled veteran.

b. The surviving spouse of a disabled veteran who has not remarried.

(5), (6) Repealed by Session Laws 2009-445, s. 22(c), effective for taxes imposed for taxable years beginning on or after July 1, 2009."

SECTION 14. G.S. 105-277.8 reads as rewritten:

"**§ 105-277.8. Taxation of property of nonprofit homeowners' association.**

(a) The value of real and personal property owned by a nonprofit homeowners' association shall be included in the appraisals of property owned by members of the association and shall not be assessed against the association ~~if:~~if the following requirements are met:

(1) All property owned by the association is held for the use, benefit, and enjoyment of all members of the association ~~equally;~~equally.

(2) Each member of the association has an irrevocable right to use and enjoy, on an equal basis, all property owned by the association, subject to any restrictions imposed by the instruments conveying the right or the rules, regulations, or bylaws of the ~~association; and~~association.

(3) Each irrevocable right to use and enjoy all property owned by the association is appurtenant to taxable real property owned by a member of the association.

(4) All property owned by the association and all taxable property owned by the members of the association to which it is appurtenant are subject to the same taxing jurisdictions.

The assessor may allocate the value of the association's property among the property of the association's members on any fair and reasonable basis.

(b) As used in this section, "nonprofit homeowners' association" means a homeowners' association as defined in § 528(c) of the Internal Revenue Code."

SECTION 15. G.S. 105-278(b) reads as rewritten:

"(b) The difference between the taxes due on the basis of fifty percent (50%) of the true value of the property and the taxes that would have been payable in the absence of the classification provided for in subsection (a) shall be a lien on the property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses the benefit of this classification as a result of a disqualifying event. A disqualifying event occurs when there is a change in an ordinance designating a historic property or a change in the property, other than by fire or other natural disaster, that causes the property's historical significance to be lost or substantially impaired. In addition to the provisions in G.S. 105-277.1F, no deferred taxes are due and all liens arising under this subsection are extinguished when the property's historical significance is lost or substantially impaired due to fire or other natural disaster."

SECTION 16. G.S. 105-278.6(e) reads as rewritten:

"(e) Real property held by an organization described in subdivision (a)(8) for a charitable purpose under this section as a future site for housing for individuals or families with low or moderate incomes may be classified under this section for no more than five years. The taxes that would otherwise be due on real property exempt under this subsection shall be a lien

on the property as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the organization fails to construct low- or moderate-income housing on the site within five years from the first day of the fiscal year the property was classified under this subsection. In addition to the provisions in G.S. 105-277.1F, all liens arising under this subdivision are extinguished when the property is used for low- or moderate-income housing within the time period allowed under this subsection."

SECTION 17. G.S. 105-333(14) reads as rewritten:

"(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, or a motor freight carrier company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, ~~a radio common carrier company as defined in G.S. 62-119(3),~~ a cable television company, or a radio or television broadcasting company."

SECTION 18. G.S. 105-333 is amended by adding a new definition to read:

"(21) Terminal facility. – A facility that includes buildings for the handling and temporary storage of freight pending transfer between locations. The term also includes a facility that handles truckloads only and typically consists of a wide, open space where rolling stock is parked, and a building for offices and maintenance of rolling stock."

SECTION 19. Section 4 of S.L. 2009-308 reads as rewritten:

"SECTION 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2010. This act is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2013. ~~Residences receiving the property tax benefit provided by this act are not affected by the repeal of this act until the occurrence of a disqualifying event.~~Notwithstanding the repeal of this act, residences that are receiving the property tax benefit provided by this act in the year immediately prior to the repeal are not affected by the repeal of this act and remain eligible for approval of this benefit for subsequent taxable years until the occurrence of a disqualifying event."

SECTION 20.(a) Section 22.(d) of S.L. 2007-527, reads as rewritten:

"SECTION 22.(d) Subsection (c) of this section becomes effective ~~January 1, 2010.~~July 1, 2010. The remainder of this section is effective when it becomes law."

SECTION 20.(b) Section 22(d) of S.L. 2007-527,. as amended by Section 66 of S.L. 2008-134 reads as rewritten:

"SECTION 22.(d) Subsection (c) of this section becomes effective ~~January 1, 2011,~~July 1, 2013, or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law."

SECTION 20.(c) Section 24.(c) of S.L. 2009-445 reads as rewritten:

"SECTION 24.(c) G.S. 105-330.9 and G.S. 105-330.11, as amended in subsection (a) of this section, are effective when this act becomes law. Subsection (b) of this section and the remainder of subsection (a) of this section become effective ~~July 1, 2011,~~July 1, 2013, and apply to combined tax and registration notices issued on or after that date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system

or registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law."

SECTION 20.(d) Section 8 of S.L. 2007-471. as amended by Section 25.(a) of S.L. 2009-445 reads as rewritten:

"**SECTION 8.** Unless otherwise stated, this act becomes effective ~~July 1, 2011,~~July 1, 2013, and applies to combined tax and registration notices issued on or after that date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first."

SECTION 20.(e) Section 79 of S.L. 2008-134, as amended by Section 25.(b) of S.L. 2009-445 reads as rewritten:

"**SECTION 79.** Sections 16 through 60 of this act become effective January 1, 2009. Except as otherwise provided, the remainder of this act is effective when it becomes law. Section 63 of this act is repealed ~~July 1, 201.~~July 1, 2013."

OTHER CHANGES

SECTION 21.(a) G.S. 143B-437.012(l)(4) reads as rewritten:

"(4) Ninety-five percent (95%) of the sales and use taxes paid on ~~electricity,~~electricity and the excise tax paid on piped natural ~~gas, and the privilege tax paid on other fuel for electricity, piped natural gas, and other fuel consumed at the project that is the subject of the agreement.~~gas."

SECTION 21.(b) This section is effective July 1, 2010.

SECTION 22. G.S. 159-107(e) reads as rewritten:

"(e) ~~Increment Agreements.~~ —Effect of Annexation on District Established by a County. – If a city annexes land in a development financing district established by a county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property within the district shall be paid to the city unless the city enters into an agreement with the county pursuant to this subsection, and the annexed land in the county's district that subsequently becomes a part of the city does not count against the city's five-percent (5%) limit under G.S. 158-7.3 or G.S. 160A-515.1 unless the city and the county enter into an agreement pursuant to this section. The city and the county may enter into an increment agreement under which the city agrees that city taxes on part or all of the incremental valuation in the district shall be paid into the revenue increment fund for the district. An increment agreement may be entered into when the district is established or at any time after the district is established. The increment agreement may extend for the duration of the district or for a shorter time agreed to by the parties."

SECTION 23. G.S. 160A-237.4(b) reads as rewritten:

(b) Assessments Pledged. – An assessment imposed under this Article may be pledged to secure revenue bonds under ~~G.S. 153A-210.6~~G.S. 160A-239.6 or as additional security for a project development financing debt instrument under G.S. 159-111. If an assessment imposed under this Article is pledged to secure financing, the city council must covenant to enforce the payment of the assessments."

SECTION 24. G.S. 160A-613(b) is repealed.

SECTION 25. Section 27A.3(c) of S.L. 2005-451 is repealed.

EFFECTIVE DATE

SECTION 26. Except as otherwise provided, this act is effective when it becomes law.

Bill Draft 2009-TD-23: Rev. Laws Technical & Admin. Changes.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	March 30, 2010
Introduced by:		**Prepared by:**	Cindy Avrette, Heather Fennell, & Martha Walston, Committee Counsel
Analysis of:	2009-TDx-23[v.12]		

SUMMARY: This proposal makes technical, clarifying, and administrative changes to various tax statutes and related laws. This draft is the first one presented to the Committee this interim. Additional changes will be added to the bill at subsequent meetings. Please call one of the drafters if you have any questions or comments about a section included in the draft.

BILL ANALYSIS: Except as otherwise specified, this proposal would become effective when it becomes law.

Section	Explanation
VARIOUS TAX LAW CHANGES	
1	Corrects a reference.
2	Conforms the definition of "political party" in Chapter 105 with the definition in Chapter 163. When the General Assembly enabled taxpayers to designate part of their tax refund to a political party, the definition of 'political party' in the tax statute conformed to the definition of 'political party' in Chapter 163. The General Assembly changed the definition of 'political party' in Chapter 163 in 2006, but failed to make a conforming change in Chapter 105. The two different definitions have led to confusion because the definition under Chapter 163 recognizes three political parties while the definition in the tax statutes recognizes only two political parties.
3	Allows a public library created by an act of the General Assembly a sales and use tax refund. Unlike other public libraries that are part of a city or county government, the Public Library of Charlotte and Mecklenburg County is a creature of law. The General Assembly chartered the library in 1903 as a body corporate. Other public libraries are allowed an annual sales and use tax refund as part of a unit of local government. This section adds public libraries created pursuant to an act of the General Assembly to the list of governmental entities allowed an annual refund. Prior to 2008, the Public Library applied for semi-annual sales and use tax refunds as a charitable entity under G.S. 105-164.14(b). The General Assembly clarified the charitable refund provision in 2008 as applying to 501(c)(3) organizations to limit the expansion of the provision by a Court of Appeals decision in *The Lynnwood Foundation v. N.C. Department of Revenue.* (S.L. 2008-107). The Public Library of Charlotte and Mecklenburg County is not organized as a 501(c)(3) entity. The section is effective July 1, 2008, and applies to purchases made on or after that date. The retroactive effective date refers to the date that the 2008 clarifying legislation became effective.
4	Consolidates two subsections into one because both subsections define the retail value of a motor vehicle for purposes of the highway use tax.

5	Clarifies that the federal mailbox rule governs when a document that is mailed to the Department of Revenue is timely filed. Under the federal mailbox rule, documents submitted by mail to the IRS are considered to be filed on the date shown on the postmark stamped by the USPS. Under current NC law, a notice of appeal submitted to the Property Tax Commission by mail is considered to be filed on the date shown on the postmark stamped by the USPS. However, in regards to other documents submitted to the Department, the issue is unclear. The statutes typically provide that a return or payment must be filed by a certain date or is due by a certain date. The Department has traditionally abided by the mailbox rule. As part of the Tax Appeals changes in 2007, G.S. 105-241.11 provides that requests for review of a denial of a refund or a proposed assessment are considered timely filed on the date the Department receives it. The Department believes the law is now unclear with regards to other filings. This section clarifies the law with respect to documents submitted by mail to the Department and it makes a conforming change to the Tax Appeals statute to remove any ambiguity.
6	Clarifies a disputed tax amount must be paid before seeking judicial review.
PROPERTY TAX CHANGES	
12	Clarifies that liens are extinguished when property is used for low or moderate income housing within allowed statutory time period.
13	Amends the definition of "disabled veteran" to include a veteran whose death was the result of a service-connected condition.
14	Amends G.S. 105-277.8 to add an additional requirement that must be met before property owned by a nonprofit HOA is included in the appraisal of property owned by members of the HOA instead of property owned by the HOA. This additional requirement is that all property owned by the HOA is contained within the same taxing jurisdiction as the taxable property owned by the members of the HOA to which it is appurtenant. This language was in HB 1625, which is currently in House Finance.
15	Clarifies that no deferred taxes are due and all liens are extinguished on historic properties when the historical significance of the property is lost or impaired due to fire or other natural causes.
16	Clarifies that liens are also extinguished when an historic structure is located on the sited within allowed statutory time period.
17	Removes the obsolete term "radio common carrier" from the definition of "public service company" in G.S. 105-333.
18	Adds a definition for "terminal facility" to G.S. 105-333.
19	Clarifies that the repeal of the builder's inventory property tax deferral does not affect the eligibility of certain property receiving the benefit.
20	Corrects an incorrect effective date for the combined motor vehicle system.
OTHER RELATED LAW CHANGES	
21	Clarifies reference to tax imposed on manufacturing fuel.
22	Removes a duplicate subsection header.
23	Corrects an incorrect statutory reference.

24	Repeals a redundant statute. S.L. 2009-527 adjusted the local vehicle registration fee that may be imposed by a transit authority. The subsection being repealed not only conflicted with the 2009 law change but also became unnecessary in light of the 2009 law change.
25	S.L. 2009-451 repealed the repeal of a statute inadvertently reviving the provision. Clarifies the repeal of the original provision.
EFFECTIVE DATE	
26	Except as otherwise noted, this act is effective when it becomes law.

2009-TD-23-SMRB-55 v5

REVENUE LAWS STUDY COMMITTEE
Wednesday, April 21, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, April 21, 2010, in room 544 of the Legislative Office Building. Seventeen members of the committee were present. Senator Clodfelter presided as chair.

Approval of Minutes from March 31, 2010 Meeting

Senator Hartsell moved for the approval of the minutes of the March 31, 2010 meeting. The motion carried. A copy of the minutes is attached.

Report from the Department of Revenue

Kenneth Lay, the Secretary of the Department of Revenue, was recognized. He provided a brief update on tax refunds and collections. He discussed tax compliance issues and requested additional funds to improve collections and compliance. The discussion also included ABC licensing compliance and requested that laws should be modeled after lottery license laws. A copy of his presentation is attached.

Revenue Issues Associated with Municipal-Owned Communication Services

Heather Fennell, a staff attorney with the Research Division, was recognized for an overview of local governments' public enterprises. A copy of Ms. Fennell's power point is attached.

Vance Holloman, Deputy Treasurer of the State and Local Government Finance Division, was recognized to explain the responsibilities of the Local Government Commission and how local governments are financing their own cable and internet services. A copy of his presentation is attached.

Remarks of Interested Parties

Private Communication Services Providers

Marcus Trathen, a lobbyist with the NC Cable Communications Association, was recognized. He questioned why municipalities should be allowed to compete against private businesses and noted some of the municipalities' budgetary problems. Bill Paramore, Suddenlink Communications representative, was recognized to explain his opposition to municipal broadband services. Herb Crenshaw, a lobbyist with At&T, was recognized. He also voiced opposition to municipal broadband services. A copy of their handouts is attached.

Municipal-Owned Communication Services Providers

Kelli Kukura, representing the NC League of Municipalities, outlined the positive benefits of municipal broadband, such as employment opportunities in underserved areas. She was concerned that limiting municipalities providing broadband will discourage Google from considering a North Carolina town for their new initiative. Brad Walser, the owner of Walser Technology Group, was recognized. He requested that limits not be placed on municipalities wanting to provide broadband. Colman Keane, Senior Strategic Planner, EPB Telecom, was recognized. He outlined the history of broadband, explained smart grids and their applications, and the economic advantages to municipalities providing broadband services. Copies of their handouts are attached.

Octavia Raney, a Raleigh community activist, was recognized to express concern about the possibility of rising utility rates.

The Application of Admissions Tax to Amenities

Trina Griffin, a staff attorney with the Research Division, was recognized to define amenities, explain the current law, and show the various reasons whether to tax or not tax amenities. She also explained the proposed bill draft on modernizing and equalizing the admissions tax by extending it to internet ticket resellers and applying the tax only to the charge for admission to an event and not to extra amenities. A copy of Ms. Griffin's power point and the proposed bill draft is attached.

Richard Thigpen, Carolina Panther's general counsel, and Dave Horne, representing the NC Travel and Tourism Coalition, were recognized to oppose the taxing of amenities.

Due to limited time, the Chair requested that the Committee members review the agenda's remaining proposed legislation in preparation for votes at the May 5th meeting.

The meeting adjourned at 12:26 p.m.

Senator Dan Clodfelter, Presiding Chair

DeAnne Mangum, Committee Clerk

REVENUE LAWS STUDY COMMITTEE AGENDA

Sen. Daniel Clodfelter Rep. Paul Luebke

Wednesday, April 21, 2010
Room 544, Legislative Office Building
9:30 a.m.

I. **Approval of Minutes from March 31, 2010 Meeting**

II. **Report from the Department of Revenue**
– *Kenneth R. Lay, Secretary of the Department of Revenue*

III. **Revenue Issues Associated with Municipal-Owned Communication Services**

- **Overview** – *Heather Fennell, Research Division*
- **Financing Issues Related to Public Enterprises** – *Vance Holloman, Deputy Treasurer, State and Local Finance Division*
- **Remarks from Interested Parties**
  1. Private Communication Services Providers
     - *Marcus Trathen, NC Cable Communications Assn.*
     - *Bill Paramore, Suddenlink Communications*
     - *Herb Crenshaw, AT&T*
  2. Municipal-Owned Communication Services Providers
     - *Kelli Kukura, NC League of Municipalities*
     - *Brad Walser, Walser Technology Group, Owner*
     - *Colman Keane, Senior Strategic Planner, EPB Telecom*

IV. **Improving the Efficiency of Tax Collection Compliance (Proposed Legislation)**
– *Martha Walston, Fiscal Research Division*

V. **The Application of Admissions Tax to Amenities**
– *Trina Griffin, Research Division*

VI. **Resolve Interpretational Questions Raised by Repeal of Federal Estate Tax (Proposed Legislation)**
– *Cindy Avrette, Research Division*

VII. **Expand Exception to Present-Use Value Ownership Requirements (Proposed Legislation)**
– *Martha Walston, Fiscal Research Division*

VIII. **Revenue Laws Technical, Clarifying, and Administrative Changes (Proposed Legislation – Part II)**
– *Cindy Avrette, Research Division*

IX. **Adjournment**

Next Meeting Date: Wednesday, May 5, 2010
in Room 544, LOB, at 9:30 a.m.

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee
Name of Committee

April 21, 2010
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	JD, AL, PA
Michael Flanser	NC DOR
Shawn Miller	CUCA
Mike Taylor	Stanly County
Kevin Leonard	NCACC
[signature]	~~ESJA~~ Public Commission
Vonne Hallyburton	ST. Treasurer Dept.
Anthony Sclair	DST
Jack Cozart	NSS
Octavia Rainey	

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — April 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Melissa Buscher	Time Warner Cable, 4200 Paramount Pkwy, Morrisville
Mark Braul	BPM
Jack Stanley	Time Warner Cable - GSO
Brad Phillips	TWC
Sammy Rogers	TWC
Buck Yarborough	Time Warner Cable
Pam McMahon	CenturyLink
Lennie Collins	DOR
Charles H. Helms	NCDOR
Bill Wilkes	DOR
Michael Brown	DOR

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — April 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Moe Boxley	NC Aggregates
Bill Spencer	NCDOR
Curtis Strole	NeoNova
Jason McGinnis	NeoNova
Laura Sykora	CenturyLink
Yolani Strole	NCLM
Mary Bost	Smith Anderson
Donna Alderman	NCDOR
Janice Davidson	NCDOR
Eric Wayne	NCDOR
Don McConnaughey	SAS

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — April 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John McMillan	DOR

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — April 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Connie Wilson	NCCTA
W. Daniel Ambura	Electricities
Drew Saunders	Electricities
Paul Stock	NCBA
[signature]	NMRS
Nick Tosco	NCLM
Bruce Thompson	Parker Poe
John Goodman	NC Chamber

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Politis	NC Auto Dealers Assn.
CS Hollis	TSS
Doug Lassiter	NCSTA
Jane Patterson	e-nc Authority
Allison Cooper	KLW Attys, P.A.
Brad Walser	Walser Technology Group. 108 S. Main St / Salisbury NC 28144
DONB PARIS	City of Selisby, NC
Susan Kluttz	Mayor of Salisbury, NC
C. Bruce Rose	Mayor City of Wilson
AGNES SPRUCE	CITY OF WILSON
Amy McConkey	NC Beverage Assn

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — April 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mike Hardy	Booth & Associates 1011 Schaub Drive Raleigh 27606
Tay Dittore	Communities United for Broadband 2209 W Cone Blvd Greensboro, NC 27408
Michael Crowell	City of Salisbury / FiberNet PO Box 479 Salisbury NC 28145
AREK KEMPINSKI	Town of Chapel Hill 405 M-L-K Jr. Blvd. C.H. NC. 27514
Jeff Gray	RRW Atty.s
Cam Craig	BPMHL
Catherine Rice	NCRWA/TL
Tom Vanderbeck	Chatham Co.
Dave Treme	city of Salisbury
Brian Pearman	City of Wilson
Bill Seaggin	TSS

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — April 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mia D. Bailey	Electric Cities of NC, Inc.
BW Sepe	Action Audits
Colman Keane	EPB
W. Gerald Colson	Personal Interest
Will Culpepper	Moore + Van Allen
Amy Hobbs	MWC
GRANT GOINGS	WILSON
JIM CAMLEY	WILSON
Jason Sullivan	Raleigh
Brian Hutcheson	Raleigh
Diana Rupp	Holly Springs

N.C. Department of Revenue
Update to the Revenue Laws Study Committee

Secretary Ken Lay

4-21-10

Refund Update

Refund Update through 4/21/2010

	Prior Y-T-D					
	2010		2009		Difference	
	Number	Net Amount	Number	Net Amount	Number	Net Amount
Individual Income	1,410,658	$811,192,251.10	1,553,177	$858,332,473.79	-142,519	($47,140,222.39)
Business Refunds	20,536	$166,139,509.93	27,043	$203,945,229.25	-6,507	($37,805,719.32)
Total	1,431,194	$980,331,761.33	1,580,220	$1,062,277,703.04	-149,026	($81,945,941.71)

Daily Statement of Gross Collections

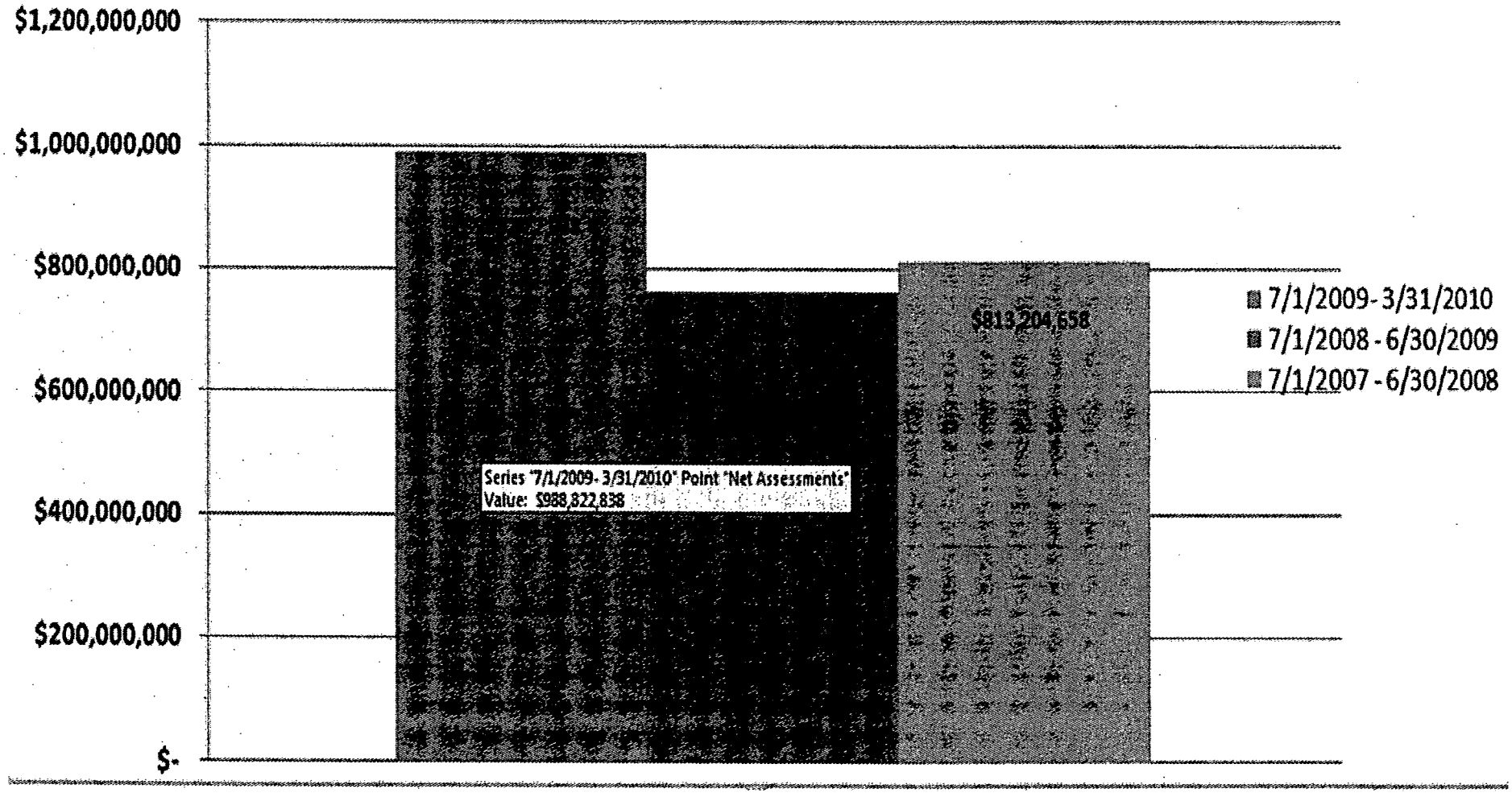
April 15, 2010

	YTD	PYTD	%Change
Total General Fund	**$ 17.78 B**	**$ 17.66 B**	**0.68%**
Individual Income	$ 8.52 B	$ 8.90 B	(4.22%)
Sales & Use	$ 6.25 B	$ 6.16 B	1.36%
Corporate Income	$ 1.23 B	$ 888.4 M	38.06%
Franchise	$ 746.9 M	$ 677.0 M	10.33%
Alcohol + Tobacco	$ 445.1 M	$ 404.7 M	9.98%

Tax Compliance Scorecard

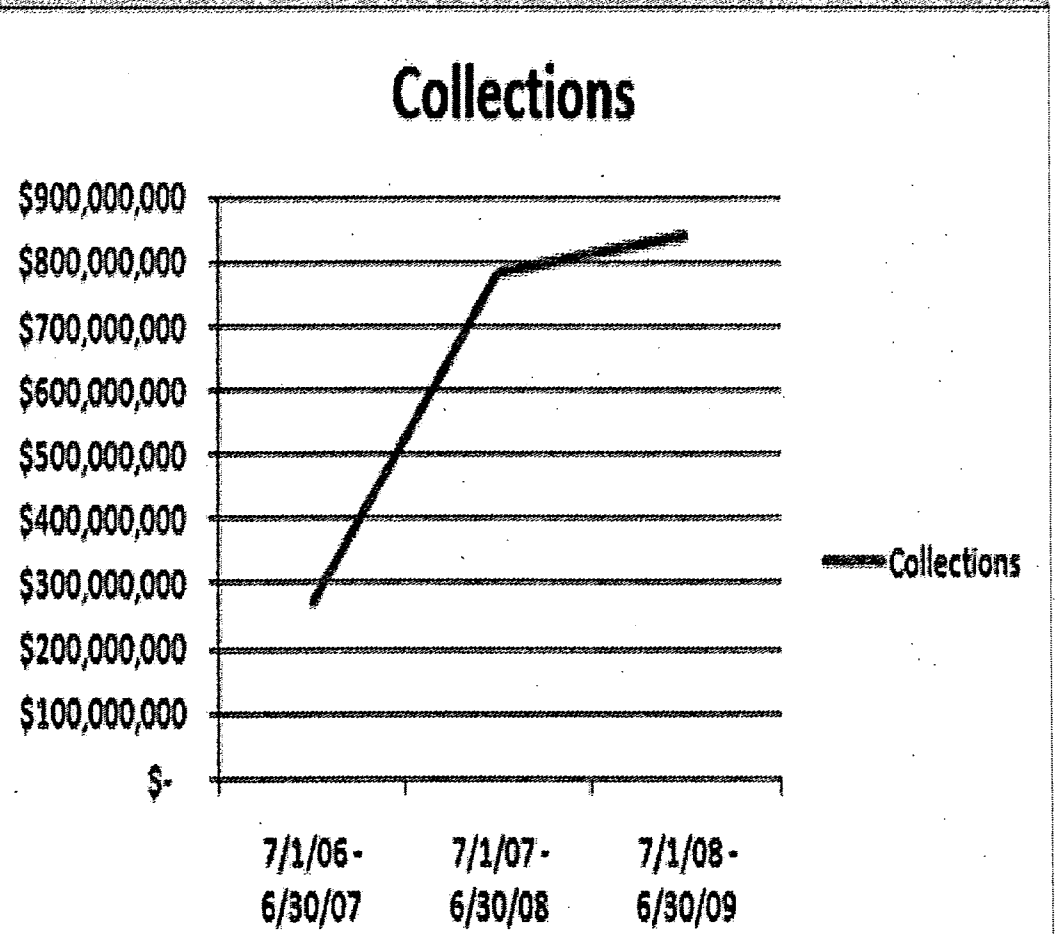
	Jan-10	Feb-10	Mar-10	Change Jan-Feb	% Change	Change Feb-Mar	% Change
YTD Number of Cases	162,347	205,163	231,953	42,816	26.37%	26,790	13.06%
YTD Net Assessments*	$526,157,793	$608,367,251	$668,335,055	$82,209,458	15.62%	$59,967,804	9.86%
YTD Net Collections/Refunds Reduced	$812,835,172	$864,343,009	$944,045,272	$51,507,837	6.34%	$79,702,263	9.22%
Net collections (March 2010) include:							
RI	$424,353,527						
Refunds reduced	$48,233,282						
Accounts Receivable	*$798,552,592*	*$776,531,302*	*$807,860,574*	*($22,021,290)*	*-2.76%*	*$31,329,272*	*4.03%*
Other Information:							
Collection Division							
Current Month Net Collections	$42,468,480	$40,065,197	$39,309,603				
YTD Net Collections	$263,141,217	$303,206,414	$342,516,017	$40,065,197	15.23%	$39,309,603	12.96%
Examination Division							
Current Month Net Assessments	$94,804,480	$82,920,316	$57,474,243				
YTD Net Assessments	$524,444,323	$607,364,639	$664,838,881	$82,920,316	15.81%	$57,474,242	9.46%
Motor Fuels Division							
Current Month Net Assessments	$809,799	($710,858)	($1,861,657)				
YTD Net Assessments	$6,068,689	$5,357,831	$3,496,174	($710,858)	-11.71%	($1,861,657)	-34.75%
Tax Enforcement Division							
Current Month Net Collections	$603,357	$922,633	$1,059,292				
YTD Net Collections	$4,628,200	$5,996,156	$7,055,448	$1,367,956	29.56%	$1,059,292	17.67%

EXAMINATION DIVISION
NET ASSESSMENTS



Collections from July 1, 2006 through 6-30-09 line graph does not include current FY data from 7-1-09

Period	Collections
7/1/06 - 6/30/07	$ 271,450,646
7/1/07 - 6/30/08	$ 782,314,498
7/1/08 - 6/30/09	$ 842,622,651
7/1/09 - 3/31/10	$ 743,720,239



Public Enterprise Authority of Local Governments

Heather Fennell
Revenue Laws Study Committee
April 21, 2010

G.S. 106A-311 – Cities.

(1) Electric power systems.
(2) Water supply and distribution systems.
(3) Wastewater collection, treatment, and disposal systems.
(4) Gas production, storage, transmission, and distribution systems.
(5) Public transportation systems.
(6) Solid waste collection and disposal systems and facilities.
(7) Cable television systems.
(8) Off-street parking facilities and systems.
(9) Airports.
(10) Stormwater management programs.

(7) Cable television systems.

BellSouth Telecomms., Inc. v. City of Laurinburg, 168 N.C. App. 75, 606 S.E. 2d 721 (2005).

A city is within its municipal authority to offer a fiber optic network.

Public enterprise authority.

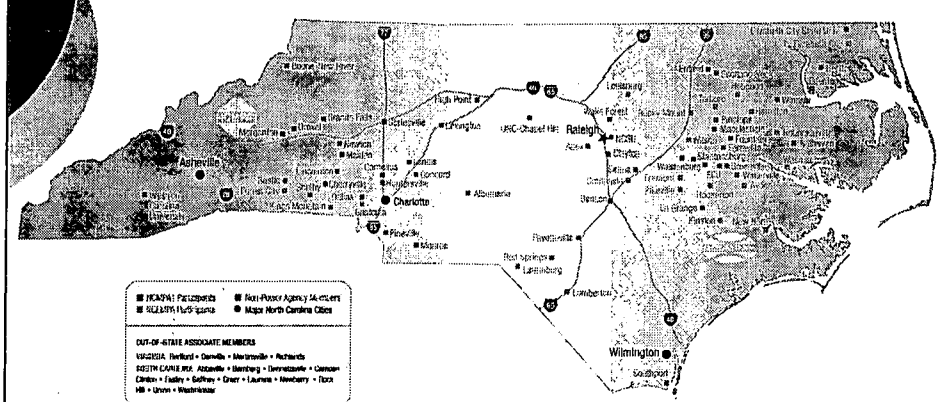
- To "acquire, construct, establish, enlarge, improve, maintain, own, operate and contract for the operation."
- To finance.
- To fix and enforce rates.
- To sell, lease, or discontinue a public enterprise.

Cities that offer communications services.



Morganton
Salisbury - starting Aug!
Davidson/Mooresville
Wilson

Cities that offer electric power systems.



Taxes – Telephone/ Broadband.

Tax	Private	Cities
Income	Yes	No
Franchise tax	Yes	No
Sales tax on purchases by entity	Yes (some exceptions)	No (refund)
Sales tax on product by consumer	Yes	Yes
Property tax	Yes	No

Taxes – Video Programming.

Tax	Private	Cities
Income	Yes	No
Franchise tax	Yes	No
Sales tax on purchases by entity	Yes (some exceptions)	No (refund)
Sales tax on product by consumer	Yes	Yes
Property tax	Yes	No

Taxes – Electricity.

Tax	Private	Cities
Income	Yes	No
Franchise tax	Yes	No
Sales tax on purchases by entity	Yes	No (refund)
Sales tax on product by consumer	Yes	Yes
Property tax	Yes	No

Role of the Local Government Commission

Cable and Broadband Enterprises

Vance Holloman, Deputy Treasurer

State Treasurer, State & Local Government Finance Division

Methods of Financing Projects

- General Obligation Bonds (GO)
- Revenue Bonds
- Installment Purchase Financing

- Each method would require LGC approval of the financing

- To date units have only used installment purchase financing for cable projects

Findings Required to Approve Project

- Financing is Necessary and Expedient
- Amount to be borrowed is adequate and not excessive
- Unit has Good Debt Management Practices
- If tax increase necessary to pay debt service, not considered excessive
- Feasibility
- Debt can be marketed at affordable rates
- Unit is not in default on any of its debt

rely on local officials to make that determination.

make sure they can pay the debt, public meetings agreed to raise property taxes if necessary

Installment Purchase Financings G.S. 160A-20

- Negotiated Sale
- Does Not Require Referendum
- Public Hearing Required for Real Property
- Pledge of Financed Asset
- Neither Taxing Power nor Revenues Pledged
- Bank Purchase, Public Placement

underwriters taking negotiated orders for the debt.

(similar to a mortgage)

Common Elements of Recent Cable Financings

- Projects would provide cable and internet services
- Units felt that broadband access was needed for economic development
- Units would prefer cable companies to provide the service but felt that would not occur for many years
- Units anticipate cable revenues will cover operations and debt service but are willing to use other sources for economic development

Morganton, NC
CoMPAS Cable TV

- Franchise acquired in 1992 from Madison Cable TV
- Initial IP loan $4 MM - paid off
- System Upgrade 2003 - $7.3 MM IP loan
- Current balance $1.0MM
- Transfers from Electric Fund $100-250K last three years
- Net Oper. Loss - FY09 128K; FY08 $436K; FY07 $525K

Wilson, NC
Greenlight

- Expanded City's fiber-optic backbone to provide FTTP (Fiber To The Premises) in 2007
- Initial COPs $18.5MM in 2007; currently $16.9MM outstanding
- 2nd COPs of $13.5MM in 2008 to complete roll-out; currently $13.3MM outstanding
- Received contribution from Electric Fund of $3.7MM when established causing electric rates to rise
- Net Oper. Loss - FY08-$1.6MM; FY09-$.5MM
- Competes directly with Time-Warner

Mooresville & Davidson, NC
MiConnection

- Purchased Adelphi franchise in 2007
- Initial COPs $80MM for acquisition and upgrade FTTP in 2007
- 2nd COPs of $12.6MM in 2008 to complete roll-out; currently all is outstanding
- FY 2009 $2.6MM operating loss
  - First full year of operations

Salisbury, NC

- Issued $35.9MM in 2008 to build a FTTP system to provide video, phone, & internet
- Currently all is outstanding
- System is under construction; expected roll-out 2010
- Will compete directly with Time-Warner

Summary

- LGC is concerned about the need for local governments to go into debt and take on risks to provide these services typically provided by the private sector
- Is it possible to motivate cable companies to serve these areas? grants, incentives?
- No action should be taken to prevent units from paying debt currently outstanding would hurt NC in bond market
- No actions should be taken that would be contrary to the Local Government Budget and Fiscal Control Act how costs would be allocated

Questions for Cities

- Why shouldn't the issue of entering into competition with private business be put to a vote of your citizens?
- Why should cities receive preferential treatment when they compete with private business?
- Do you have a problem with following the same rules that apply to private businesses when you compete with them?
- Why should the state effectively subsidize cities competing against private business by granting them tax exemptions?
- How many people have you served with telephone, video or broadband service that didn't already have it?

Municipal Competition: Separating Myth From Reality

They say – "Private companies aren't deploying fiber."

The reality –

- Cable companies and other private providers are deploying fiber every day.

- Cable companies have some tens of thousands of miles of fiber deployed in North Carolina.

- Private providers are upgrading their facilities as demand for new services exists. Total industry Capex on broadband is estimated at $30 billion for 2010.

- Cable is deploying technology today that matches the highest download speeds of a FTTH network – 100 Mbps. The FCC broadband plan notes that by 2013 – without any public expenditure of funds – 90% of the country will have access to speeds of more than 50 Mbps. (FCC Broadband Plan at p. 20-21)

They say -- "North Carolina ranks 41st out of 50 states in broadband deployment."

The reality —

- This is completely false and purposefully misleading.

- This ranking is based on a Census Bureau report measuring broadband take rate – i.e., the number of people that subscribe to broadband service.

  - Only about 60% of people with access to broadband choose to subscribe. Reasons for this include: ability to pay; not having a computer at home; not wanting the service; etc.

- Broadband is available to 92% of households in North Carolina from private providers. (This doesn't include mobile wireless broadband.)

They say – "The U.S. is falling behind the rest of the world in broadband deployment."

The reality –

- The U.S. leads the world in wireless deployment. More than 90% of households can choose from at least one 3G wireless broadband provider.

- The U.S. has more facilities-based wireline competition than virtually any other nation. Roughly 80% of households can choose from multiple landline broadband providers.

- The U.S. leads the world in business access to and use of broadband.

- The U.S. ranks 1st in the world on Connectivity Scorecard published by the London School of Business.

- The U.S. ranks 5th (after Sweden, Singapore, Denmark and Switzerland) on the World Economic Forum's Networked Readiness Index.

They say -- "City networks are necessary to get broadband to people that don't have it."

The reality –

- Every city in North Carolina already has access to broadband – usually from more than one provider.

- Wilson and Salisbury have not brought broadband to a single person who did not already have access to it.

They say -- "Building a FTTH network will bring jobs and economic development to the community."

The reality –

Businesses care more about cheap electricity than buying broadband from the government. PRIVATE INDUSTRY WILL PROVIDE WHATEVER SERVICE INDUSTRY NEEDS AND IS WILLING TO PAY FOR.

Since Greenlight began, . . .

- Unemployment increased from 7.5% ('08) to 11.4% ('09)
- 1,234 jobs lost
- 44 companies closed / laid off employees

Plant closings

- Smurfit Stone, 3/10, 110 jobs
- Lenier Health Products (mfg. facility), 3/08, 171 jobs
- Carolina Forge (auto parts),12/09, 27 jobs
- Wilson Sandoz (drug mfg.), 9/09, 50 jobs
- Standard Motor Products (oxygen sensors), 12/09, 36 jobs

They say -- "The network will be self-supporting. No tax or general funds will be used to support the project."

The reality –

- Davidson and Mooresville have been forced to put general fund monies into MI Connection to fill a budget gap.

- Wilson has used $12 million of utility ratepayer monies to prop up its money-losing network.

- Morganton has taken $3 million in utility ratepayer monies to support its money-losing network.

- Wilson and Salisbury pledged to the Local Government Commission that they would raise taxes if necessary to repay their loans.

NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

JANET COWELL
TREASURER

T. VANCE HOLLOMAN
DEPUTY TREASURER

February 2, 2010

The Honorable Evan Webster, Chairperson
MI Connection Communications System
Post Office Box 90
Mooresville, North Carolina 28115-0090

Dear Chairperson Webster:

The staff of the Local Government Commission has analyzed the audited financial statements of MI Connection Communications System for the fiscal year ended June 30, 2009. **The System has serious financial problems which the System's governing board must address immediately.** The Board must take corrective action in the following areas to improve your System's financial position.

We noted signs of financial weakness because current liabilities exceeded liquid assets (cash, investments, and receivables). This ratio gives an indication of the System's ability to pay its current bills, thereby providing a measure of short-term liquidity. The potential exists for cash flow problems to develop in meeting the System's obligations to creditors, employees, and citizens. This liquidity ratio was low because the System reported a net loss on its budget-to-actual statements of $6,184,912, reducing the resources of the System. This indicates that the charges to users were not sufficient to pay the cost of operation, capital outlay and debt service. The Board should review the operations of the System and to take action to increase revenues and/or decrease expenditures, if possible, so that the System will cover its cost of operations.

We noted certain budgetary problems in the audited financial statements. The Statement of Revenues and Expenditures – Budget and Actual (Non-GAAP) on page 17 of the financial statements presents an unbalanced budget. G.S. 159-8(a) requires each local government and public authority to operate under a balanced annual budget ordinance or a project ordinance. The statement shows budgeted expenditures in excess of revenues by $7,050,576. The North Carolina Department of State Treasurer Policies Manual has a section on budgeting that discusses how to prepare a budget as well as the proper way to amend it. A copy of this section can be downloaded from our website at http://www.nctreasurer.com. Select "State and Local Government" followed by "Auditing and Reporting Resources" and "Policies Manual".

We also noted certain expenditures were made in excess of appropriations authorized by the budget ordinance. Actual expenditures exceeded appropriations for programming expenditures, facility based expenditures and administrative expenditures. North Carolina has very specific guidelines regarding the preparation and adoption of the budget ordinance, and the System should take care to ensure that it complies with these requirements. The finance officer and his/her sureties are legally liable for any sums that are disbursed without an authorized appropriation.

325 NORTH SALISBURY STREET, RALEIGH, NORTH CAROLINA 27603-1385
Courier #56-20-45 Telephone: (919) 807-2350 Fax: (919) 807-2352
Physical Address: 4505 Fair Meadow Lane, Blue Ridge Plaza, Suite 102, Raleigh, NC 27607
Website: www.nctreasurer.com

Accordingly, expenditures should be controlled or the budget amended before making any unauthorized disbursements. [G.S. 159-13, 159-25, 159-28(b) and (e)].

We noted various weaknesses in your internal control system which were communicated to you in the report to management regarding internal control deficiencies. The auditor noted that journal entries were not always reviewed and approved. These items, as well as the other items noted by your auditor, were identified to assist you in improving the System's overall accounting system. We urge the System to develop a corrective action plan immediately and begin eliminating these serious internal control weaknesses.

The problem areas addressed in this letter require **immediate** corrective action. Because of the serious financial and budgetary problems that exist, the governing board should develop a financial plan outlining how it intends to control expenditures and operate within its available resources. A copy of the financial plan and a copy of the corrective action plan addressing the items mentioned by the auditor in the report to management regarding internal control deficiencies should be signed by each member of the governing board and submitted to our office within thirty days after receiving this letter. Our staff is available to help you develop your plan if you require assistance. If you have any questions, please contact me at 919-807-2380.

Sincerely,

Sharon G. Edmundson, CPA
Director, Fiscal Management Section

cc: James R. Miller Jr., General Manager
Stacey Bright, Finance Officer
John Kasberger, Board Member
Ken Essex, Board Member
John Venzon, Board Member
Steven A. Miller, Board Member
Dawn Huston, Board Member
Richard W. Howard, Board Member
The Honorable John M. Woods, Mayor, Town of Davidson
Leamon B. Brice, Town Manager, Town of Davidson
The Honorable Bill Thunberg, Mayor, City of Mooresville
Steven Husemann, City Manager, City of Mooresville
Dixon Hughes PLLC

"We owe the citizens an apology"

Chris Carney, Mooresville Commissioner, Mooresville Tribune, 3/24/10

- Commissioner Mac Herring, who voted in favor of the purchase: "We had what now appears to have been flawed financial models. There were financial details that I did not know all the ins and outs of. . . . Until our community buys into the system there is potentially a huge financial drain to municipal resources that was not predicted in our projections for MIC."

- Commissioner Chris Carney, who voted in favor of the purchase: "The board was not aware of some of the financing elements of the bond process and that's disturbing. That's the kind of decisions that were unfortunately were made by a select group and we were not aware of that. . . . We owe the citizens an apology. The town would like to sell the system at some point because most officials never really wanted to own it anyway. . . . but we couldn't sell it if we wanted to."

- Commissioner Miles Abraham, who voted against the project: said he didn't vote for the project originally because the "community was not supportive".

[source: Mooresville Tribune, *Citizens asked to help direct MI-Connection's future*, 3/24/10]



mooresville
TRIBUNE.com

Citizens asked to help direct MI-Connection's future

But board agrees: It's not the time to sell

By Megan Pillow | Mooresville Tribune
Published: March 24, 2010

Wilson Cross-Subsidies

2006: $5,000,000 from Electric Fund

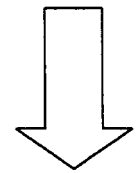
2007: $3,697,080 from Electric Fund

2008: $1,980,000 from Gas Fund

2009: $1,250,000 from Gas Fund

City of Wilson Cross-Subsidies

2006: $5,000,000 from Electric Fund



City of Wilson Comprehensive Annual Financial Report, 6/30/06, p. 56

Note 19 – Telecommunications Capital Project Fund

The Telecommunications Capital Project Fund is an Electric Operating Enterprise Fund capital projects fund. It is consolidated with the Electric Operating Enterprise Fund for economic resources measurement focus and full accrual basis financial reporting. The fund had $5,000,000 transferred to it in the 1999-2000 fiscal year from the Electric Operating Enterprise Fund. The capital project fund has not had any budgeted revenues or expenditures since its inception, until this fiscal year. This is the first year the Supplemental Schedule of Revenues and Expenditures – Budget to Actual (non – GAAP) has appeared in the financial statements for this project.

City of Wilson Cross-Subsidies

2007: $3,697,080 from Electric Fund

City of Wilson Comprehensive Annual Financial Report, 6/30/07, p. 54

Note 13 - Other Resources

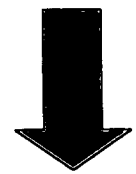
During the year, the General, Electric Gas and Special Revenue Funds provided substantial support to various other funds in the form of transfers. A summary of the City's transfers is listed below:

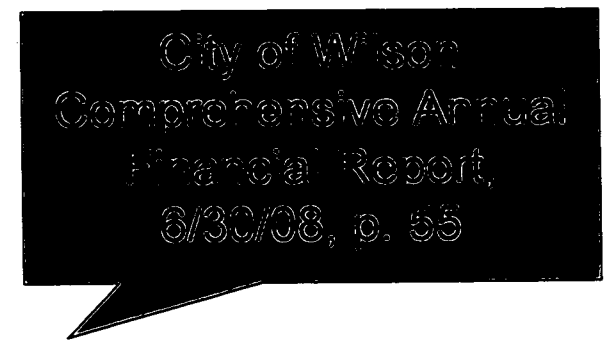
Transfers out

	General	Mass Transit	Broadband	Special Revenue	Industrial Air Center	Capital Projects	Total
General	$	$ 70,170	$	$	$ 34,730	$ 64,500	$ 169,400
Electric	1,874,350	150,000	3,697,080			660,350	6,381,780
Gas	1,057,320	95,530				95,400	1,248,250
Special Revenue				120,063		567,620	687,683
Industrial Air Center						83,000	83,000
Water Resources						194,400	194,400
Capital Projects				10,776			10,776
Total transfers in	$ 2,931,670	$ 315,700	$ 3,697,080	$ 130,839	$ 34,730	$ 1,665,270	$ 8,775,289

City of Wilson Cross-Subsidies

2008: $1,980,000 from Gas Fund





Note 14 - Interfund Receivables/Payables

The following is a detailed schedule of the City's interfund receivables/payables due to/from another fund as of June 30, 2008:

Receivable Fund	Payable Fund	Amount
Risk Management	Revitalization Strategies – Year 5 Coon School Project	$ 300,000
Gas	Broadband	1,980,000
Total		$ 2,280,000

Purpose: The amount above covers the expenditures associated with the Revitalization Grant that have not been reimbursed by the grant as of June 30, 2008 and a loan to Broadband to fund expenditures.

City of Wilson Cross-Subsidies

2009: $1,250,000 from Gas Fund

City of Wilson Comprehensive Annual Financial Report, 6/30/09, p. 57

13. Interfund Receivables/Payables

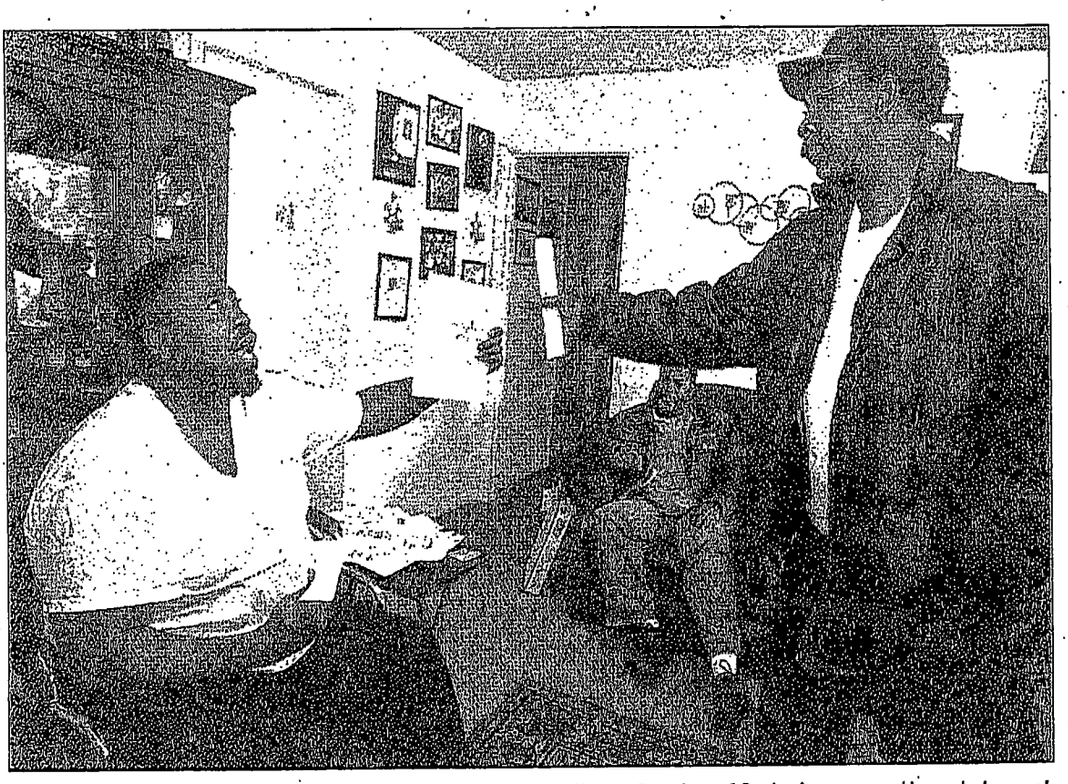
The following is a detailed schedule of the City's interfund receivables/payables due to/from another fund as of June 30, 2009:

Receivable Fund	Payable Fund	Amount
Risk Management	Carter Bank Building Renovation	$ 546,042
Risk Management	J. Burt Gillette Athletic Complex – Phase II	12,958
Gas	Broadband	3,230,000
Total		$ 3,789,000

Purpose: The amount above covers the expenditures associated with the following: 1) Carter Bank Building Renovation funds that have yet to be drawn down from escrow account set up with an installment loan; and 2) J. Burt Gillette Athletic Complex-Phase II pledged donations that have yet to collected; and 3) a loan to Broadband to help fund expenditures in the initial startup years of this enterprise.

THE NEWS&OBSERVER

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Robert James, 51, left, shows his most recent bill to William Darden, 60, during a meeting at James' home in Wilson. They and others met to share ideas about how best to proceed in protesting their rising utility costs, which can amount to hundreds each month.

PHOTOS BY COREY LOWENSTEIN - clowenst@newsobserver.com

Utility customers say their heating bills are outrageous

High costs in Wilson could be in store for the rest of the state

By John Murawski
STAFF WRITER

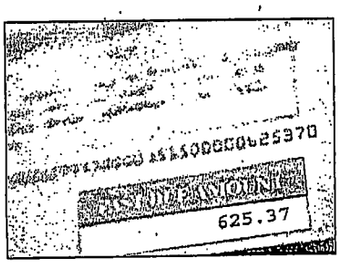
Jeannette Bray keeps her home thermostat at 65 degrees. Some weeks she shuts off the heating upstairs and bundles up in layers of clothing.

Still, her energy bill from mid-December to mid-January came to $682.09 for electricity and natural gas heat. The $436.84 portion for electricity covered the lights and other basics.

"I'm never comfortable," Bray said. "You're just cold all the time."

Bray lives in Wilson, a city about 50 miles east of Raleigh that merits the unenviable distinction of having among the highest utility rates in the state. Residents get electricity and natural gas directly from their city government and pay about 50 percent more for power than customers of Progress Energy and Duke Energy and about 30 percent more for natural gas than PSNC Energy customers pay.

Residents in this city of 49,000 were stunned by the size of their utility bills this winter, in some cases triple the expected amount. The monster bills have led to packed city council meetings and calls for an independent audit. More than 3,000 have joined the Facebook group, "Tired of Paying HIGH utility bills in Eastern NC!," where charges of fiscal mismanagement fly against city officials.



Robert James' most recent power bill for his Wilson home is $625.37, up from about $400 in January.

The NAACP has taken up the cause as well, and plans to hold a rally in the city later this month.

"This is a situation where individual rights are being violated," said the Rev. Alonzo Braggs, president

SEE BILLS, PAGE 10A

THE END OF AN AGE

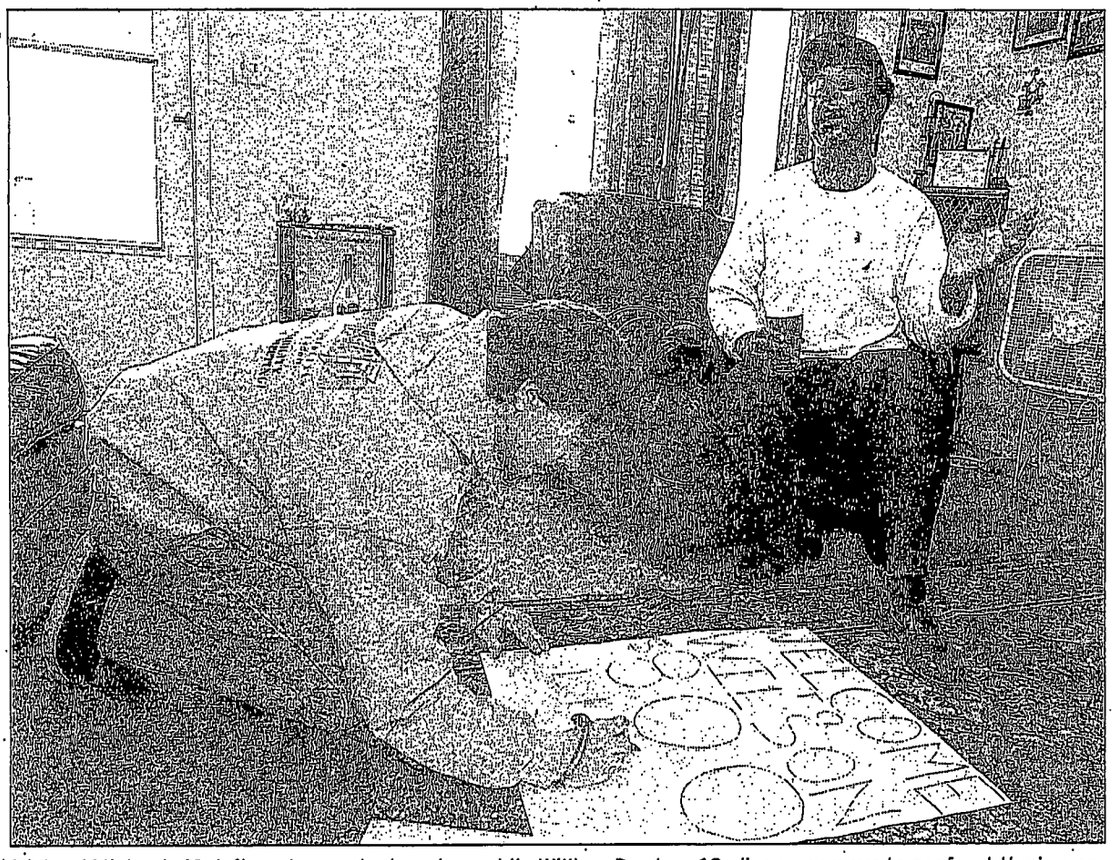
The era of cheap energy is coming to an end. In the coming years, Raleigh-based Progress Energy and Charlotte-based Duke Energy are expected to ask state regulators for rate increases as the utility companies build power plants and tap clean energy resources.

Both companies seek federal licenses to build nuclear plants. A reactor is expected to cost about $7 billion to build and finance.

Progress is shutting down aging coal-burning power plants and replacing them with cleaner-burning natural gas plants at an estimated cost of $1.5 billion. Company officials say the investment in natural gas is cheaper than paying federal penalties on greenhouse gas emissions, which Congress is likely to pass in response to fears of global warming.

In addition, state law requires the companies to increase use of clean alternative energies and to invest in conservation programs, which typically depend on financial incentives paid to customers to buy energy-efficient appliances and equipment.

STAFF WRITER JOHN MURAWSKI

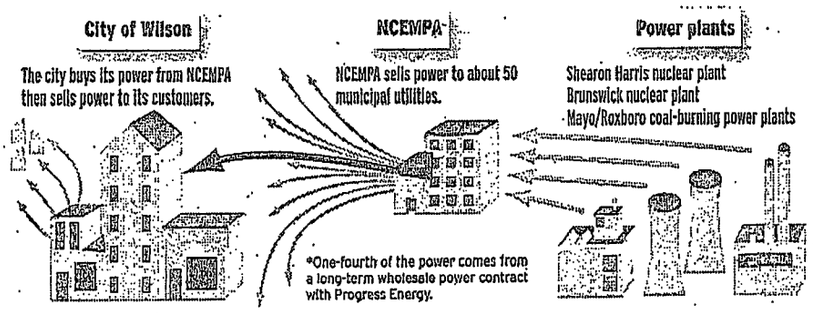


Richard Michael, 43, left, makes protest posters while William Darden, 60, discusses ways to confront the issues. Several local residents met at Robert James' home to share their ideas and discuss how best to organize.

COREY LOWENSTEIN - clowenst@newsobserver.com

THE PRICE OF POWER

The city of Wilson buys its power from the N.C. Eastern Municipal Power Agency, which obtains electricity from Progress Energy and sells power to about 50 municipal utilities. Three-fourths of the power comes from NCEMPA's minority ownership of power plants.*



NCEMPA's average cost to generate power in 2009: 9.9 cents per kilowatt hour
City of Wilson's cost to purchase power from NCEMPA in 2009: 9.3 cents per kilowatt hour**
City of Wilson's residential rate: $14.4 cents per kilowatt hour

** Wilson pays less than the power costs to generate. There's a reason for that: Municipal utilities pay based on a complex formula, and Wilson is very efficient and pays a lower rate than average.

TIM LEE/The News & Observer

They locked into a long-term debt obligation when interest rates were sky-high and the Shearon Harris nuclear plant was experiencing massive cost overruns. That debt shows up in each customer's monthly bill, and it won't be paid off until 2025.

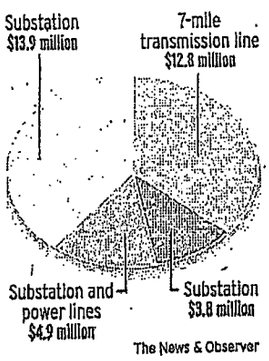
The power agency supplies electricity to Wilson and other municipalities; it has raised the rates it charges nearly 33 percent in the past five years. The increases covered rising operating costs, the soaring cost of coal for power plants and losses to investment income, said Ken Raber, the power agency's senior vice president. The power agency and the municipal utilities do not require approval from the N.C. Utilities Commission to raise rates.

The power agency's rates affect each municipality differently, depending on a town's ability to manage electricity use. Each town, Wilson included, then resells the power to its residents at varying markups.

POWER UPGRADES

The City of Wilson is embarking on the most expensive upgrade to its electrical system in the city's history.

Total: $35.4 million



The News & Observer

The power agency, for instance, spent an average of 9.9 cents a kilowatt hour for the electricity it resold to its member cities in 2009. Wilson paid only about 9.3 cents for that power last year, less than most towns within the network. It got a better deal because the city's industrial customers shift power consumption to off-peak hours, which helps reduce the amount of power Wilson has to pull at premium prices.

Wilson charges residents 14.38 cents per kilowatt hour. By comparison, Progress Energy's winter rate is 9.57 cents. Rocky Mount, on the other hand, paid the power agency more — 10.56 cents a kilowatt hour last year. But Rocky Mount charges its residents 13.1 cents per kilowatt hour, considerably less than Wilson.

The higher costs are justified, Horne said, because they help pay for Wilson's upgrade of its grid.

Wilson is spending $35.4 million to build new power lines and three substations to meet rising energy demand in the city and portions of six counties — Johnston, Edgecombe, Greene, Wayne, Wilson and Nash — that it provides with electric service. Horne said the city has raised rates by 58.5 percent over the past five years to cover the upgrades and power agency increases. Five years ago, Wilson's winter rate was 9.07 cents.

$1,000 utility bills

Some of those who are complaining say they are getting bills above the $1,000 mark, but Wilson's utility bills include all municipal services: water, sewer, recycling, garbage, electric, natural gas. Still, electricity is the single largest component. From mid-December to mid-January when temperatures were about 11 degrees below normal, electric bills more than doubled, going from about $5.28 a day to $13.44 a day – or roughly from $158 to $400 for 30 days of power for an average home.

During the same time Bray was socked with her energy bill, William Darden's electric bill was $692.66. His most recent bill was $568.81.

Darden, who heats his house with electricity, keeps his thermostat at 68 degrees during the day and 60 degrees at night, and won't go any lower. "I refuse to do that — walk around my house with coats, mittens and a hood on," he said. "There's no justification for that."

Wilson Mayor Bruce Rose said many residents don't realize they've been using twice as much electricity and natural gas during the prolonged cold snap. He said the public outrage has been overwhelming.

"I've never seen anything like it before," Rose said. "We're just trying to weather this storm right now."

John.murawski@newsobserver.com or 919-829-8932

H

Court of Appeals of North Carolina.
BELLSOUTH TELECOMMUNICATIONS, INC.,
Plaintiff,
v.
CITY OF **LAURINBURG**, a North Carolina Municipal Corporation,
and
School Link, Inc., a North Carolina Corporation,
Defendants.
No. COA04-145.

Jan. 18, 2005.

Background: Telecommunications company sued city, seeking a permanent injunction and declaratory judgment that city was operating its fiber optic network, which provided internet services to non-city users in conjunction with an internet service provider (ISP), in excess of its authority. The Superior Court, Scotland County, B. Craig Ellis, J., entered summary judgment for city. Telecommunications company appealed.

Holding: The Court of Appeals, McCullough, J., held that providing internet services over its fiber optic network was within the city's statutory authority to operate a public enterprise.

Affirmed.

West Headnotes

[1] Municipal Corporations 268 ⚿57

268 Municipal Corporations
268II Governmental Powers and Functions in General
268k57 k. Powers and Functions of Local Government in General. Most Cited Cases
Municipalities, as creatures of statute, can exercise only that power which the legislature has conferred upon them.

[2] Statutes 361 ⚿190

361 Statutes
361VI Construction and Operation
361VI(A) General Rules of Construction
361k187 Meaning of Language
361k190 k. Existence of Ambiguity. Most Cited Cases
Where the plain meaning of a statute is without ambiguity, it must be enforced as written.

[3] Municipal Corporations 268 ⚿718

268 Municipal Corporations
268XI Use and Regulation of Public Places, Property, and Works
268XI(C) Public Buildings, Parks, and Other Public Places and Property
268k718 k. Means of Public Transportation and Communication. Most Cited Cases
City's fiber optic network was a "cable television network" that fell within statutory authorization for city-owned and operated public enterprises, and thus, provision of internet services over fiber optic network to non-city subscribers was activity within city's statutory authority; network provided for transmission of electronic signals capable of being converted to audio and video, and internet service was additional or supplementary service authorized to be provided over same network. West's N.C.G.S.A. §§ 160A-311(7), 160A-319(b).

****721** Appeal by plaintiff from judgment entered 11 July 2003 by Judge B. Craig Ellis in Scotland County Superior Court. Heard in the Court of Appeals 13 October 2004.

SYLLABUS BY THE COURT

***75 Cities and Towns-public enterprises-cable television system-fiber optic network-extent of municipal authority**

Summary judgment for defendants was affirmed in an action seeking a permanent injunction and de-

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claratory judgment against defendants' operation of a fiber optics network, based on allegations that the network was beyond Laurinburg's statutory authority. North Carolina cities have the statutory authority to operate certain public enterprises, including cable television systems, and statutes are to be construed in favor of the municipality when there is an ambiguity.

****722** Hunton & Williams, L.L.P., by Edward S. Finley and Christopher J. Ayers, Raleigh, for plaintiff-appellant.

Tharrington Smith, L.L.P., by Michael Crowell, Raleigh, for defendant-appellee City of Laurinburg; and Gordon, Horne, Hicks & Floyd, P.A., by Charles L. Hicks, Jr., Laurinburg, for City of Laurinburg defendant-appellee.

Mitchell, Brewer, Richardson, Adams, Burge & Boughman, by Ronnie M. Mitchell and Coy E. Brewer, Fayetteville, for School Link, Inc., defendant-appellee.

McCULLOUGH, Judge.

***76** Plaintiff appellant, BellSouth Telecommunications, Inc. ("BellSouth" or "plaintiff") filed a verified complaint against the City of Laurinburg ("Laurinburg") and School Link, Inc. ("School Link") (collectively "defendants") on 25 July 2002. School Link filed a motion for summary judgment dated 22 May 2003, and BellSouth and Laurinburg filed separate motions for summary judgment dated 23 May 2003. The trial court granted summary judgment in favor of Laurinburg and School Link on 11 July 2003.

This appeal from the trial court's order arises from the following facts and circumstances: BellSouth is a Georgia corporation licensed to do business in North Carolina, and is a public utility subject to the North Carolina's Utilities Commission ("Utilities Commission"). Pursuant to Chapter 62 of North Carolina's General Statutes and its Certificate of Public Convenience and Necessity issued by the Utilities Commission, BellSouth is authorized to "convey[ ] or transmit[ ] messages or communications by telephone or telegraph, or any other means of transmission, where such service is offered to the public for compensation." N.C. Gen.Stat. § 62-3 (23)(a)(6) (2003). BellSouth provides Digital Subscriber Line (DSL) high speed Internet service, and is an Internet Service Provider (ISP) over these lines. Laurinburg is a city in Scotland County and is a North Carolina municipal corporation as defined under N.C. Gen.Stat. § 160A, *et seq.* (2003). School Link is a North Carolina Corporation which, as an ISP, provides Internet services in Scotland County.

Sometime in 1996, Laurinburg laid a twelve (12) strand fiber optic network consisting of multi-mode cable for the purposes of providing electronic communication services between its city hall and the Laurinburg public works building ("LPW"). In 1998, the multi-mode ***77** cable was replaced with single-mode fiber optic cable in what amounted to a nineteen (19) mile loop, with an increase in the number of fiber optic strands from twelve (12) to thirty-six (36). Laurinburg believed this would provide sufficient capacity for its known present needs as well as future required information capacity to meet needs not yet foreseeable in light of changing technology.

From approximately 1998 to 2000, the Electronic Community Resource Center (ECRC), a defense contractor, was connected to the network between its office in downtown Laurinburg and a training room leased by it at St. Andrews College ("St.Andrews"). Though ECRC went out of business in 2000, the fiber used for that connection was left in place.

In late spring or early summer of 2000, School Link became a party to the network as its ISP pursuant to a lease with Laurinburg. Because School Link needed a certain volume of business to make its link to Laurinburg financially feasible, the lease discussions included representatives from School Link, Laurinburg, the Scotland County government, the Scotland County schools, St. Andrews College,

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and the Scotland Memorial Hospital ("Scotland Memorial"). The Laurinburg City Council approved a lease to School Link following a 21 August 2000 public hearing. School Link was to provide the network with internet services including Bandwidth, Mail, Domain Name System (DNS), and web-hosting.

Using the necessary hardware, Laurinburg serviced the rest of the city government, and additionally the non-city users, to the network by routing the network traffic onto the users' property by way of City utility poles. The first non-city users connected were Scotland County school buildings, two (2) of which were connected in October 2000, and the remaining seven (7) in March of 2001. In ****723** early to mid-2001, three Scotland County government buildings were connected. St. Andrews was connected in September of 2001, and Scotland Memorial was connected in November or early December of 2001. Each of the users used two (2) strands of the fiber optic network.

The hardware components for running the network included the following: The city loop consists of one Cisco 3548 switch, one Cisco 7200 router, five Cisco 3524's (two used as backup), eight single-mode fiber converters, and eight two gigabit fiber connections. The Scotland County government loop consists of six single-mode fiber converters and one hub, three converters located in the LPW with a hub, and one fiber converter at the county administration building, ***78** Emergency Medical Services (EMS), and the county library. The Scotland County school loop consists of 18 single-mode fiber converters and eight hubs located at six schools, the school administration building, and LPW. Scotland Memorial is fed by two single mode fiber converters, one at LPW and the other at the hospital. St. Andrews is fed by two single mode fiber converters, one at LPW and the other St. Andrews. School Link's connection is through an interface at LPW with the Laurinburg network, where School Link leases space on a rack holding their own router and equipment. This allows School Link to connect its outside lines to the fiber optic network.

Laurinburg receives $350 per connection per month from each connected user. Payments from the county schools and library differ in that these users pay their fees directly to School Link minus the fees subsidized through E-Rate funding (a federal program that provides grants to entities in rural areas, which funds the substantial majority of the connection fees for the library and the schools.) School Link then forwards to the city the total amount of the connection fees charged by the city for the schools, $2,800, and the library, $350. School Link pays an additional $2,000 per month for the space of their router on the rack at LPW.

Currently, Laurinburg's fiber optics network is being used solely for the purpose of data transmission, and those internet services provided by School Link. Laurinburg has not yet sought to provide cable television programming, and despite the current large amount of excess capacity on the network (approximately 24 strands), it claims that it would have to purchase additional fiber to do so.

BellSouth owns and operates utility poles throughout Laurinburg to transmit telephone services. Since the 1930's, BellSouth has leased from Laurinburg access to its utility poles for such service. Laurinburg has likewise leased from BellSouth access to BellSouth's utility poles to transmit data services.

Before the Laurinburg network was in place and providing an ISP service with School Link, BellSouth provided internet service to Scotland County schools by running a T-1 line to the schools' central office which was the hub for the schools. Those schools, now serviced by Laurinburg and School Link, were at one time serviced by BellSouth over the Laurinburg network. All of those schools out of the reach of the Laurinburg network remain on lines connecting them to the schools' central office, and thus to School Link, on BellSouth's network. Before St. Andrews was a part of the Laurinburg

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network and with School Link as its ISP, BellSouth provided internet service ***79** over a T1 line that connected St. Andrews to the University of North Carolina at Pembroke. Before Scotland County's three buildings were connected to the Laurinburg network with School Link as its ISP, Carolina Online was its ISP. With one exception, all Scotland County users were using a "dial-up" connection over regular telephone lines owned and maintained by BellSouth. The Scotland County Department of Social Services was connected through a T1 line provided by the North Carolina Cooperative Extension Office. After the county buildings had connected to the Laurinburg network, the county turned down BellSouth's offer to provide DSL service.

In their complaint, BellSouth sought a permanent injunction and declaratory judgment, alleging the following grounds for their relief: That Laurinburg fiber optics network was being operated as a "public enterprise" ****724** beyond a municipality's authority to do so under N.C. Gen.Stat. § 160A-311 (2003); and that the contract made with School Link to service non-city users over the network was therefore *ultra vires.* In response to this complaint, and at differing stages of the litigation, Laurinburg and School Link offered a host of legal authority permitting the municipality's operation of their fiber optic network and their agreement with School Link. *See* N.C. Gen.Stat. § 160A-272 (2003) (lease of excess property); N.C. Gen.Stat. §§ 160A-460 through -464 (2003) ("interlocal" agreements); N.C. Gen.Stat. § 160A-311(7) (acting as a public enterprise "cable television systems"); and N.C. Gen.Stat. § 158-7.1 (2003) (allowing for "local development" appropriations).

In reaching our holding on the merits of the case at bar, our analysis addresses two significant issues. The first, which affects the second, is a question of which tools of legal construction are to be implemented in our reading of statutes authorizing municipal powers. And second, when applying the correct tools, do the actions taken by Laurinburg in establishing their fiber optics network fall within one of its authorized powers as a municipality. Based on our analysis set out herein, we affirm the trial court's grant of summary judgment in favor of Laurinburg and School Link on the basis that the municipality is operating what is by North Carolina statutory definition, a "cable television system." *See* N.C. Gen.Stat. § 160A-319(2003). As such, Laurinburg has authority to engage in this "public enterprise" and contract with School Link for its ISP services. N.C. Gen.Stat. § 160A-311(7). We do not, and need not, address those alternative theories offered by Laurinburg as authority for their fiber optics network.

***80 I. Standard of Review/Legal Construction of Chapter 160A**

On appeal from an order granting summary judgment, we review the record in a light most favorable to the party against whom the order has been entered to determine whether there exists a genuine issue as to any material fact. *Oliver v. Roberts,* 49 N.C.App. 311, 314, 271 S.E.2d 399, 401 (1980), *cert. denied,* 276 S.E.2d 283 (1981). Where no such issue of fact exists and summary judgment is proper, we review the trial court's ruling on the motion for summary judgment *de novo* because its basis is found solely in law. *Coastal Plains Utils., Inc. v. New Hanover County,* 166 N.C.App. 333, ----, 601 S.E.2d 915, 920 (2004).

[1] The undisputed facts of this case implicate the municipal powers granted to a city authorized under Chapter 160A of the North Carolina General Statutes. "It is a well-established principle that municipalities, as creatures of statute, can exercise only that power which the legislature has conferred upon them." *Bowers v. City of High Point,* 339 N.C. 413, 417, 451 S.E.2d 284, 287 (1994); *Homebuilders Assn. of Charlotte v. City of Charlotte,* 336 N.C. 37, 41-42, 442 S.E.2d 45, 49 (1994). In setting out these exclusive and limited municipal powers, the legislature has mandated the following:

§ 160A-4. Broad construction

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> It is the policy of the General Assembly that the cities of this State should have adequate authority to execute the powers, duties, privileges, and immunities conferred upon them by law. To this end, the provisions of this Chapter and of city charters *shall be broadly construed and grants of power shall be construed to include any additional and supplementary powers that are reasonably necessary or expedient to carry them into execution and effect:* Provided, that the exercise of such additional or supplementary powers shall not be contrary to State or federal law or to the public policy of this State.

N.C. Gen.Stat. § 160A-4(2003)(emphasis added). N.C. Gen.Stat. § 160A-4 was a part of a 1971 revision of the North Carolina statutes governing municipalities. 1971 N.C. Sess. Laws ch. 698. In *Homebuilders,* the Supreme Court squarely addressed the issue of statutory construction under rule N.C. Gen.Stat. § 160A-4, stating:

> This statute makes it clear that the provisions of chapter 160A and of city charters shall be broadly construed and that grants of power shall be construed to include any additional and ***81** supplementary powers that ****725** are reasonably necessary or expedient to carry them into execution and effect.

Homebuilders Assn. of Charlotte, 336 N.C. at 43-44, 442 S.E.2d at 49-50 (where the Court applied this statute to uphold the assessment of regulatory fees assessed by the city for its related and clearly authorized regulatory activities). In its reading of N.C. Gen.Stat. § 160A-4, the Court found that the narrow rule of construction established over some 100 years prior by common law, known as "Dillon's Rule," had been replaced by the legislature's 1971 enactment. *Id.; see, e.g., Smith v. Newbern,* 70 N.C. 14 (1874), *modified,* 73 N.C. 303 (1875). Dillon's Rule, set out in a treatise on municipal law by Judge John S. Dillon, stated:

> [A] municipal corporation possesses and can exercise the following powers and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation,-not simply convenient, but indispensable.

Dillon, Commentaries on the Law of Municipal Corporations, § 237 (5th ed.1911). The Court in *Homebuilders* goes out of its way to distinguish two of its holdings applying Dillon's Rule after the enactment of N.C. Gen.Stat. § 160A-4. *See Porsh Builders, Inc. v. City of Winston-Salem,* 302 N.C. 550, 276 S.E.2d 443 (1981); *Greene v. City of Winston-Salem,* 287 N.C. 66, 213 S.E.2d 231 (1975). The Court stated:

> In neither case was N.C.G.S. § 160A-4 discussed or cited by the Court and the issue of the interplay between Dillon's Rule of construction and N.C.G.S. § 160A-4 was, therefore, not addressed. Thus, we do not consider *Porsh* and *Greene* as determinative on the issue squarely presented in the instant case: the proper rule of construction of grants of powers to municipalities in light of N.C.G.S. § 160A-4.

Homebuilders Assn. of Charlotte, 336 N.C. at 45, 442 S.E.2d at 50.

In the same year the opinion in *Homebuilders* was rendered, the Supreme Court decided *Bowers v. City of High Point,* 339 N.C. 413, 451 S.E.2d 284 (1994). In *Bowers,* the Court allowed the city to void a contract as being *ultra vires,* stating that the city was correct in asserting that it did not have statutory authority to contract to pay a separation allowance to early-retired police officers based on anything beyond their "base rate of compensation" as set out in ***82**N.C. Gen.Stat. § 143-166.41(A) (1993). *Bowers,* 339 N.C. at 420, 451 S.E.2d at 289. The Court concluded the city lacked statutory power to interpret what the "base rate" included. *Id.* While the Court seemed to resuscitate "Dillon's Rule" by restating it at the beginning of its analysis, the holding of the Court hinged on the following plain meaning analysis:

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> Although we are unable to set forth any rule which easily and conclusively determines what forms of compensation are to be included in "base rate of compensation," we are satisfied that the plain meaning of "base rate of compensation" does not include overtime pay, longevity pay, or pay for unused accrued vacation. "Base pay" is defined as "wages, *exclusive of overtime, bonuses, etc.*"

Id. (quoting *Black's Law Dictionary* 157 (6th ed.1990)). Most recently, without citing either Dillon's Rule, N.C. Gen.Stat. § 160-4, *Homebuilders,* or *Bowers,* the Supreme Court utilized the plain meaning rule again to strike down the City of Durham's Storm Water Quality Management Program ("SWQMP") and fees assessed thereunder. *Smith Chapel Baptist Church v. City of Durham,* 350 N.C. 805, 517 S.E.2d 874 (1999)(" *Smith Chapel* "). The Court in *Smith Chapel* found that under the plain meaning of N.C. Gen.Stat. § 160A-311(10) (1998) (authorizing a municipality to operate as a public enterprise "stormwater and drainage systems of all types") and N.C. Gen.Stat. § 160A-314(a), (a1) (1998), Durham had authority to run a stormwater management public enterprise for compensation, but "limited to those systems of physical infrastructure, structural or natural, for servicing stormwater." *Smith Chapel Baptist,* 350 N.C. at 812, 517 S.E.2d at 879. Therefore, because much of Durham's SWQMP and related fees were not related to the physical stormwater system (such as education programing), the program was found to function ****726** as an unauthorized public enterprise and was struck down. In his dissent writing for three Justices, Justice Frye applied N.C. Gen.Stat. § 160A-4 and *Homebuilders* for the minority opinion's belief that there was some ambiguity in the language of " 'stormwater and drainage *system* ' " that should have been resolved in favor of enabling Durham to execute their authorized public enterprise. *Id.* at 821, 517 S.E.2d at 884.

[2] Though not without nuances and distinguishing factors, we find *Homebuilders, Bowers,* and *Smith Chapel* to be consistent statements of the law and in accord with N.C. Gen.Stat. § 160A-4. The narrow Dillon's Rule of statutory construction used when interpreting municipal powers has been replaced by N.C. Gen.Stat. § 160A-4's ***83** mandate that the language of Chapter 160A be construed in favor of extending powers to a municipality where there is an ambiguity in the authorizing language, or the powers clearly authorized reasonably necessitate " *additional and supplementary powers" "to carry them into execution and effect* [.]" N.C. Gen.Stat. § 160A-4 (emphasis added); *see Homebuilders Assn. of Charlotte,* 336 N.C. at 45, 442 S.E.2d at 50. However, where the plain meaning of the statute is without ambiguity, it "must be enforced as written." *Bowers,* 339 N.C. at 419-20, 451 S.E.2d at 289; *see also, Smith Chapel Baptist,* 350 N.C. at 812, 517 S.E.2d at 879.

II. "Cable Television System"/Fiber Optics Network

[3] Turning to the merits of the case. Among the legal rationales offered by Laurinburg for the operation of its fiber optics network is that it is a "[c]able television system[ ]" ("CTS") authorized to be owned and operated as a public enterprise. N.C. Gen.Stat. § 160A-311(7). We agree.

A. CTS Defined

In North Carolina, a city has authority to operate any or all of the ten "public enterprise[s]" set out in N.C. Gen.Stat. § 160A-311, one of which being a CTS. N.C. Gen.Stat. § 160A-311(7). Included in this authority is the following:

> A city shall have authority to acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of any or all of the public enterprises as defined in this Article to furnish services to the city and its citizens.

N.C. Gen.Stat. § 160A-312 (2003).

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Laurinburg claims the operation of its fiber optics network falls within its authority to operate a CTS, where a CTS is defined as follows:

> (b) For the purposes of this section, "cable television system" means *any system or facility that,* by means of a master antenna and wires or cables, *or by wires or cables alone, receives,* amplifies, modifies, *transmits,* or distributes any television, radio, or *electronic signal, audio or video or both,* to subscribing members of the public for compensation.

N.C. Gen.Stat. § 160A-319(b) (emphasis added). BellSouth claims that this definition pertains only to N.C. Gen.Stat. § 160A-319, a ***84** statute which authorizes and sets time limits for a municipality's authority to franchise utilities. Instead, BellSouth argues the applicable definition is that of a "cable system" as set out in the Cable Communications Policy Act of 1984:

> (7) [A] facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include ... (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of subchapter II of this chapter [47 USCS §§ 201, et seq.], except that such facility shall be considered a cable system (other than for purposes of section 541(c)) of this title [47 USCS § 541(c)] to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services[.]

47 U.S.C. § 522(7) (2002).

We do not read the definition of CTS to be confined to N.C. Gen.Stat. § 160A-319, rather, we believe this clearly represents the ****727** legislature's intended definition for CTS as used in N.C. Gen.Stat. § 160A-311(7). The first sentence of N.C. Gen.Stat. § 160A-319(a) states that

> [a] city shall have authority to grant upon reasonable terms franchises for the operation within the city of any of the enterprises listed in G.S. 160A-311 and for the operation of telephone systems.

N.C. Gen.Stat. § 160A-319(b) explicitly refers to the term CTS as used in the public enterprises statute to define the contours of what a municipality may franchise as a CTS. Additionally, N.C. Gen.Stat. § 160A-319, as first enacted under N.C. Gen.Stat. § 160-2 (effective 4 July 1967), was added to the General Statutes before there was any clear authority that a city could operate its own CTS as a "public enterprise." 1967 Session Laws ch. 100, § 2, ch. 1122, § 1. Had the legislature intended CTS to take on a different meaning when enacting N.C. Gen.Stat. § 160A-311 in 1971, and recodifying N.C. Gen.Stat. § 160-2 into N.C. Gen.Stat. § 160A-319 the same year, we believe they would have done so. *See* Session Laws 1971, Ch. 698. Lastly, without more, we can find no logical reason, nor has one been offered, why ***85** the legislature would desire CTS be defined as something different when operated as a public enterprise by the City than that definition used when a City is granting a franchise of the same.

Therefore, for the purpose of defining CTS in N.C. Gen.Stat. § 160A-311(7), we look to N.C. Gen.Stat. § 160A-319(b) and not the federal code. We note that the federal definition of "cable system" is relevant to the issue of *how* the system will be regulated under the federal code, but offers little guidance as to whether municipalities in North Carolina have *statutory authority* to operate those as a system or network falling within its definition of CTS as a public enterprise.[FN1]

> FN1. There is a line of federal cases touching on the issue of what is and is not a "cable system" under the federal code and for purposes of Federal Communications Commission (FCC) regulations. These

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cases vary in their conclusions, representing a clear ambiguity under federal law of what is a "cable system" in light of today's bundled technology. *See AT&T v. City of Portland,* 216 F.3d 871, 876-880 (9th Cir.2000)(The court concluded transmission of internet service over cable broadband facilities is a telecommunication service for purposes of regulation: "Surfing cable channels is one thing; surfing the Internet over a cable broadband connection is quite another"); *MediaOne Group, Inc. v. County of Henrico,* 257 F.3d 356, 365 (4th Cir.2001) ("We do not have to reach the question of whether MediaOne's bundled Road Runner service is a cable service, a telecommunications service, or an information service"); *Nat'l Cable & Telecom. v. Gulf Power,* 534 U.S. 327, 122 S.Ct. 782, 151 L.Ed.2d 794, (2002) (In interpreting the federal Pole Attachments Act, 47 U.S.C. § 224, Justice Kennedy writing for a majority applied the plain meaning rule in stating that, even if a cable television system is only a cable television system to the extent it provides cable television, an "attachment ... by a cable television system" is still (entirely) an attachment "by" a cable television system whether or not it does other things as well"); *In the Matter of Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling; Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities,* 17 FCC Rcd 4798, 4802(2002)(Where the FCC concluded that a "cable modem service, as it is currently offered, is properly classified as an interstate information service, not as a cable service, and that there is no separate offering of telecommunications service"); and *Brand X Internet Servs. v. FCC,* 345 F.3d 1120, 1132 (9th Cir.2003) (The Court overruled the FCC's declaratory ruling in part, holding that cable broadband service was not a "cable service" but instead was part "telecommunications service" and part "information service.").

B. Laurinburg's Network is a CTS

We next consider whether services offered by Laurinburg over their fiber optic network fall within the plain meaning of N.C. Gen.Stat. § 160A-319(b). Restating that statute in part, a CTS is

> *any system or facility* that, by means of ... wires or cables alone, receives, amplifies, modifies, transmits, or distributes any television, radio, or *electronic signal, audio or video or both,* to subscribing members of the public for compensation.

***86** *Id.* (emphasis added). The statute in no way limits CTS to a specified type of wire or cable, such as coaxial cable, copper T1 lines, or fiber optic lines. Nor does it limit the transmission or reception of electronic signals to any specific content. Thus, in reading this statute, we cannot say that its plain meaning clearly forecloses the statutory authority ****728** of Laurinburg to operate its fiber optic network. *See Bowers,* 339 N.C. at 417, 451 S.E.2d at 287; *Smith Chapel Baptist,* 350 N.C. at 812, 517 S.E.2d at 879. Stated differently, the language of this statute is ambiguous as to whether the fiber optic network run by Laurinburg falls within its contours. Thus, we apply N.C. Gen.Stat. § 160A-4's broad rule of construction.

Laurinburg's network is run over fiber optic "wires or cable," providing a "*system* " for "transmit[ting]" and "receiv[ing]" electronic signals capable of being converted to "audio" and/or "video" streams of information. *See* N.C. Gen.Stat. § 160A-319(b). We believe this fits within a broad construction of the definition of a CTS. Therefore, we hold that Laurinburg is acting within its municipal authority to run its network, and was not acting *ultra vires* in contracting with School Link to provide the network's ISP service.[FN2]

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FN2. The record indicates that Laurinburg has offered BellSouth the opportunity to offer its ISP services over the fiber optics network.

We acknowledge that Laurinburg's fiber optics network was most likely not something the legislature envisioned in 1971 when they enacted the statute allowing a municipality to operate a CTS as a public enterprise. However, if Laurinburg were currently offering the kind of cable programming in place in 1971, and doing so over their fiber optic network, they clearly would be authorized to offer the current bundle of network services over these same lines as "additional and supplementary *powers that are reasonably necessary or expedient.*" N.C. Gen.Stat. § 160A-4. Without authority to offer the bundled CTS services, no municipality could effectively operate in today's market.[FN3] Moreover, just as BellSouth is able to leverage its telephone infrastructure to provide low cost DSL broadband services in the market, so too should a municipality be able to leverage its CTS infrastructure. We believe it would elevate form over function, against the intent of our legislature's mandate for broad construction, to first demand 1971-type cable programming be in place before a 2004 CTS could be authorized as a public enterprise. Rather, the legislature's intent in 1971 was to enable the municipality's public enterprise to grow in reasonable stride with technological ***87** advancements, as it is this advancement which marks the ever-approaching horizon of necessity.

FN3. Cable modem service provides high-speed access to the Internet ... [t]he service is available to approximately 73% of U.S. households. 17 FCC Rcd 4798, 4799-4800.

Based upon the record, appendices, exhibits, and briefs, we uphold the trial court's grant of summary judgment in favor of Laurinburg and School Link.

Affirmed.

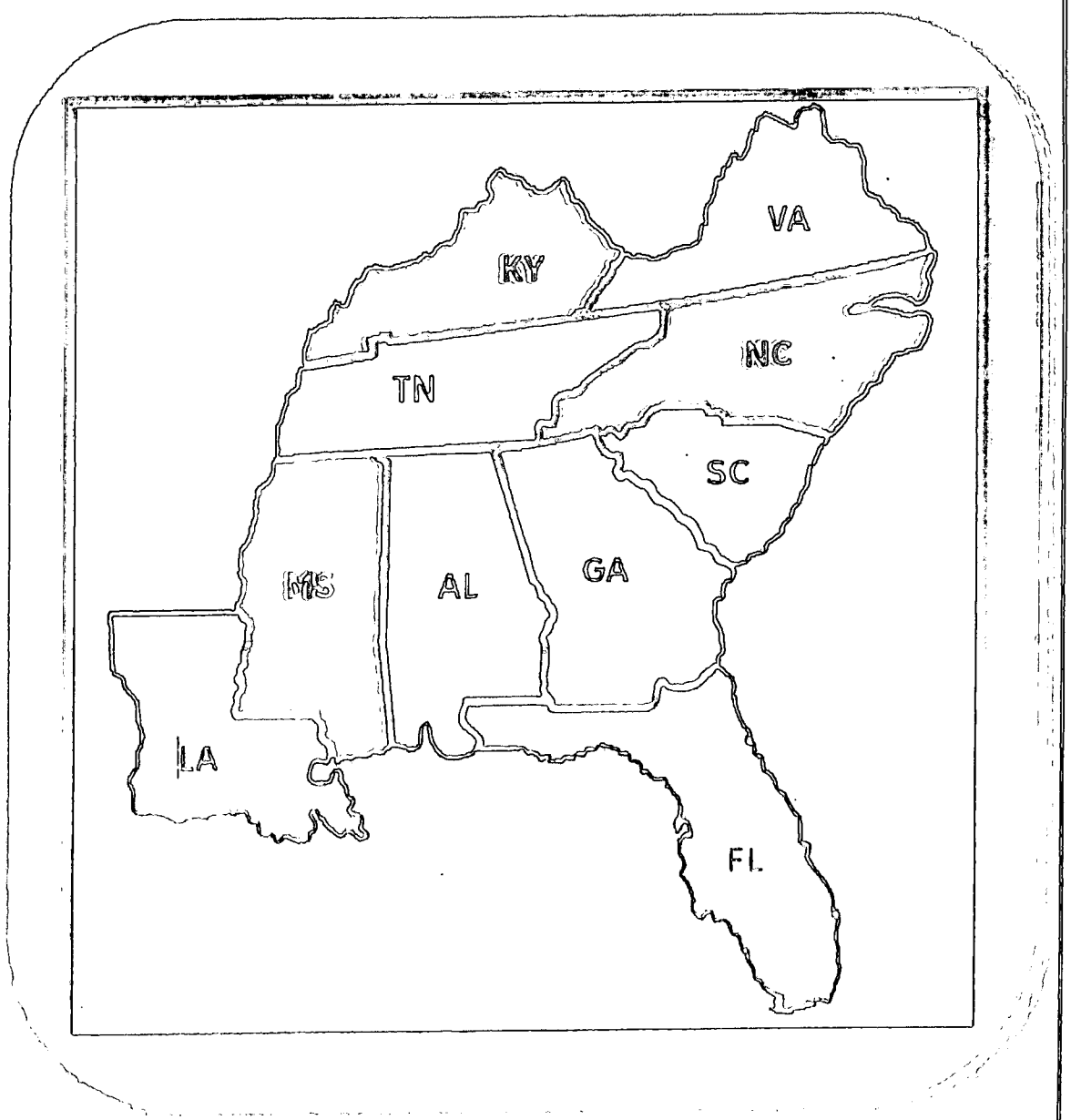
Judges McGEE and ELMORE concur.

N.C.App.,2005.
BellSouth Telecommunications, Inc. v. City of Laurinburg
168 N.C.App. 75, 606 S.E.2d 721

END OF DOCUMENT

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States With Fair Local Government Competition Laws



Survey of State Restrictions on Local Government Competition

TAB	STATE	STATUTE	CATEGORY	DESCRIPTION
1	Alabama	Ala. Code § 11-50B-1 *et seq.*	Regulated	Telecommunications services (voice, data, video, broadband) can be provided, but public hearing required in advance, and allocation of costs regulated.
2	Arkansas	Ark. Code Ann. §§ 23-17-408, 409	Regulated	Provision of basic local exchange service prohibited. Telecommunications capacity or facilities may be made available to the public after hearing.
3	Colorado	Col. Rev. Stat. § 29-27-101 *et seq.*	Regulated	Cable and telecommunications services (broadband, cable, voice, video) can only be offered after referendum and after refusal by incumbent provider.
4	Florida	Fla. Stat. §§ 166.047, 350.81, 125.421, 196.012, 199.183, 212.08	Regulated	Communications service may be offered upon notice and public hearing subject to detailed business plan and specific findings re: sustainability of plan. May not price below cost. Must keep separate books and conduct annual review. If not profitable after 4 years, must consider winding up or partnership. Must pay ad valorem taxes. Telecommunications service can be provided with a proper certificate and if accounting and nondiscrimination requirements are met.
5	Georgia	Ga. Code Ann. § 36-90-1 *et seq.*	Regulated	Cable service can be provided after notice to incumbents, detailed business plan provided to public. No cross-subsidization of costs allowed.
6	Idaho	Idaho Const. Art. VIII, Section 3	Regulated	Municipalities can only take on long-term debt required for telecommunications infrastructure investment with approval of 2/3 of voters.
7	Illinois	Public Act 95-0684 (2007)	Regulated	Broadband can be provided if certification received by Illinois Commerce Commission.
8	Iowa	Iowa Code § 388.10	Regulated	Telecommunications (voice, broadband, cable) can be provided, but no cross-subsidization allowed and all records and accounting must be open.
9	Louisiana	La. Rev. Stat. Ann. § 45:844.41 *et seq.*	Regulated	Cable and telecommunications services (voice, data, video, broadband) can only be offered after public hearing and detailed study or referendum. No cross-subsidies.
10	Michigan	Mich. Comp. Laws Serv. §§ 484.2252, 3114	Regulated	Telecommunications services ("transmission of 2-way interactive communication") can only be provided after public hearing. Accounting and non-discrimination requirements also imposed.
11	Minnesota	Minn. Stat. § 237.19	Regulated	Telephone exchange can be provided but referendum required before entrance of incumbent provider exists.
12	Missouri	Mo. Rev. Stat. §§ 392.410, 71.970	Prohibited	No telecommunications services can be provided, except "Internet-type services." Telecommunications services means "transmission of information by wire, radio, optical cable, electronic impulses, or other similar means," but not cable TV or VoIP.
13	Montana	Mont. Code Ann. § 2-17-601 *et seq.*	Prohibited	No internet service can be provided, except in unserved areas.

14	Nebraska	Nev. Rev. Stat. §§ 86-575 to 577, 593 to 594	Partial Prohibition	No public entity, except public power utilities, may offer telecommunications service ("transmission, between or among points specified by the subscriber, of information of the subscriber's choosing"). Municipalities may offer dark fiber.
15	Nevada	Nev. Stat. §§ 268.086, 710.147	Partial Prohibition	Telecommunications service ("transmission, between or among points specified by the user, of information of the user's choosing") prohibited for cities smaller than 25,000 and counties smaller than 50,000.
16	New Hampshire	N.H. Rev. Stat. Ann. § 33:3-g	Regulated	Municipality can only issue bonds for broadband infrastructure if request for proposals goes unanswered.
17	New Jersey	N.J. Rev. Stat. Ann. § 40:9D-1 *et seq.*	Regulated	Broadband telecommunications (voice, data, video) can be provided but detailed plan must be made public in advance. No cross-subsidization allowed; state contracting, wage, and accounting regulations still apply.
18	Ohio	Ohio Rev. Code Ann. § 1332.01 *et seq.*	Regulated	Cable and video services can only be offered after public hearing and detailed study or referendum. Strict accounting requirements apply.
19	Pennsylvania	Pa. Cons. Stat. § 3014	Prohibited	No local exchange telecommunications may be provided unless request to local exchange company is refused.
20	South Carolina	S.C. Code Ann. §§ 58-9-10, 2600	Regulated	Telephone service can be provided but no cross-subsidies and cost accounting restrictions apply. Must pay taxes. The South Carolina Supreme Court has held that municipalities are not authorized to offer cable. *Sheppard v. City of Orangeburg*, 442 S.E.2d 601 (1994).
21	Tennessee	Tenn. Code Ann. §§ 7-52-601 *et seq.* & §§ 7-52-401 *et seq*	Regulated	Cable, video, broadband service can be provided after public notice and hearing and 2/3 vote of governing body (or referendum). Business plan required, separate division must be established to operate. Must pay taxes.
22	Texas	Tex. Util. Code Ann. § 54.201 *et seq.*	Prohibited	Municipality cannot offer any service for which certificate is required.
23	Utah .	Utah Code Ann. § 10-18-101 *et seq.*	Restricted	Cable and telecommunications service (two-way transmission of voice, video, data) can be provided after public hearing and detailed study. No cross-subsidies allowed.
24	Virginia	Va. Code Ann. § 15.2-2108 *et seq.*, §§ 56-265.4:4 , 484.7:1	Regulated	Cable can be provided after public hearing and detailed study. No cross-subsidies allowed, no service beyond municipal boundaries.
25	Washington	Wash. Rev. Code § 54.16.330	Restricted	Telecommunications service ("transmission of information by wire, radio, optical cable, electromagnetic, or other similar means") can only be provided at wholesale or for internal needs
26	Wisconsin	Wisc. Stat. §§ 66.0420 *et seq.*	Regulated	Cable, video, and telecommunications ("voice, data or other information") services can only be provided after hearing and detailed financial report, or referendum, unless area is unserved.

What competition with the government looks like

First they take $5 million from electric ratepayers to begin competing against you

$11,200 to Electronics of North Carolina, Inc. during the fiscal year ended June 30, 2006.

Note 19 – Telecommunications Capital Project Fund

The Telecommunications Capital Project Fund is an Electric Operating Enterprise Fund capital projects fund. It is consolidated with the Electric Operating Enterprise Fund for economic resources measurement focus and full accrual basis financial reporting. The fund had $5,000,000 transferred to it in the 1999-2000 fiscal year from the Electric Operating Enterprise Fund. The capital project fund has not had any budgeted revenues or expenditures since its inception, until this fiscal year. This is the first year the Supplemental Schedule of Revenues and Expenditures – Budget to Actual (non – GAAP) has appeared in the financial statements for this project.

Source: City of Wilson Annual Financial Report, FY05-06, documenting $5 million transfer from the City's Electric Fund to the fiber optic cable project.

Note: To date, Wilson has transferred nearly $12 million from its electric and gas funds to subsidize its competitive activities.

Then they secure loans by promising to raise taxes if needed

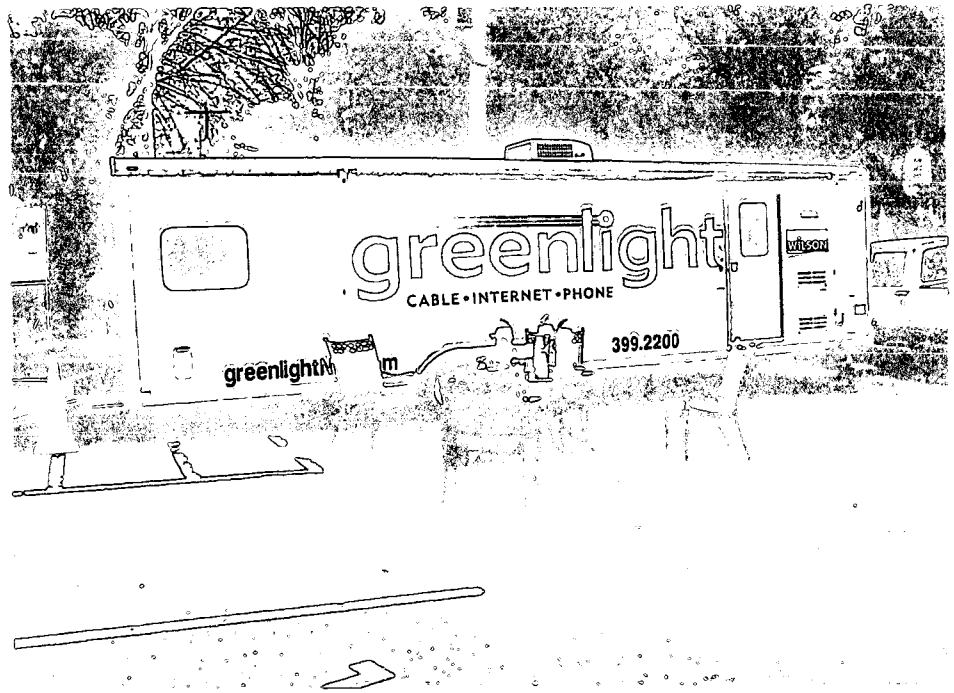
although using some different methodologies. Should the fiber optic project not perform as expected, the debt service could be repaid through other sources. For example, and electric rate increase of approximately 1.4% would be needed; a tax rate increase of 5.6 cents would be needed; or, some combination of the two could be put in place. These rate increases are not considered by the city to be unreasonable if they become necessary.

- Source: City of Wilson application to Local Government Commission dated 2/5/07 seeking authorization for initial $18 million loan to compete.

Then they delay granting you permits to serve customers

- In July 2007, Wilson (temporarily) refused to process routine permit applications from Time Warner, citing Time Warner's legislative activity.

Then they violate their own ordinances



- Wilson ordinance prohibits use of commercial vehicles in residential neighborhoods for advertising purposes.
  - Ord. Sec. 22-118 (parking vehicle for primary purpose of advertising prohibited) and Sec. 29-2 (sale of merchandise on streets, sidewalks and parking lots)
- Wilson routinely violates these ordinances with its Greenlight trailer.

Then they raise the cost of your business

- Wilson has raised its rates for accessing its utility poles by 300%.
- Wilson has imposed a new $0.48/linear foot fee for use of its rights-of-way.

Then they force you to advertise for them

- The City of Wilson put advertising of its competitive cable service on its PEG channel – effectively forcing TWC to advertise for its competitor.
  - Per G.S. 66-357, cable operators are required to carry city-generated programming ("PEG channels").

Then they bully city employees to buy service from them

From: Gregg Owens
Sent: Tuesday, April 28, 2009 2:56 PM
To: billing; collection; customer service; Credit
Cc: Dathan Shows; Mike Basham; gordon baker
Subject: City Employees Enrolling in Greenlight Services
Attachments: image002.png; image004.jpg

Importance: High

As you know, the City of Wilson has invested over 28 million in the providing infrastructure to provide fiber optic Internet, Phone and Cable services under the business of Greenlight. Greenlight services are pretty much available to all residents in Wilson and in some parts of Wilson County. Many of our employees have already enrolled in our services and for this, we say "thank you" for supporting your hometown service provider. Now, those who are employed in our Division, who have not enrolled, I highly suggest that it would be in your best interest to support the City's endeavor and enroll in Greenlight's Internet, Phone and Cable services.

For enrollment and/or obtain additional information, please call 296-3374.

Sincerely,

Gregg Owens
Business Office Manager
Wilson Energy/Greenlight
112 Goldsboro St, N
PO Box 10
Wilson, NC 27894
(252) 399-2160 Office
(252) 265-4819 Fax
gowens@wilsonnc.org



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Then they ignore the laws you must follow

- Wilson has signed an exclusive agreement to provide service to new residential development outside the city limits.
- Wilson sought to exclude private companies from providing service in this development.
  - Private providers are prohibited by law from entering into exclusive access arrangements or excluding competitors for serving customers.

Then – watch as you have to pay taxes / fees that they don't

- Cities don't pay
  - state corporate income taxes
  - state corporate franchise taxes
  - state sales tax on the equipment
  - state motor fuels tax
  - vehicle taxes
  - local property taxes
  - local rights-of-way fees
  - fees for use of city-owned utility poles
  - regulatory fee (NC Utilities Commission)
  - state e911 fund
  - Telecommunications Relay Service Fund (telephone services for hearing impaired)

Help ensure preservation of private sector jobs and the North Carolina tax base:

Support
Level Playing Field / Cities / Providers

Salisbury Background:

The City of Salisbury, North Carolina is currently building a city-wide fiber-optic utility. This will be the second fiber to the premises (FTTP) utility in the state, following the City of Wilson.

The city began investigating FTTP in 2005 after receiving citizen feedback that such a system would benefit public safety, public health, and economic development within the community. Salisbury was experiencing the closing of several textile plants which greatly impacted citizens within the community. Our neighbor, the City of Kannapolis, began to shift their community's vision from textiles to Biotechnology. Our community's vision shifted to becoming more competitive in the new global information economy. Deploying fiber-optic public infrastructure allows the City of Salisbury to provide the bandwidth and speeds (100 mbps) to make our city and our state competitive in this new global economy.

The City of Salisbury formally adopted FTTP as a goal in 2006 at the annual City Council goal setting retreat. A formal City Council Committee was appointed to lead the goal, which resulted in a feasibility and market study. The study found that citizens within Salisbury sought improved access, greater bandwidth, and that the project would be self-supporting.

Over the next several years the City of Salisbury through surveys, focus groups, public meetings, and public comment periods received feedback that citizens desired to move forward with the utility. Further, citizen feedback revealed significant high-speed internet access problems within community, which were limiting quality of life and small-business development.

Before moving forward, the City of Salisbury spoke with both incumbent providers and determined there was no interest in partnering on a FTTP utility. It was clear that Salisbury would be one of the last communities to receive FTTP from the private sector, and that such improvements would most likely be built in larger markets.

In 2008, the City issued debt in the amount of $30M to private investors in order to finance the FTTP utility. The debt issuance was approved by the City Council under the assurance that tax revenue would not be used to pay for the utility. The debt issuance was approved by the NC Local Government Commission (LGC), and was favorably received by the debt market during challenging times.

The City will provide FTTP access to every household, business, and person within the community. This will provide high-speed internet for the first time to many areas within Salisbury, including downtown and industrial areas that drive our city's economy.

The City of Salisbury plans to use this public infrastructure in order to greatly improve Fire, Police, and Ambulance service within the community. It will also allow the connection of several community anchors, including Rowan Regional Hospital, Salisbury-Rowan School System, Rowan Cabarrus Community College, Livingstone College, Catawba College, and Hood Theological Seminary. The City of Salisbury believes that local government participation in fiber-optic infrastructure is good for the citizens and consumers of North Carolina, and that public investment in fiber-optics should be incentivized by the State of North Carolina.

Greenlight Overview

greenlight
CABLE · INTERNET · PHONE

Greenlight is the City of Wilson, North Carolina's all fiber optic broadband network. It is the first fiber to the premises (FTTP) system in the state, although there are many successful public systems across the country.

The network began in 2006 as a fiber optic connection between City facilities including offices, payment centers, recreation centers, police buildings, fire stations, and other locations. It was created after persistent reliability issues with the private sector provider. The fiber 'ring' connected City-owned facilities throughout town.

Even as the network was being built, local businesses and industries noticed that the City was installing fiber optic lines. Recognizing the technical superiority of fiber, the City heard from several companies that were interested in connecting to the fiber ring. City Council received numerous requests to make the fiber available to businesses and citizens whose needs were not being met with the copper lines and coaxial cables that have been serving Wilson for decades.

After market studies and a detailed business plan from two separate consultants, the City determined that there was pent-up demand in Wilson for better communication services, particularly greater bandwidth. Broadband, by its current definition, was already available in Wilson. The FCC defines broadband as 200 Kbps. That speed is woefully inadequate for most of today's online activity. While technically available from other providers, it simply wasn't enough.

The City spoke with our two incumbent providers (Time Warner Cable and Embarq) and asked if they would build a FTTP network in Wilson or partner with the City in doing so. Large fortune 500 companies are installing fiber in large metro areas, but it became clear that Wilson and Eastern North Carolina would likely be one of the last areas in our state, if not the country, to see FTTP investment by the private sector. Our location and demographics were not conducive to attracting such private sector investment. The City met with both the incumbent telephone and cable TV providers and asked them to build a FTTH system in Wilson or partner with the City in such an effort, but it became clear that if the City wanted such a system it would have to built it on its own.

In 2007, City Council decided to make the fiber optic network available to every business and home in the city limits. They believed, and still believe today, that good, dependable, advanced broadband access is critical infrastructure for our future, just as public water and sewer systems have been. They believe that better broadband access will give existing businesses and new businesses a reason to stay or move to Wilson. The City Council held hearings for public comments, and received strong support from many sources, including: Wilson County Schools, Barton College, Wilson Community College, Wilson Medical Center, the Wilson Chamber of

Commerce, the Economic Development Council, and numerous businesses and industries including some of our largest employers.

City Council voted unanimously to move forward with the project. Instead of paying for the project through a tax increase, the Council chose to sell high speed internet, cable TV, and phone service and let the subscriber revenue cover the cost of the network. While a large number of municipalities have taken on such projects across the country, Wilson was the first in North Carolina. Our financing was unanimously approved by the North Carolina Local Government Commission and our debt was well-received by the financial markets.

The City borrowed roughly $28,000,000 from private investors and began expanding the network. Our first fiber customer was AT&T. The company uses Wilson's fiber lines to provide service to one of Wilson's largest businesses. Our second customer was BB&T, one of the nation's largest banks and one of Wilson's largest employers.

Construction was completed ahead of schedule. City staff created the name and logo for Greenlight and the network was officially born. Wilson signed up its first paying residential customers in June, 2008. To date, Greenlight is ahead of its business plan projections for customer count, and has an impressive customer retention rate of 97.7%.

By making the system available to all addresses in the city, regardless of income levels or other "qualifying criteria", the network may now be used as a public service delivery system. Current applications include public safety, with more public services to come in the areas of utilities cost containment for residents, health care applications, education applications, recreation and social networking applications.

Fibre in paradise

Feb 18th 2010 | BRISTOL
From The Economist print edition

How a small city in Virginia is replacing coal mines with tech jobs

Illustration by Peter Schrank



THERE'S no reason for a city to be there, just a stream and a broad Appalachian valley. But Joseph Anderson wanted a city, and in the 1850s he willed one from the ground after a railway company built its state-line terminus on his father-in-law's farmland. He named it, oddly, Bristol, after one of England's biggest ports. "Paradise" was his second choice. Now, after the decline of the area's timber and coal industries, paradise is what Bristol has left to sell. The city's cost of living is 20% below the national average. The mountains beckon, as does NASCAR's Bristol Motor Speedway. And Bristol offers what 87% of America's towns and counties lack: the optic-fibre internet.

Bristol, Virginia and Bristol, Tennessee face each other across State Street, six blocks with a restored art deco theatre and 14 empty shopfronts. To the north, electricity comes from Bristol Virginia Utilities, which answers to the city council, a common arrangement in rural America. In 1999 BVU ran optical fibre among its substations and city offices, at first purely for internal use. It used its fibre to save the city money on its phone exchange, but local businesses soon wanted the same service. Home internet service followed in 2002. Then, with $9m in state and federal grants, BVU pushed its fibre north to eight counties in Virginia's Coalfield region.

And the fibre brought jobs. In 2007 both Northrop Grumman, a big American defence contractor, and CGI, an international IT consultancy, said they would hire between them 700 technicians, consultants and call-operators at offices in nearby Lebanon, Virginia, part of BVU's fibre backbone. Both cited the area's universities and low cost of living, but neither would have come without BVU's investment, which Northrop calls absolutely critical. A 2010 paper by Jed Kolko for the Public Policy Institute of California found evidence of a causal relationship in America between the arrival of broadband and employment growth; and the lower the population density, the stronger the effect. Wes Rosenbalm, BVU's boss, sees the equation much as Joseph Anderson did 150 years ago. "Broadband is jobs," he says. "This is the next depot, the next highway."

Should cities be in the business of providing fast internet access? It depends on whether the internet is an investment or a product. BVU could not afford to maintain its fibre backbone without selling the internet to consumers. And it could not build a subscriber base without offering cable television and a telephone line as well; households these days expect a single price for all three services. This has put it in direct competition with firms that already offered limited DSL and cable-modem access, which are fast enough for watching YouTube but not for Northrop Grumman. Fibre is expensive, and a purely commercial business would not have been minded to pay for it.

All this is true for much of rural America, and it is an analogue of the reason why municipal utility companies were launched in the first place: to electrify thinly-populated areas where commercial utilities would not go. But it also raises the prickly question of competition. The Federal Communications Commission will have to take up this matter when it sends its broadband plan to Congress in March. Since 1995, at the urging of telecoms companies, 18 states have erected barriers to entry for municipal utilities. In Florida, projects must prove positive cash-flow within four years; in Minnesota they require 65% approval in a referendum.

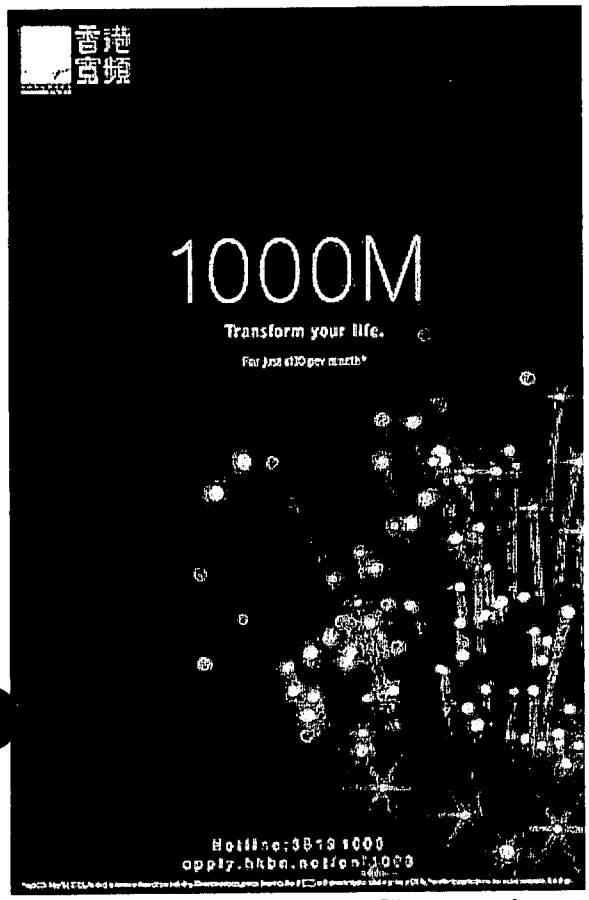
Rick Boucher, south-western Virginia's representative in Congress and a key figure in securing BVU's expansion grants, supported wording in the 1996 Telecommunications Act which, he thought, protected the right of "any entity" to enter the market. But many states have ruled that local governments are not "entities" in the required sense, an interpretation confirmed by the Supreme Court in 2004. Mr Boucher is trying to get a more watertight bill passed. In his district—just as when the railway came—when the fibre arrives, towns throw parties.

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Who's #1 in broadband? 1Gbps fiber for $26 in Hong Kong

By Nate Anderson | Last updated a day ago

According to people like Ivan Seidenberg, Verizon's CEO, the US is number one in broadband, no question about it. But one only has to look around the world to see just how specious such claims are.



City Telecom's ad for its 1Gbps service

Take Hong Kong as an example. City Telecom made waves a few months ago with its US$13, symmetric 100Mbps connections. Today, the company slashed prices on its much faster 1Gbps fiber-to-the-home offering; a fully symmetric, 1Gbps connection costs HK$199... or US$26 a month.

Want phone service with that? That'll be US$3. IPTV service will cost another $6-12, depending on the channel package. (There's also a US$115 installation charge to run the fiber link from the building basement up to an individual apartment.)

This is an exceptional offer, but City Telecom isn't alone in offering service that should make US operators cringe—and US customers green with envy. Hutchison Telecom offers 100Mbps symmetric connections for US$13. i-Cable offers 130Mbps downloads for $39 per month using DOCSIS 3.0 tech.

This isn't the US market, so prices aren't directly comparable, but Hong Kong and the US are almost identical when it comes to GDP per capita, adjusted for purchasing power parity (PPP).

Hong Kong is one of the densest spots on earth. One wouldn't expect to see this level of price and competition across a country as broad and sprawling as the US, but one would expect it to be possible *somewhere*. Sadly, even something like 100Mbps is hard to come by in most US cities; 1Gbps is unknown, except to tiny specialty operators, even in a place like New York City.

City Telecom took out a full-page ad in the *South China Morning Post* today, advertising its new offering with the tagline, "1000M: Transform your life."

Further reading

- Fiberevolution (fiberevolution.com)
- The announcement (PDF) (reg.hkbn.net)

http://arstechnica.com/tech-policy/news/2010/04/1gbps-symmetric-fiber-us26-in-hong-kong.ars?utm_source=rss&utm_medium=rss&utm_campaign=rss

May 4, 2009

The Honorable Joe Hackney
Speaker
North Carolina House of Representatives
2207 State Legislative Building
Raleigh, NC 27601-1096

Dear Speaker Hackney:

We, the undersigned private-sector companies and trade associations urge you to oppose HB1252, the so-called "Level Playing Field Act." HB1252 is "level" only in the sense that it will harm both the public and private sectors. It will thwart public broadband initiatives, stifle economic growth, prevent the creation or retention of thousands of jobs, and diminish quality of life in North Carolina. In particular, it will hurt the private sector by undermining public-private partnerships, hamstringing our ability to sell our goods and services, interfering with workforce development, and stifling creativity and innovation.

The United States is currently suffering through one of the most serious economic crises in decades. We also continue to lag behind the leading nations in per capita broadband adoption, access to high-capacity networks, cost per unit of bandwidth, and growth of new broadband users. To address these concerns, Congress and the Obama Administration have made more than $7 billion available to catalyze public and private efforts to accelerate deployment of broadband infrastructure and services. States can ill afford to enact measures like HB1252, which impair use of these broadband funds and the ability of the public and private sectors to work hand-in-hand to reverse these trends.

We support strong, fair and open competition to ensure users can enjoy the widest range of choice and opportunities to access content online, which is the heart of economic development in an information-based global market. HB1252 is a step in the wrong direction. North Carolina should be lowering barriers to public broadband initiatives rather than establishing new ones, so that we and other high technology companies can spread and prosper across this beautiful state. Please oppose HB1252.

Sincerely,

Alcatel-Lucent
American Public Power Association
Atlantic Engineering Group, Inc.
EDUCAUSE
Fiber to the Home Council
Google, Inc.
Intel Corporation
Utilities Telecom Council
Telecommunications Industry Association

cc: Governor Bev Perdue (by fax)
Secretary of Commerce J. Keith Crisco (by fax)
Rep. Hugh Holliman (by email)
Rep. William Wainwright (by email)
Rep. Paul Stam (by email)
Senator Marc Basnight (by email)
Senator Tony Rand (by email)
Senator Katie Dorsett (by email)
Senator Phil Berger (by email)
Senator R.C. Soles (by email)
Rep. Ty Harrell (by email)
Senator David Hoyle (by email)
House Public Utilities Committee members (by email)



April 16, 2009

The Honorable Bev Perdue
Governor
State of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Dear Governor Perdue;

On behalf of the Fiber-to-the-Home ("FTTH") Council, I am writing to express our opposition to Senate Bill 1004/House Bill 1252. The bill establishes unrealistic and ill-defined barriers for deployment of broadband networks by local communities. S1004-HB1252 will limit access by citizens of North Carolina to next-generation broadband networks. The American Recovery and Reinvestment Act (ARRA) included $4.7 billion in Broadband Stimulus Grants directly for local communities. And, ARRA specifically permits local governments to apply and receive grants for broadband services. S1004-HB1252 is completely at odds with ARRA, and may limit North Carolina access to BTOP grants – and will certainly limit many North Carolina communities access to next-generation broadband.

The FTTH Council is a non-profit organization established in 2001. Its mission is to educate, promote, and accelerate FTTH and the resulting quality of life enhancements. The Council's members represent all areas of broadband industries, including telecommunications, computing, networking, system integration, engineering, content-provider companies, as well as traditional telecommunications service providers, utilities, and municipalities. As of today, the Council has over 211 companies as members, fourteen of whom have significant operations in North Carolina.

Since 2001, there has been significant progress in the deployment of FTTH networks and technology; yet, in terms of broadband penetration, the United States, and North Carolina continues to lag behind many other countries. If this trend continues, other countries will outperform us in the delivery of information and other activities requiring next-generation broadband capability, harming our ability to create jobs and generate economic growth. The FTTH Council believes this problem can be ameliorated by accelerating entry by all entities into the deployment of next-generation networks, including by lowering barriers to entry by municipalities.

We believe North Carolina's legislators should be sympathetic to communities throughout the state who are unable to obtain acceptable broadband services from incumbent service providers or hold the rates in check through competition. Typically, this occurs in rural areas and small towns, although it can even occur in larger cities. We believe municipalities must have the right



FTTH council | fiber to the home

to ensure that their citizens have access to advanced broadband services. Telephone and cable television operators may not focus their broadband investment on all communities of subscribers. Municipalities who want to invest in their broadband future should be free to do so. To restrict that access to next generation networks puts those North Carolinians at a distinct disadvantage in terms of economic benefit and community welfare.

It is our experience that municipalities generally take on the burden of building a broadband network only when they feel their citizens have failed to receive state-of-the-art services at reasonable rates from the private sector. Typically incumbents cite a weak business case as the reason for not investing in the community. To enforce the same business case conditions on a Municipal operator will almost certainly deprive the community of an all important infrastructure for competitiveness in the 21st Century. When one entity is serving shareholders and investors, and the other entity is serving citizens, "playing field" analogies are inappropriate. Communities deserve the freedom to best serve their constituents.

In a very real sense, entry by municipalities into delivery of communications services fills a major gap in the development of these networks, and so, helps to ensure their citizens have access to critical services. Therefore, when a municipality makes the decision to build a next-generation network, the state government should not stand in its way – nor should it impose conditions that private corporations wish to erect for anti-competitive reasons.

Again, we thank you for your consideration on this issue, and we will endeavor to support your efforts to bring modern broadband infrastructure to all North Carolinians. S1004-HB1252 is exactly the wrong legislation to enact in North Carolina.

The Council would be happy to provide a representative if you think our testimony would be helpful.

Joseph P. Savage

Joe Savage
President, FTTH Council
503 635 3114

How Broadband Access Changed One Rural Town

Posted November 30th, 2009 by Broadband for America Staff
The following is a re-post of an article by Foothills Connect Business and Technology Center Executive Director Tim Will that originally appeared in The Mountain Breeze:

If one were to log onto the You Tube Website, www.youtube.com, and insert the words "Shift Happens 2008" in the search block, a video will appear that will inform the user that in 2013, just five years away, supercomputers will exceed the computing capacity of the human brain and that in 45 years, a $1000 computer will likely exceed the computing capacity of the entire human race; that one out of eight US marriages in 2006 emanated from on-line introductions, and that in 2008, 6 billion Google searches will be performed. For many Internet addicted students, it is hard to imagine a PG (pre-Google) life, thus is the pervasiveness of high speed broadband based Internet connectivity. However, in many rural areas of the United States and in an unfortunately large part of area Rutherford County, many residents are mired in a PG lifestyle due to a lack of sufficient high speed broadband. It is very difficult for city dwelling decision makers to understand that many rural residents are stuck in dial-up Internet connectivity and to perceive the consequences that result.

In February, 2007, the Board of Directors of the Foothills Connect Business and Technology Center a 501c3 located in Rutherford NC convened 70 leaders within Rutherford County to a countywide Symposium on Connectivity. A modern day patriot, Sam Adam, an IBM Senior Researcher, who just happened to reside in Rutherford County when not traversing the globe consulting with country and corporate leaders on the future of telecommunications, riveted the attention of the Symposium audience by describing Rutherford County as a "third world county" due to its shortage of broadband capacity. Unlike DSL service in America, the standard for broadband in much of the world is measured as a synchronous (equal speeds uploading and downloading) 2 megabits per second and is quickly moving to 5 megabits per second. DSL, on the other hand has difficulty exceeding 200 kilobits per second when uploading. DSL users who've attempted to send 10 Christmas photos attached to an email are imminently aware of this limitation. Sam went on to explain to a now very quiet audience that the this severe lack of locally available broadband has put Rutherford County students, whose schools had very limited access to high speed broadband, a tremendous disadvantage in competing against their counterparts from a "connected" world.

It could be said that the Internet Age in Rutherford County began with Sam Adams's electrifying talk within 12 months, all 23 schools in the county were "lit up" with fiber optic connectivity. In less than a year, thanks to a wonderful collaboration of the forward looking leadership of the Rutherford County School Board and its staff, the Rutherford County Commissioners and its staff, PANGAEA, the Polk County based non-profit fiber optic provider, the Foothills Connect Board of Directors, its staff and its Strategic Technical Planning Committee, the Golden Leaf Foundation funded their dreams and specifications with a $1.455 million grant to build a county wide fiber optic infrastructure.

The Strategic Technical Planning Committee re-formed in 2008 as the Rutherford County Broadband Advisory Committee and it continued to meet throughout 2008, monitoring the progress of the school's fiber installation and planning the routes for the final 40 or so miles of fiber optic infrastructure beyond the schools. Per the plan funded by the Golden Leaf Foundation grant, the entire infrastructure would be made available to police, fire and emergency services and public broadband internet connectivity. A reasonably accurate map of the complete proposed infrastructure, currently being engineered appears below. The symbols are for schools and emergency services locations. The lines depict direct fiber optic connections.

The Proposed 100 mile Rutherford County Fiber Optic Infrastructure

Along the route of the fiber, completed in June of 2009, are many factories, businesses and residential subdivisions. It is planned that PANGAEA, the managing partner in the Rutherford County infrastructure, will make fiber optic connectivity available to those within proximity on a case-by-case contractual basis. If the available financing permits, most of the schools and fire houses will be engineered with the necessary electronics to support wireless emergency services and broadband reception in the general vicinity of the of many schools, EMT and fire houses. Foothills Connect will continue its attempts to locate an Internet Service Provider (ISP) willing to utilize the new infrastructure to provide reasonable, high speed, wireless Internet connectivity to eager rural subscribers.

This is a true story of how a dream came true when the dreamers dreamt big. It is the story of how a community and a region came together in behalf of its children and grandchildren to secure their intellectual and economic future. The dream continues as Foothills Connect seeks to expand the fiber optic infrastructure into the adjacent rural counties, Burke and McDowell, whose own young residents' and their economy's futures appear too be in a similar jeopardy.

Tim Will is executive director of Foothills Connect Business and Technology Center

http://www.broadbandforamerica.com/blog/how-broadband-access-changed-one-rural-town

EXCERPTS FROM NATIONAL BROADBAND PLAN BY THE FEDERAL COMMUNICATIONS COMMISSION

RELEASED MARCH 2010

(page 153)

Recommendation 8.19: **Congress should make clear that Tribal, state, regional and local governments can build broadband networks.**

Local entities typically decide to offer services when no providers exist that meet local needs. These local entities do so only after trying to work with established carriers to meet local needs.141 This experience is similar to how some municipalities responded in the early part of the 20th century, when investorowned electric utilities left rural America in the dark while they electrified more lucrative urban centers. Public and cooperatively owned power utilities were created to fill the void. More than 2,800 public and co-op operators still provide electricity to 27% of Americans today.142 Many of these same rural areas now face similar challenges attracting private investment to connect civic institutions, businesses and residences to highspeed data networks. In some areas, local officials have decided that publicly–owned communications services are the best way to meet their residents' needs (see Box 8-5).

Municipal broadband has risks. Municipally financed service may discourage investment by private companies. Before embarking on any type of broadband buildout, whether wired or wireless, towns and cities should try to attract private sector broadband investment. But in the absence of that investment, they should have the right to move forward and build networks that serve their constituents as they deem appropriate.

BOX B-5 Community Broadband in Rural America

Bristol, Va., provides a good example of the potential of community broadband in rural America. This small town, which also operates the local electric utility, initially deployed a fiber optic network to connect its government, electric utility and school buildings. Local businesses and residents expressed interest in connecting to this high-speed network, so Bristol made plans to build a fiber-to-the-premises network. After overcoming a series of state legislative barriers and legal challenges by incumbent providers offering slower services, Bristol launched a FTTP service. Today 62% of Bristol's residents and businesses subscribe to the service despite competition from the incumbent telephone company and cable.

Recommendation 8.18
Tribal, State, Regional and Local Broadband Initiatives

In addition to Tribal, federal, and state efforts to support broadband deployment, local governments and regions often organize themselves to support deployment in their communities. **According to recent market research, as of October 2009, there were 57 fiber-to-the-premises (FTTP) municipal deployments, either in operation or actively being built, in 85 towns and cities in the United States. These deployments collectively serve 3.4% of the FTTP subscribers in North America.138** Not all government-sponsored networks serve consumers directly. Several government-sponsored entities, such as NOANet in the Pacific Northwest and OneCommunity in Ohio, are major providers of backhaul capacity in areas that benefit community institutions and local broadband service providers. Their networks are often "constructed" by patching together and opening up to wider use fiber and other connections that might originally have been built for single-purpose institutional needs, such as the needs of government offices and local transportation. By offering up that existing capacity to wider use, including the service provider community, these efforts can benefit an entire community, not just one institution.139 While it is difficult to measure the impact of many local efforts, these efforts should be encouraged when they make sense. However, 18 states have passed laws to restrict or explicitly prohibit municipalities from offering broadband services. Some states, like Nebraska, have outright bans on municipalities offering any wholesale or retail broadband service. Other states, such as South Carolina and Louisiana, set conditions that make municipal broadband both harder to deploy and more costly for consumers.140 In addition, restrictions on the use of institutional networks can substantially impede the ability of local and regional authorities to utilize that infrastructure to benefit the broadband needs of the community as a whole. Restricting these networks in some cases restricts the country's ability to close the broadband availability gap, and should be revisited.

greenlight
CABLE • INTERNET • PHONE

Summary Timeline

July, 1989	Resolution R-042-89 adopted by city council authorizing investigation into operation of cable TV system
Dec, 1989	Resolution R-085-89 adopted by city council setting aside funds for feasibility study for operation and construction of a cable TV system
1990-1997	Annual appropriation ordinances regarding potential funding for cable TV system
Feb, 1998	Resolution R-013-98 adopted by city council designating funds for purpose of constructing or otherwise acquiring a cable TV system
June, 1999	Ordinance O-055-99 adopted by city council establishing telecommunications standards in the city but funds designated for cable system temporarily diverted due to financial needs associated with construction of city's Buckhorn Reservoir water supply project
May, 2003	Broadband concept study presented to city council identifying public benefits and uses of municipal fiber optics system and suggesting full feasibility analysis
Oct, 2004	First broadband feasibility analysis presented to city council showed viability of city-owned fiber system and included survey results demonstrating high levels of consumer dissatisfaction with services, pricing, reliability and technology capabilities from incumbent providers Time Warner Cable and Sprint
Oct, 2005	Ordinance O-122-05 adopted by city council authorizing telecommunications project for inter-connection of municipal facilities and SCADA capabilities
Nov, 2005	Purchase of networking infrastructure equipment for inter-connection of city facilities
Jan - Sept, 2006	Multiple requests received by citizens, businesses and industry for access to city's fiber system; site visits by city officials to VA, TN, and GA to research other existing municipal broadband operations; several reports provided to city council on fiber optics networking; second broadband feasibility analysis undertaken and business plans prepared by outside consultants for operation of municipal broadband system confirmed viability and public benefits of FTTP system; city's requests to Time Warner and Embarq to build FTTP system in Wilson were denied
Nov 1, 2006	Public hearing on construction of FTTP system cites public safety, health care, educational and economic development benefits of municipal broadband system
Nov 16, 2006	Resolution R-066-06 adopted by city council authorizing city to construct FTTP system and to provide broadband services to consumers and businesses
2007 - 2008	Financing and construction of FTTP system (NC Local Government Commission application and review process, lender due diligence, public bidding, etc)
2008	Greenlight began serving customers with its state-of-the-art municipal broadband system offering faster speeds and greater reliability than Wilsonians have ever before experienced
2009 - 2010	Greenlight's growth and costs are consistent with 2006 business plan projections

MUNICIPAL BROADBAND IS GOOD FOR THE PRIVATE SECTOR

Municipalities are deploying broadband infrastructures out of necessity to keep local communities competitive in the world economy, to stimulate jobs and improve access to health care, education, and job training and comprehensive public safety.

I. THE WORLD RECOGNIZES BROADBAND AS AN ECONOMIC NECESSITY

Leading Asian and European nations are deploying "big broadband" networks (100 Mbps) with a vengeance, driven by a recognition that survival in a knowledge-based economy is contingent on access to high capacity broadband systems. Fiber-to-the-home (FTTH) is already available to 80% of households in Japan today and is expected to be available to 90% by the end of 2010. Korea is right behind Japan in ubiquity and data speed. China, who absorbed North Carolina lost textile and manufacturing jobs, announced in 2008 a switch of its DSL projects to FTTH. Hong Kong has 1 Gbps connectivity today and Singapore will have it to half the country by 2012 and to the rest by 2015. Taiwan is pushing to 100 Mbps. Similarly, in Europe, Sweden, Norway, the Netherlands, France, Italy, Slovenia, are all driving rapidly towards of bandwidth capacities of at least 100 Mbps. Countries that have smaller economies and more rural territory than the United States (e.g., Finland, Sweden, and Canada) have established 100 Mbps goals within in the next 5 years and are all deploying FTTH. [1]

II: THE FCC NATIONAL BROADBAND PLAN RECOGNIZES BROADBAND AS AN ECONOMIC NECESSITY

Numerous entities have recognized that the United States is facing a crisis in broadband connectivity. The demand for bandwidth is accelerating well beyond the capacity of our current broadband networks, especially as video traffic and home-based businesses become more prevalent.[2] Labeling broadband as "the great infrastructure challenge of the early 2st century" the FCC released our country's first National Broadband Plan in March which establishes as its top long-term priority, providing 100 million U.S. households actual speeds of 100 Mbps downstream/50 Mbps upstream within 10 years, and 50Mbps in 5 years. As FCC Chairman, Julius Genchowski stated in a recent Congressional oversight hearing "The Plan addresses each aspect of these Congressional requirements in a way that reflects a strong conviction that, as our nation rebuilds its economy, broadband can and must serve as foundation for long-term economic growth, ongoing investment and enduring job creation."[3] The NPB recognizes the important role municipalities will play in deploying this broadband infrastructure to our local communities.

III. U.S. RESEARCH CONFIRMS THE RELATIONSHIP BETWEEN BROADBAND AND ECONOMIC DEVELOPMENT

There is substantial evidence that attributes positive economic development to the availability of broadband infrastructure. A 2006 study by MIT found that between 1998 and 2002, communities in which mass-market broadband was available by December 1999 experienced more rapid growth in (1)

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[1] Baller & Associaties: Bigger Vision, Bolder Action, Brighter Future: Capturing the Promise of Broadband for North Carolina and America, an e-NC White Paper, June 2008 at www.enc.org.

[2] See "Blueprint for Big Broadband" by John Windhauser, Jr, an EDUCAUSE White Paper, January 2008. at http://net.educause.edu/ir/library/pdf/EPO0801.pdf

[3] http://energycommerce.house.gov/Press_111/20100325/Genachowski.Testimony.pdf

employment, (2) the number of businesses overall, and (3) businesses in IT-intensive sectors. A 2007 Brookings Institute report found that for every 1 percentage point increase in broadband penetration in a state, employment is projected to increase by .3% per year, equivalent to 300,000 private, nonfarm jobs a year. In February 2008, Connected Nation issued a report estimating that if broadband adoption were to increase an additional 7 percent in every state, the United States would experience aggregate economic benefits of approximately $134 billion a year. This would include $92 billion from 2.4 million jobs produced or saved; $662 million in reduced health-care costs; $6.4 billion in savings from reduced driving; $18.2 million in carbon credits associated with 3.2 billion fewer pounds of carbon dioxide emissions; and $35.2 billion in the value of saving 3.8 billion hours by accessing broadband from home.[4] In March 2008, Strategic Network Group studied of the effects of fiber deployments in three communities on a total of 223 businesses, and found significant increases in local economic activity attributable to broadband. "*.... the increase in local GDP is more than ten-fold the value of the investments in broadband infrastructure.*[5] Further, the U.S. Broadband Coalition estimates that investment in broadband can create or retain 1 to 2.5 million jobs.[6]

III. LOCAL COMMUNITIES RECOGNIZE BROADBAND DEPLOYMENT AS AN ECONOMIC STIMULANT AND JOB CREATOR, BUT ASSESS IT CAREFULLY

In the last decade, municipal broadband systems have developed in local communities who faced economic demise. These municipalities recognized the deterioration of their agrarian and manufacturing economies and the need to develop an infrastructure that would keep them competitive in the world economy that had taken away their jobs.

Before engaging in such a serious economic undertaking, local governments and public providers typically sought to partner with private providers and/or encourage the private industry to deploy broadband services in a timely manner, but the private providers consistently responded that no business case existed for such a technology investment. Nevertheless, the success of municipal systems throughout the nation is evident by the relatively large percentage of take-rates (54%) from potential subscribers in comparison to the take-rates of incumbent service providers.[7] As of October 2009, there were 57 public providers offering fiber-to-the home systems in North America.[8] (These communities have access to the ultra-high speed systems the FCC envisions for the country within 10 years.) The benefits associated with public broadband deployment has been bolstered by Congressional action and supportive legislation, such as the *Community Broadband Act* that proposes to remove b*ans on the provision of* broadband services by public entities.

Various communities have experienced the economic benefits of deploying ultra-high speed networks, as listed below.

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[4] Connected Nation, *The Economic Impact of Stimulating Broadband Nationally* (February 2008), http://tinyurl.com/2atzxs.

[5] Michael Curri, Strategic Networks Group, "The Transformative Effects of FTTP" (March 2008) (emphasis added), http://tinyurl.com/6m9cfw; see also Strategic Networks Group, "Economic Impact Study of the South Dundas Township Fibre Network" (June 27, 2007), http://tinyurl.com/5t8tpx.

[6] How Broadband Delivers Economic Growth, http://www.progressivestates.org/node/24536

[7] Fiber to the Home Council North America, Municipal FTTH Systems: *Municipal Fiber to the Home Deployments: Next Generation Broadband as a Municipal Utility,* October 2009.

[8] *Id.*

- *Bristol, Virginia-* (population 18,000) Straddled with economic declines from tobacco, textile and mining industries, this City has used its state of the art fiber-to- the-home system to rebound. The municipal system serves more than 65% of Bristol's residents and businesses and has attracted hundreds of high paying jobs to the region.[9]

Publicly Owned Networks Attract Businesses

A key driver for many communities in building a broadband network is to encourage economic development. The communities below have built networks that are credited with bringing jobs into the community, saving jobs, and allowing employers to expand locally.

Location	Company	Source
Auburn, IN	Cooper Standard Tire	http://tinyurl.com/yfyhb8d
Bristol, TN	Media General	http://tinyurl.com/yl5jctd
Bristol, VA	Northrup Grumman, CGI-AMS	http://tinyurl.com/y6bjjc
Chelan County, WA	Yahoo	http://tinyurl.com/yl5jctd
Douglas County, WA	CSabey Corporation	http://tinyurl.com/yl5jctd
Grant County, WA	Microsoft, Ask Jeeves, Intuit	http://tinyurl.com/yl5jctd
Independence, OR	Various metal fabrication companies	http://tinyurl.com/yl5jctd
Jackson, TN	Portfolio Recovery Associates, Jarvis Caster	http://tinyurl.com/y8rmyvz
Kutztown, PA	Various film production	http://tinyurl.com/yl5jctd
Lake County, FL	Munn's Air Cond. and Heating	http://tinyurl.com/ycova8q
Lafayette, LA	Nucomm International	http://tinyurl.com/2ubmxz
Mason County, WA	Louisville Slugger, Sims, high tech. and online engineering firms	http://tinyurl.com/yl5jctd
Morristown, TN	Colgate Palmolive	http://tinyurl.com/yl5jctd
Powell, WY	ReSource Inc.	http://tinyurl.com/y8ayrmt
Princeton, IL	Ingersoll Rand	http://tinyurl.com/yf2w6wa
Scottsburg, IN	Chrysler	http://tinyurl.com/ydbcwef
Tacoma, WA	More than 100 high-tech companies	http://tinyurl.com/y93fhnu
The Dalles, OR	Google	http://tinyurl.com/d7dmr
Windom, MN	Various trucking companies	http://tinyurl.com/yl5jctd

[9] Baller, James, et al. *Comments of the National Association of Telecommunications Officers & Advisors, the Benton Foundation, and the New America Foundation's Open Technology Initiative*, NBP Public Notice #18- Relationship Between Broadband and Economic Opportunity (December 4, 2009).

RowanWORKS
ECONOMIC DEVELOPMENT * SALISBURY, NC
for your business

April 15, 2010

The Honorable Joe Hackney
Speaker
North Carolina House of Representatives
2207 State Legislative Building
Raleigh, NC 27601-1096

Dear Speaker Hackney:

Right now, our state needs jobs, and with the unemployment rate in Rowan County consistently above 13%, Salisbury and Rowan County needs jobs. We agree with Governor Perdue that the number one goal for our state is to keep and grow jobs. This is the primary mission of "Rowan Works" and the Salisbury-Rowan Economic Development Commission, to enhance the lives of all citizens in Salisbury by attracting new industries and assisting with the expansion of existing industries.

We are excited about the fiber-to-the-premises infrastructure that is currently under construction by the City of Salisbury. When finished, Salisbury will have the most advanced communications infrastructure possible, an infrastructure that has a proven track-record for making communities more competitive for potential employers. The following are a few of the better known examples of projects whose investment decision was influenced by the availability of this resource.

- Bristol, Virginia: Northup Grumman
- Chelan Co, Washington: Yahoo
- Grant Co, Washington: MSN, Microsoft
- Morristown, Tennessee: Colgate Palmolive

Beyond our borders, competitors, both foreign and domestic, are becoming increasingly aggressive when recruiting. It is often said that investment decisions are not a process of site selection, but rather one of site elimination. Economic Development is not a zero sum game, some prosper and others will not. Recognizing that there are no jobs for the community that finishes in second place, we must find new ways to compete and win. Our citizens are depending on us.

Yours truly,

Robert M. Van Geons

Robert Van Geons,
Salisbury-Rowan EDC

cc:
Rep. Hugh Holliman (by email)
Rep. William Wainwright (by email)
Rep. Paul Stam (by email)
Senator Marc Basnight (by email)
Senator Martin Nesbitt (by email)
Senator Phil Berger (by email)
Revenue Laws Study Committee

Proposed Broadband Expansion Policies for North Carolina's Future

It must be the policy of the State of North Carolina to encourage the development of advanced, next-generation fiber-to-the-premise (FTTP) networks in order to fully serve the public, advance education, and further economic development in this state.

Universal access to high capacity, fiber-to-the-premise, symmetrical broadband networks is essential not only for our state to compete economically and provide jobs in the knowledge-based, global economy, but also to provide our citizens access to advanced applications in medicine, public safety, energy management, and education essential to their quality of life. Unfortunately, over the last five years, the United States has dropped from 8th in the world to 15th in broadband subscriptions per capita. Further, North Carolina itself has dropped from 35th to 41st in the United States. To secure our state's educational and economic future, North Carolina must take steps now to reverse this trend by encouraging investment in the delivery of fiber- to-the-premise networks deployed by private and public service providers.

A state incentives program should encourage and support public and private broadband to create fiber-to the-premise networks that connect directly to homes and businesses.

Less than four percent of broadband subscribers in the United States receive service through a fiber-to-the-premise connection, compared to over 40 percent in Japan and South Korea. North Carolina's economic future depends upon the development of an efficient system of data communication that will require such fiber connections. Because these networks are essential to North Carolina's economic future, the State should incentivize both public and private development of high capacity fiber connections directly to and from homes, businesses, hospitals and educational institutions in order to handle rapidly growing data needs.

Municipal government use of revenue bonds should be permitted to finance fiber network systems.

Currently municipalities that wish to finance the construction of fiber network systems through debt may use general obligation bonds or installment financing. When fiber networks are operated as a public utility, revenue bonds may be a more appropriate method of financing. By pledging the revenues of the public utility to pay back the bonds, the utility ensures that the users of the network pay for the cost of its construction. Revenue bonds are used to finance a significant amount of the debt issued by local public enterprises in North Carolina.

Public fiber systems delivering television, broadband, and other related services should have greater privacy protections.

State public records laws currently protect customer billing data and the trade secrets of contractors and content providers, but additional provisions are needed to protect a limited range of proprietary information, the privacy of which is essential to the financial soundness of the system, as well as for the protection of the sensitive public safety, financial, medical and energy networks integrated into these broadband systems.

Prepared by: North Carolina Broadband for Everyone Coalition

NC LEAGUE OF MUNICIPALITIES

215 North Dawson Street
Raleigh, NC 27603
Post Office Box 3069 | 27602-3069
919-715-4000 | fax: 919-733-9519
www.nclm.org

SB 1004/HB1252 – Level Playing Field/Cities/Service Providers Act (really the "Block Broadband to NC Communities" bill)

Does this legislation provide a level playing field for public and private providers of communications services?

NO. These bills place prohibitive restrictions on cities and towns that seek to provide communications services to their local residents and businesses that are unserved or underserved by private providers. In many locations, broadband services are not available. Also not available in many areas is the state-of-the-art broadband that businesses, educational institutions, hospital and individuals need to operate in this global economy. Municipal officials understand that providing this modern infrastructure is essential for jobs, economic development, public safety and the future of their communities. This legislation essentially would keep cities and towns from providing this needed service by placing barriers.

Will the industry -- the private providers -- be subject to the "level playing field" requirements of SB 1004/HB 1252?

NO. Private providers would have to stop providing broadband services if they were subject to the requirements of SB 1004/HB 1252 because of the enormous burdens placed on broadband service providers. Private companies will not be subject to the bills' prohibition on cross-subsidies, the rate-setting provisions, annual PUC reporting, auditing or public disclosure requirements. The purpose of SB 1004/HB 1252 is to slant the competitive playing field in the industry's direction and prevent local communities from providing their residents the broadband they need.

Why does the industry want cities and towns to be subject to the requirements of SB 1004/HB 1252?

To prevent local broadband networks from developing. Industry spokesmen say that if local governments want to enter the broadband business, they must play by the same rules as the private sector. But AT&T and Time Warner Cable are not subject to the rules of SB 1004/HB 1252. SB 1004 saddles cities and towns – even those who want to partner with private sector companies – with unique new rules, numerous reporting auditing, accounting and rate-setting requirements that the industry knows will stop broadband deployment by cities and towns.

(over)

Will SB 1004/HB 1252 harm public safety networks?

YES. Public safety networks typically are regional communications networks incorporating counties, cities and towns, all paying in to operate the network and receiving federal grants to subsidize operating costs. Because these networks are fee-based, they would be subject to SB 1004/HB 1252 and would be shut down by the bills' restrictive rate-setting and financing requirements that only revenues generated directly from the systems could be used to operate them. Public safety systems would no longer be eligible for Homeland Security, ARRA or Farm Bill grants.

Why do cities and towns develop local broadband networks?

- Public safety
- Economic development and job development
- Service to citizens that the private sector won't provide
- Provision of higher speed/higher quality broadband service
- To provide a public service, not to make a profit.

Treatment under SB 1004/SB 1252

ISSUE	MUNICIPAL BROADBAND SYSTEMS	PRIVATELY OWNED CABLE SYSTEMS
Cable & Broadband Rates	Municipal systems would be subject to strict rate regulation in violation of federal law prohibiting rate regulation. Prices for cable and broadband would be set & regulated by N.C. Utilities Commission. Municipal providers would be prohibited from offering promotions to customers. Prices could be artificially inflated due to 1) an effective prohibition on use of equipment & facilities for multiple public purposes; 2) mandatory inclusion of artificial costs in subscriber rates that have not actually been incurred; and 3) mandatory compliance with numerous regulatory requirements. Cities and towns would be prohibited from financing any broadband operations from any other internal financial resource or from transferring funds from one activity to another.	Private cable operators generally exempt from rate regulation under federal law Prices unconstrained and unregulated Private cable operators can engage in predatory pricing by charging artificially low prices in markets served by municipal providers & offering promotions such as cash rebates to keep customers from switching to municipal systems Prices not subject to any of the new rules that would apply to municipal providers, thereby allowing 1) use of equipment & facilities for multiple business purposes; 2) unlimited rates, making possible the lowering of rates in competitive markets by increasing prices in noncompetitive markets; and 3) no obligation to comply with any new regulatory requirements that apply to municipal providers. Most private cable companies are large national companies and can self-finance without limit (e.g., by transferring funds from one business activity to another or from one geographic region to another.)
Public Safety Networks	Operation of public safety networks for which public users share costs by paying fees would be subject to the same complex and strict regulations as apply to other municipal broadband systems.	Private cable companies would be unaffected because they have no public safety obligations and generally do not operate public safety networks.
Federal Stimulus and Other Funds	Cities and towns would be prohibited from using federal stimulus or other federal funds to develop or operate broadband systems, public safety networks operated on a cost-sharing basis or other.	Private cable companies unaffected.
Oversight	Subject to N.C. Utilities Commission regulation Required to prepare independent annual audits, submit to Utilities Commission, then would be available to competitors. Public safety networks operated on cost-sharing basis subject to same audit requirements and oversight by N.C. Utilities Commission.	Private cable operators not regulated by N.C. Utilities Commission. Not required to submit audits or any operations information to Utilities Commission or disclose information about operations to their competitors. Generally do not operate public safety networks.
Exposure to Legal Liability & Lawsuits	More possible lawsuits because "aggrieved party" could sue any municipal provider.	Deregulation of cable industry has limited the availability of meaningful remedies.
Grandfathering	No municipal broadband operations clearly grandfathered; could be opportunity for private competitors to sue to delay municipal operations.	Not subject to bill requirements and given new rights to sue existing municipal competitors.

North Carolina legislature

April 21, 2010

epb Fiber Optics

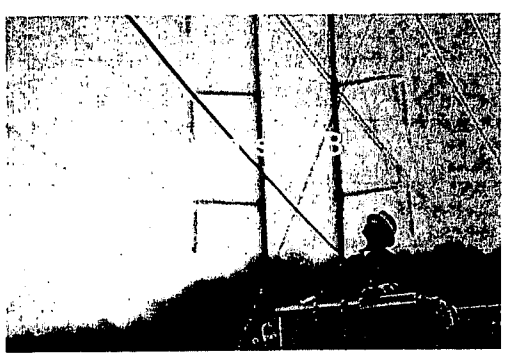
Colman Keane, CPA
EPB

State of Tennessee, Fiscal Director 5 years
CAFR, Statewide Indirect Cost Allocation Plan

Public Accounting/ Private Industry, CFO 9 years
Merger/Acquisition, MAS, Business Start Ups, Financing

EPB (Electric Power Board of Chattanooga) 10 years
Financial Reporting, Budget, IT, FTTH Business Plan,
Project Mgt – FTTH Electrics

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1876
"The telephone has too many shortcomings...the device is inherently of no value to us."

Western Union

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1897
"Radio has no future."

Lord Kelvin, President, Royal Society

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1899
"Everything that can be invented has already been invented."

Director, U.S. Patent Office

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1927
"Who the hell wants to hear actors talk?"

H.M. Warner, Warner Brothers

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1943
"I think there is a world market for maybe five computers."

Thomas Watson, Chairman IBM

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1977
"There is no reason anyone would want a computer in their home."

Ken Olsen, Founder and Chairman DEC (Digital Equipment Corporation, now part of Compaq)

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1981
"640K ought to be enough for anyone."

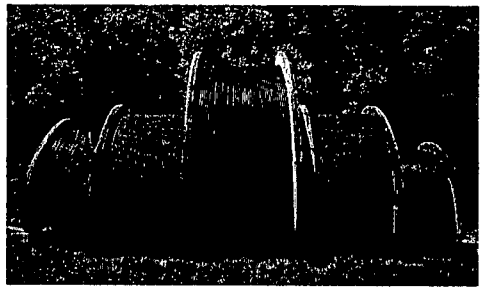
Bill Gates

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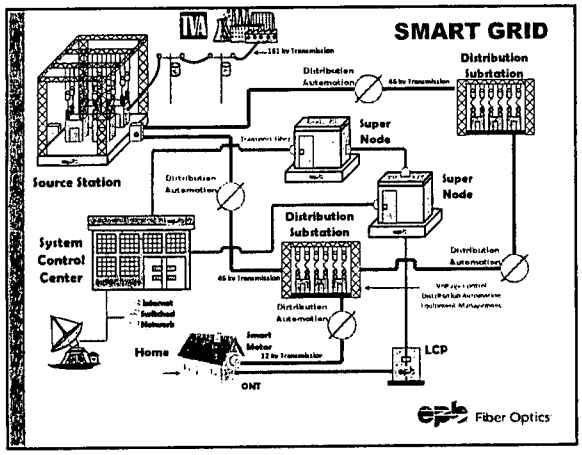
Name this country . . .

- Richest in the World
- Largest Military
- Center of world business and finance
- Strongest education system
- World center of innovation and invention
- Currency the world standard of value
- Highest standard of living

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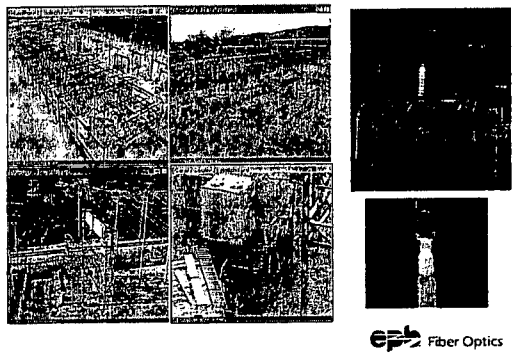


EPB Smart Grid

Improve Customer Communication	Reduce Costs / Improve Operations	Improve Reliability and Power Quality
Smart Meters		
In-Home Electronics		
	Asset Management	
Web Interface	Power Cost Management	Distribution Automation
	Security and Safety	

epb Fiber Optics

Smart Grid Applications



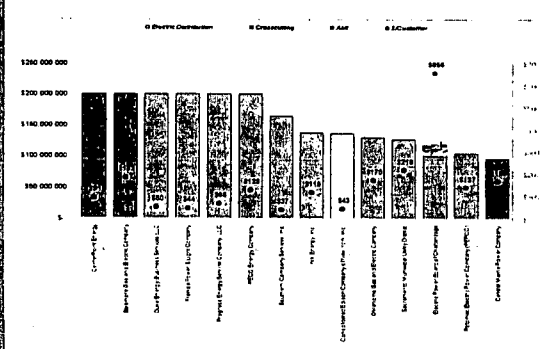
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Smart Grid Grant

$111,567,606 for EPB Electric Power Customers

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ARRA SGIG AWARDS $ PER TOTAL CUSTOMERS IN SERVICE TERRITORY



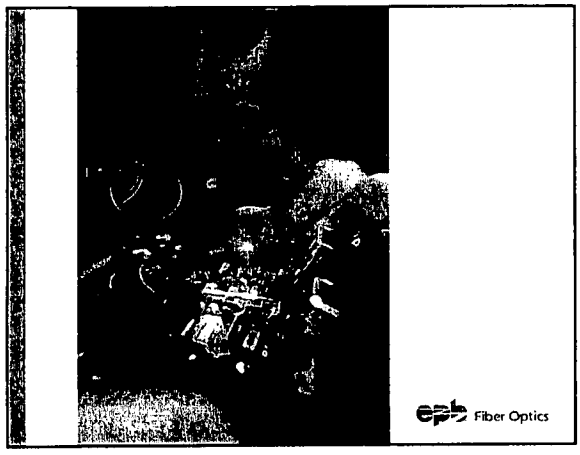
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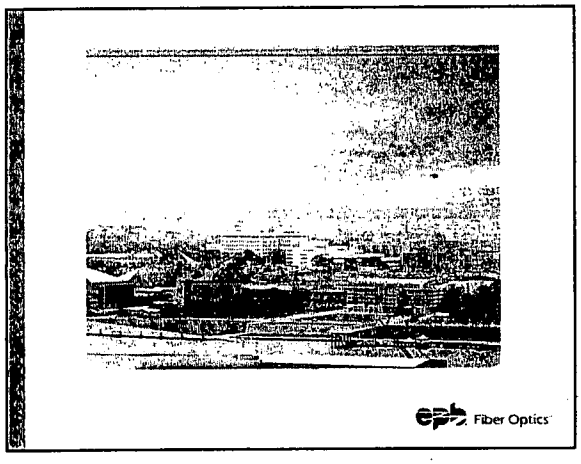
Grant Projects

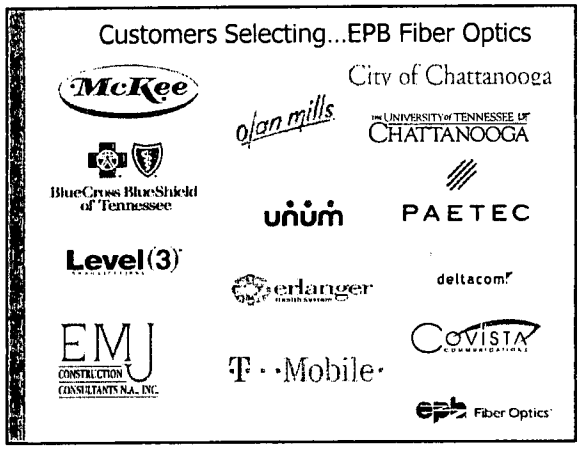
• Fiber Build	$34,440,000
• Network Electronics	$31,600,000
• Distribution Automation	$26,360,000
• SCADA Upgrade	$2,500,000
• Smart Meters	$12,730,000
• Meter Data Mgmt System	$1,080,000
• In-Home Electronics	$750,000
• Web Interface	$190,000

Partners Committing Additional $4 million

epb Fiber Optics


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Customers Selecting...EPB Fiber Optics
McKee
City of Chattanooga
olan mills
THE UNIVERSITY of TENNESSEE at CHATTANOOGA
BlueCross BlueShield of Tennessee
unum
PAETEC
Level(3)
erlanger
deltacom
EMJ CONSTRUCTION CONSULTANTS N.A., INC.
T··Mobile·
COVISTA
epb Fiber Optics

Value to Electric Customers

EPRI



$300 M electric system value over 10 years

- Power Quality & Reliability
- Reduction in theft
- Operational and Capital Savings
- Customer Benefit
- EPRI Validated of EPB Study states:

" EPB is to be commended for making a key strategic decision for implementation and use of a fiber optic network. It is difficult to imagine any competing move offering such significant potential for expanding customer services."

epb Fiber Optics

Economic Development & Quality of Life

Benefits of Fiber-to-the-Home Deployment in Hamilton County



$252.5 M Social Benefit

$352.4 M Economic Benefit

IMPLAN Model Forecast 10 Year Value:

$604.9 M PV Return @ 10%

2,638 New Jobs Forecast

"Second generation broadband must come to communities like Hamilton County if the U.S. is to remain competitive globally Communities would do well to give serious thought to adopting this technology sooner rather than later "

Source: *The Impact of Broadband in Hamilton County, TN*, March 2006 Berto Lobo Ph D , Andy Novobilski Ph D, and Soumen Ghosh Ph.D. University of Tennessee Chattanooga, Tennessee State University.

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Attract New Business

Top 10 Site Selection Factors	2005
1. Availability of Telecommunications Service	96
2. State & Local Incentives	95.9
3. Highway Accessibility	94
4. Labor Cost	93.8
4. Proximity to Major Markets	93.8
4. Availability of High Speed Internet	93.8
5. Availability of Skilled Workforce	89.6
6. Availability of Land	89.1
7. Tax Exemptions	86
8. Corporate Tax Rate	85.7
9. Occupancy or Construction Cost	84.3
10. Energy Availability and Cost	83.7

Source: [illegible]

Study: Understanding the Benefits of Municipal Broadband in Tennessee MIT Professor William Lehr Ph.D. and Sharon Gillett, Feb 2006.

Broadband networks will create 1.2 M new jobs in the United States.

Benefits of broadband in Tennessee Suggest $10 billion in additional GDP and 20,000 new jobs.

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Regulatory Landscape

Local Franchise Authority

- Rates for Basic Tier
- Handles customer complaints
- Public Right of Ways

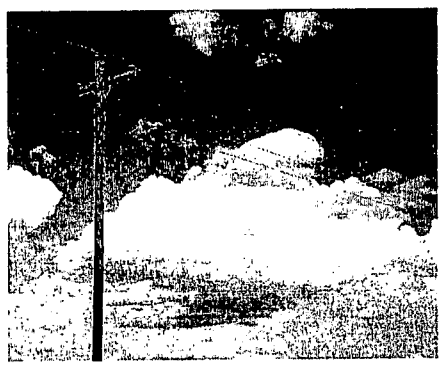
FCC

- Franchise standards
- Signal carriage
- Program nonduplication/exclusivity
- Nonbroadcast or cablecasting services
- Cross-ownership
- Equal employment opportunity
- Technical standards.

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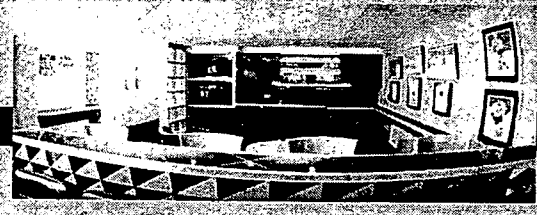


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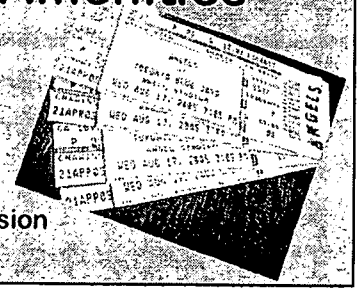
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What is the Fi Lifestyle?
Fi-Speed Internet
Fi TV
Fi-Phone
You Pick
You're on the ONLY 100% fiber optic network
Fi-Speed Internet Fi TV Fi Phone
Fi-nally, the future is here
Check Availability
Get the Fi Bundle that fits you
YOU PICK
A Fi BUNDLE
THAT FITS YOU
Fiber Optics



Revenue Laws Study Committee
April 21, 2010

The Application of the Admissions Tax to Amenities



Trina Griffin
NCGA Research Division

Amenities

- VIP parking privileges & entrances
- Preferential and/or more luxurious seating
- Access to special concession stands
- Access to concierge staff
- Access to luxury viewing suite
  - Private restroom
  - Stocked bar & refrigerator
  - Television screens
- Meeting room space
- Mascot visits
- Merchandise discounts
- Copies of game statistics
- Advance notice of upcoming events

Current Law

- A 3% privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:
  (1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.
  (2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.
  (3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

1994

- Department of Revenue issues written opinion in response to taxpayer inquiry stating that amenities are ***excludable*** from the admissions tax.
  - "...this is to advise that in determining the 3% gross receipts tax due under G.S. 105-37.1 on the club-level seats and luxury suites packages, ***you may exclude the charges for extra amenities*** (e.g. parking privileges, access to a special concession stand, and special attendants who will take food and drink orders for patrons in those areas) included in those packages."

2009

- On January 30, 2009, the Department issued a directive, effective the following day, reversing its position.
  - "Gross receipt taxes are computed on the admission price of the amusement. An admission price is the price paid to enter an event. Effective for tickets for admission sold on or after February 1, 2009, ***the gross receipts tax is due on the price paid by a customer for admission into an event regardless of whether that price just covers the seat price or also includes amenities.***"

Policy Question

To Tax...

- Total price reflects price customer paid for admission.
- Excluding amenities from tax makes tax more difficult to administer.
- Excluding amenities may lead to price manipulation to avoid payment of tax.

or Not to Tax?

- Amenities are not part of admission and do not necessarily reflect price purchaser is willing to pay to view event.
- An admission ticket that includes amenities is more like a bundled transaction under sales tax and can be allocated.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-SVxz-17A [v.5] (03/22)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/20/2010 9:40:16 PM

Short Title:	Modernize Admissions Tax.	(Public)
Sponsors:	Unknown.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE AND EQUALIZE THE ADMISSIONS TAX BY EXTENDING IT TO INTERNET TICKET RESELLERS AND TO APPLY THE TAX ONLY TO THE CHARGE FOR ADMISSION TO AN EVENT AND NOT TO EXTRA AMENITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. ~~Dances, athletic events, shows, exhibitions, and other entertainments.~~Live entertainment and ticket resales.**

(a) Scope. – A privilege tax is imposed on the ~~gross receipts of a person who is engaged in any of the~~ following:

(1) ~~Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.~~The gross admissions receipts of a person who is engaged in providing admission to live entertainment of any kind. Gross admissions receipts under this subdivision do not include charges for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for tickets to the same event that does not include amenities and that are directly in front of or closest to the seats that do include amenities.

(2) ~~Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.~~The gross receipts of a person who is engaged in the business of reselling on the Internet under G.S. 14-344.1 an admission ticket that is taxable under subdivision (1) of this subsection. If the price of an admission ticket is printed on the face of the ticket, gross receipts under this subdivision exclude the face price. If the price of an admission ticket is not printed on the face of the ticket, the tax under this subdivision applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

(3) ~~Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.~~

(b) Rate and Payment. – The rate of the privilege tax imposed by this section is three percent ~~(3%) of the gross receipts from the activities described in subsection (a) of this~~

~~section.~~(3%). The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. – A person who owns or controls ~~a performance, show, or exhibition~~ the performance of live entertainment subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the ~~performance, show, or exhibition.~~ performance. The statement must be filed no less than five days before the first ~~performance, show, or exhibition~~ performance in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) ~~or (a)(2)~~ of this section; however, the tax may not exceed twenty-five dollars ~~($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars~~ ($25.00) for each day or part of a day the ~~performance, show, or exhibition~~ performance of live entertainment is given at each location. Cities may not levy a license tax on a person taxed under subdivision (a)(2) of this section.

Counties may not levy a license tax on a person taxed under ~~subdivision (a)(1) or (a)(2) of~~ this section. ~~Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.~~"

SECTION 2. G.S. 14-344.1(e) is repealed.

SECTION 3. If any provision of this act is declared by a court to violate the Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found to be invalid, then G.S. 14-344.1 is repealed.

SECTION 4. G.S. 105-37.1(a)(2), as amended by Section 1 of this act, becomes effective January 1, 2011, and applies to admission tickets sold on or after that date. The remainder of Section 1 of this act and Section 2 of this act become effective August 1, 2010. G.S. 105-37.1(a)(1), as amended by Section 1 of this act, applies to admissions provided on or after August 1, 2010. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-LAz-23 [v.20] (03/23)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/20/2010 10:36:58 AM

Short Title: Improve Tax & Debt Collection Process. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE COLLECTION OF TAX DEBTS AND OTHER DEBTS OWED THE STATE.

The General Assembly of North Carolina enacts:

PART I. CHANGES TO DEBT SETOFF PROGRAMS

SECTION 1.1. G.S. 147-86.20(1) reads as rewritten:

"**§ 147-86.20. Definitions.**

The following definitions apply in this Article:

(1) Account ~~Receivable.~~receivable. – An asset of the State reflecting a debt that is owed to the State and has not been received by the State agency servicing the debt. The term includes claims, damages, fees, fines, forfeitures, loans, overpayments, taxes, and tuition as well as penalties, interest, and other costs authorized by law. The term does not include court costs or fees assessed in actions before the General Court of Justice or counsel fees and other expenses of representing indigents under Article 36 of Chapter 7A of the General Statutes.

..."

SECTION 1.2. G.S. 147-86.22 reads as rewritten:

"**§ 147-86.22. Statewide accounts receivable program.**

(a) Program. – The State Controller shall implement a statewide accounts receivable program. As part of this program, the State Controller shall do all of the following:

(1) Monitor the State's accounts receivable collection efforts.

(2) Coordinate information, systems, and procedures between State agencies to maximize the collection of past-due accounts receivable.

(3) Adopt policies and procedures for the management and collection of accounts receivable by State agencies.

(4) Establish procedures for writing off accounts ~~receivable and for determining when to end efforts to collect accounts receivable after they have been written off.~~receivable.

(b) Electronic Payment. – Notwithstanding the provisions of G.S. 147-86.20 and G.S. 147-86.21, this subsection applies to debts owed a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, and the Administrative Office of the Courts, and to debts payable to or through the

office of a clerk of superior court or a magistrate, as well as to debts owed to other State agencies as defined in G.S. 147-86.20.

The State Controller shall establish policies that allow accounts receivable to be payable under certain conditions by electronic payment. These policies shall be established with the concurrence of the State Treasurer. In addition, any policies that apply to debts payable to or through the office of a clerk of superior court or a magistrate shall be established with the concurrence of the Administrative Officer of the Courts. The Administrative Officer of the Courts may also establish policies otherwise authorized by law that apply to these debts as long as those policies are not inconsistent with the Controller's policies.

A condition of payment by electronic payment is receipt by the appropriate State agency of the full amount of the account receivable owed to the State agency. A debtor who pays by electronic payment may be required to pay any fee or charge associated with the use of electronic payment. Fees associated with processing electronic payments may be paid out of the General Fund and Highway Fund if the payment of the fee by the State is economically beneficial to the State and the payment of the fee by the State has been approved by the State Controller and State Treasurer.

The State Controller and State Treasurer shall consult with the Joint Legislative Commission on Governmental Operations before establishing policies that allow accounts receivable to be payable by electronic payment and before authorizing fees associated with electronic payment to be paid out of the General Fund and Highway Fund. A State agency must also consult with the Joint Legislative Commission on Governmental Operations before implementing any program to accept payment under the policies established pursuant to this subsection.

A payment of an account receivable that is made by electronic payment and is not honored by the issuer of the card or the financial institution offering electronic funds transfer does not relieve the debtor of the obligation to pay the account receivable.

(c) Collection Techniques. – The State Controller, in conjunction with the Office of the Attorney General, shall establish policies and procedures to govern techniques for collection of accounts receivable. These techniques may include use of credit reporting bureaus, judicial remedies authorized by law, and administrative setoff by a reduction of ~~an individual's~~a tax refund pursuant to the Setoff Debt Collection Act, Chapter 105A of the General Statutes, or a reduction of another payment, other than payroll, due from the State to a person to reduce or eliminate an account receivable that the person owes the State.

~~No later than January 1, 1999, the~~The State Controller shall negotiate a contract with a third party to perform an audit and collection process of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors. The third party shall be compensated only from funds recovered as a result of the audit. Savings realized in excess of costs shall be transferred from the agency to the Office of State Budget and Management and placed in a special reserve account for future direction by the General Assembly. Any disputed savings shall be settled by the State Controller. This paragraph does not apply to the purchase of medical services by State agencies or payments used to reimburse or otherwise pay for health care services."

SECTION 1.3. G.S. 147-86.25 reads as rewritten:

"**§ 147-86.25. Setoff debt collection.**

The State Controller shall implement a statewide setoff debt collection program to provide for collection of ~~accounts receivable that have been written off. The statewide program shall supplement the Setoff Debt Collection Act, Chapter 105A of the General Statutes, and shall provide for written-off~~ the following accounts receivable ~~to be set off~~by setoff against payments the State owes to debtors, other than payments of ~~individual income~~ tax refunds and ~~payroll.~~payroll:

(1) Accounts receivable submitted to the Department of Revenue by a claimant agency under the Setoff Debt Collection Act, Chapter 105A of the General Statutes.

(2) An overdue tax debt, as defined in G.S. 105-243.1.

~~A program shall provide that, before final setoff can occur, the State agency servicing the debt must notify the debtor of the proposed setoff and of the debtor's right to contest the setoff through an administrative hearing and judicial review. A proposed setoff by a State agency that is a "claimant agency" under Chapter 105A of the General Statutes shall be conducted in accordance with the procedures the State agency must follow under that Chapter. A proposed setoff by a State agency that is not a "claimant agency" under Chapter 105A of the General Statutes shall be conducted under Articles 3 and 4 of Chapter 150B of the General Statutes.~~"

SECTION 1.4. G.S. 105A-2 reads as rewritten:

"**§ 105A-2. Definitions.**

The following definitions apply in this Chapter:

...

(3) Debtor. – ~~An individual~~ A person who owes a debt.

...

(8) Refund. – ~~An individual's North Carolina income~~ A debtor's North Carolina tax refund.

(9) State agency. – Any of the following:

a. A unit of the executive, legislative, or judicial branch of State government.

b. A local agency, to the extent it administers a program supervised by the Department of Health and Human Services or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act.

c. A community college."

SECTION 1.5. G.S. 105A-3(c) reads as rewritten:

"(c) Identifying Information. – All claimant agencies shall whenever possible obtain the full name, social security ~~number,~~ number or federal identification number, address, and any other identifying information required by the Department from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under this Chapter."

SECTION 1.6. G.S. 105A-14(a) reads as rewritten:

"(a) Simultaneously with the transmittal of the net proceeds collected to a claimant agency, the Department must provide the agency with an accounting of the setoffs for which payment is being made. The accounting must whenever ~~possible,~~possible include the full names of the debtors, the debtors' social security ~~numbers,~~numbers or federal identification numbers, the gross proceeds collected per setoff, the net proceeds collected per setoff, and the collection assistance fee added to the debt and collected per setoff."

SECTION 1.7. G.S. 105-259(b)(18) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(18) To furnish to the Office of the State Controller ~~the name, address, and account and identification numbers of a taxpayer upon request to enable~~information needed by the State Controller to implement the setoff

debt collection program established under G.S. 147-86.25, verify statewide vendor files or track debtors of the State.

..."

PART II. CHANGES TO ATTACHMENT AND GARNISHMENT PROCESS

SECTION 2.1. G.S. 105-242(b) reads as rewritten:

"(b) Garnishment and Attachment. – Intangible property that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a tax that is due from the taxpayer and is collectible under G.S. 105-241.22. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery. A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by any amount the taxpayer owes the garnishee. ~~G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.~~

The Secretary may submit to a financial institution, as defined in G.S. 53B-2, information that identifies a taxpayer who owes a tax debt that is collectible under G.S. 105-241.22 and the amount of the debt. The Secretary may submit the information on a quarterly basis or, with the agreement of the financial institution, on a more frequent basis. A financial institution that receives the information must determine the amount, if any, of intangible property it holds that belongs to the taxpayer and is subject to attachment and garnishment and must inform the Secretary of its determination. The Secretary must reimburse a financial institution for its costs in providing the information, not to exceed the amount payable to the financial institution under G.S. 110-139 for providing information for use in locating a noncustodial parent.

No more than ten percent (10%) of a taxpayer's wages or salary is subject to attachment and garnishment. The wages or salary of an employee of the United States, the State, or a political subdivision of the State are subject to attachment and garnishment.

G..S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property."

SECTION 2.2. G.S. 105-242.1 reads as rewritten:

"**§ 105-242.1. Procedure for attachment and garnishment.**

(a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and garnishment. Before the Department attaches and garnishes intangible property in payment of a tax, the Department must send the garnishee a notice of garnishment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20 ~~or by registered or certified mail.~~or, with the agreement of the garnishee, by electronic means. The notice must contain all of the following ~~information:~~information, unless the notice is an electronic notice subject to subsection (a1) of this section:

(1) The taxpayer's ~~name, address, and social security number or federal identification number.~~name.

(2) The ~~type of tax the taxpayer owes and the tax periods for which the tax is owed.~~taxpayer's social security number or federal identification number.

(3) The amount of tax, interest, and penalties the taxpayer owes.

(4) An explanation of the liability of a garnishee for tax owed by a taxpayer.

(5) An explanation of the garnishee's responsibility concerning the notice.

(a1) Electronic Notice. - Before the Department sends an electronic notice of garnishment to a garnishee, the Department and the garnishee must have an agreement that established the protocol for transmitting the notice and provides the information required under subdivisions (4) and (5) of subsection (a) of this section. An electronic notice must contain the information required under subdivisions (1), (2), and (3) of subsection (a) of this section.

(b) Action. – ~~Within 30 days after receiving a notice of garnishment, a~~ A garnishee must comply with ~~the~~ a notice of garnishment or file a written response to the ~~notice.~~notice within the time set in this subsection. A garnishee that is a financial institution, as defined in G.S. 53B-2, must comply or file a response within 10 days after receiving a notice of garnishment. All other garnishees must comply or file a response within 30 days after receiving a notice of garnishment. A written response must explain why the garnishee is not subject to garnishment and attachment. ~~Upon~~

Upon receipt of ~~the~~ a written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

(c) Release. – ~~When the Department releases a garnishee from liability, the Department must send the garnishee a letter of release. The letter~~A notice of garnishment sent to a financial institution, as defined in G.S. 53B-2, is released when the financial institution complies with the notice. A notice of garnishment sent to all other garnishees is released when the Department sends the garnishee a notice of release. A notice of release must identify the taxpayer to whom the release applies and contain the identifying information about the taxpayer that is required under subsection (a) on a notice of garnishment."

SECTION 2.3. G.S. 53B-4(2) reads as rewritten:

"**§ 53B-4. Access to financial records.**

Notwithstanding any other provision of law, no government authority may have access to a customer's financial record held by a financial institution unless the financial record is described with reasonable specificity and access is sought pursuant to any of the following:

...

(2) Authorization under ~~G.S. 105-251~~G.S. 105-242 or G.S. 105-258."

PART III. EFFECTIVE DATE

SECTION 3.1. Part I of this act and this Part are effective when they become law. Part II of this act becomes effective January 1, 2011.

Bill Draft 2009-LAz-23: Improve Tax & Debt Collection Process.

2009-2010 General Assembly

Committee:	Revenue laws Study Committee	**Date:**	April 20, 2010
Introduced by:		**Prepared by:**	Martha Walston Committee Counsel
Analysis of:	2009-LAz-23		

SUMMARY: ***This proposal, recommended by the Department of Revenue and developed in conjunction with the Office of State Controller and the North Carolina Bankers Association, would improve the tax and debt collection process of the Department of Revenue by:***

- ***Expanding the use of the Setoff Debt Collection Act to allow debts owed by a business to be set off against a tax refund due the business and to allow community colleges to submit for setoff debts owed the college.***
- ***Authorizing the use of electronic process for sending notice of garnishment.***
- ***Providing for a data match between the Department of Revenue and financial institutions holding accounts of delinquent taxpayers.***
- ***Expanding the Statewide Accounts Receivable Program to allow for collection of the following accounts receivable by setoff against payments the State owes to individuals and businesses: accounts receivable that are submitted to the Department of Revenue under the Setoff Debt Collection Act and overdue tax debts.***

BILL ANALYSIS:

Expansion of Setoff Debt Collection Act

The Setoff Debt Collection Act, enacted in 1997, authorizes the Department of Revenue to set off an individual's income tax refund against a debt the individual owes a State agency or local agency.[1] Under the Act, a claimant agency sends the Department notice of the debt and the Department immediately sets off the debt against the tax refund and notifies the taxpayer and the claimant agency.

The proposal in Sections 1.4 through 1.7 would expand the Setoff Debt Collection Act to allow community colleges to collect debts owed to them through setoff of tax refunds and to allow debts that a business owes a claimant agency to be set off against the entity's tax refund. Currently the Act only allows debts owed to claimant agencies by individuals to be set off against the individual's income tax refund.

Notice of Garnishment by Electronic Process

The Department of Revenue is authorized by statute to attach and garnish intangible property in payment of taxes owed to the Department. The kinds of property that are subject to attachment and garnishment are wages and salaries, rents, bank deposits, the proceeds of property subject to levy, and property in the Escheat Fund. When the property sought to be attached is the taxpayer's checking account, the garnishee is the bank. When the property is wages, the taxpayer's employer is the garnishee. No more than 10% of a taxpayer's wages or salary per month is subject to attachment and garnishment. Current law requires that the notice of garnishment must be delivered in person or by mail

[1] State agency includes a unit of the executive, legislative, or judicial branch of State government and a local agency to the extent it administers a program supervised by DHHS. A local agency includes a county, municipality, water and sewer authority, regional joint agency created by interlocal agreement, public heath authority, metropolitan sewerage district, or sanitary district.

The proposal, in Section 2.2, authorizes electronic notice, if the garnishee agrees to this method and the Department and garnishee have an agreement that establishes the protocol for electronic notice.

The proposal also streamlines the process if the garnishee is a financial institution by reducing the time period for filing a response to the notice of garnishment from 30 days to 10 days and by releasing the notice of garnishment when the institution complies with the notice. All other garnishees will continue to receive a notice of release. Streamlining would be consistent with the current garnishment practice with banks wherein the Department faxes notice of garnishment to a bank and the bank then sends money in the account to the Department within 10 to 15 days. Sections 2.1 and 2.3 make this streamlining change.

Data Match between Financial Institutions and the Department of Revenue

The proposal, in Section 2.1, further streamlines the attachment and garnishment process with financial institutions. The Department would be authorized to submit information to a financial institution on a quarterly basis, or with the agreement of the financial institution, more frequently. The information would identify any delinquent taxpayer to a financial institution and require the financial institution to notify the Department of the amount the institution may hold that belongs to the taxpayer. The Department will reimburse the financial institution for the cost of providing the information. The cost may not exceed the amount that the Department of Health and Human Services currently pays to financial institutions for conducting a data match in order to attach and garnish the account of an absent noncustodial parent.[2]

Expansion of Statewide Accounts Receivable

The Statewide Accounts Receivable Program, enacted in1993, requires the State Controller to monitor accounts receivable owed to State agencies, to adopt procedures for the management and collection of accounts receivable, and to establish procedures for writing off accounts receivable.[3] The Program also provides for written-off accounts receivable to be set off against payments the State owes to debtors. A written-off accounts receivable is one that has been removed from a State agency's accounts receivable records.

The proposal, in Sections 1.1 through 1.3, would expand the Statewide Accounts Receivable Program as follows:

- Expand the definition of "accounts receivable" to include taxes.
- Allow debts that have been submitted to the Department of Revenue under the Setoff Debt Collection Act to be set off against payments the State owes to these debtors. The following is an example of how this proposal would work. The Department of Revenue will give the State Controller a list of debtors under the Setoff Debt Collection Act. The State Controller will then check to see if any of these debtors are vendors that are owed money by the State for services or goods received by the State. The State Controller will then deduct the amount of the debt from the amount owed by the State. The State Controller will send this amount to the claimant agency owed the debt.

EFFECTIVE DATE: Part I of the act is effective when it becomes law. Part II of the act becomes effective January 1, 2011.

2009-LAz-23-SMLA-89 v6

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[2] The DHHS and financial institutions have developed a data match system that requires a financial institution to provide DHHS the following information on a quarterly basis in order to secure child support: name, SSN, address, telephone number, account numbers, and other identifying data for any person who maintains an account at the financial institution.

[3] An account receivable is an asset of the State reflecting a debt owed to the State. The term includes claims, damages, fees, fines, forfeitures, loans, overpayments, and tuition as well as penalties, interest and other costs authorized by law. The term does not include court costs or fees.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-LAz-24 [v.6] (04/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/20/2010 11:09:49 AM

Short Title:	Expand PUV.	(Public)
Sponsors:	Unknown.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE EXCEPTIONS TO OWNERSHIP REQUIREMENTS FOR AGRICULTURAL LAND UNDER THE PROPERTY TAX PRESENT-USE VALUE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.3(b2) reads as rewritten:

"**§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.**

...

(b2) **(Effective for taxes imposed for taxable years beginning on or after July 1, 2008)** Exceptions to Ownership Requirements. – Notwithstanding the provisions of subsections (b) and (b1) of this section, land may qualify for classification in the hands of the new owner if ~~all of the conditions listed in~~ either subdivision of this subsection ~~are~~ is met, even if the new owner does not meet all of the ownership requirements of subsections (b) and (b1) of this section with respect to the land.

(1) Continued use. – If the land qualifies for classification in the hands of the new owner under the provisions of this subdivision, then any deferred taxes remain a lien on the land under G.S. 105-277.4(c), the new owner becomes liable for the deferred taxes, and the deferred taxes become payable if the land fails to meet any other condition or requirement for classification. Land qualifies for classification in the hands of the new owner if all of the following conditions are met:

a. The land was appraised at its present use value at the time title to the land passed to the new owner.

b. The new owner acquires the land and continues to use the land for the purpose for which it was classified under subsection (a) of this section while under previous ownership.

c. The new owner has timely filed an application as required by G.S. 105-277.4(a) and has certified that the new owner accepts liability for any deferred taxes and intends to continue the present use of the land.

(2) Expansion of existing unit. – Land qualifies for classification in the hands of the new owner ~~if, at~~if one of the following conditions listed in this

subdivision is met. The new owner must timely file an application as required by G.S. 105-277.4(a). The conditions are:

a. At the time title passed to the new owner, the land was not appraised at its present-use value but was being used for the same purpose and was eligible for appraisal at its present-use value as other land already owned by the new owner and classified under subsection (a) of this section.

b. At the time title passed to the new owner, the land was not eligible for appraisal at present-use value, but the new owner owns other land that is classified as agricultural land under subsection (a) of this section and acquires the new land for agricultural use. The recently acquired land loses its present-use value eligibility, if the new owner does not begin using the land as agricultural land within one year from the date of acquisition."

SECTION 2. This act becomes effective for taxes imposed for taxable years beginning on or after July 1, 2011, and applies to property acquired on or after January 1, 2010.

Bill Draft 2009-LAz-24: Expand PUV.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	April 15, 2010
Introduced by:		**Prepared by:**	Martha Walston Committee Counsel
Analysis of:	2009-LAz-24		

SUMMARY: ***This proposal expands the exception to ownership requirements in the Present-Use Value (PUV) program for property tax purposes. The exception applies to newly acquired land that is not being used for a farm purpose. The owner, however, must already own land that is in the PUV program and used for agricultural purposes, and the owner must begin using the recently acquired land for agricultural purposes within one year of its acquisition.***

CURRENT LAW: In order to be classified as agricultural land, horticultural land, or forestland under the Present-Use Value (PUV) program and to receive a lower PUV appraised value in lieu of a fair market value appraisal, the land must meet certain ownership, use, and size requirements. The ownership requirements are as follows:

Individual ownership

Land owned by an individual must meet one of the following ownership requirements: (1) be the owner's place of residence as of January 1, (2) be owned by the current owners or a relative for four full years preceding January 1 of the year for which application is made, or (3) if transferring from a business entity or trust to an individual, the property must have been receiving present-use value at the time of transfer, and the individual must have been a member of the entity or a beneficiary of the trust.

Business entity or trust ownership

Land owned by a business entity or trust must have been owned by the business entity or by one or more of the members of the business entity or by the trust or one or more of the creators of the trust for the four years preceding January 1 of the year for which application is made.

Exceptions to ownership requirements

There are two exceptions to the ownership requirements: (1) where PUV land is transferred and the new owner continues to use the land for its present use, and (2) where an existing tract of PUV land is expanded by acquiring land that is eligible to be in the PUV program.

1. Land immediately qualifies for the PUV program if all of the following conditions are met:

   - The land was appraised at its PUV at the time title passed to the new owner.
   - The new owner will continue to use the land for the same PUV purpose it was classified for under the previous ownership.
   - The land will continue to meet the applicable size requirement. If the new owner already has a qualifying tract of the same PUV classification, the transferred land can be less than the minimum initial required acreage if the land can properly be considered an additional tract of the existing farm unit.[1]
   - The new owner must file an application for PUV within 60 days of the date of transfer.
   - The new owner certifies that he or she accepts liability for any deferred taxes that exists.

[1] A farm unit is defined as one or more tracts of agricultural land, horticultural land, or forestland. Multiple tracts must be under the same ownership and be of the same type of classification. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under the PUV program. (G.S. 105-277.2(7))

2. Land qualifies for the PUV program for the next year if all of the following conditions are met:

   - At the time of transfer, the new owner owned other land already in PUV.
   - The newly acquired land was not appraised at PUV, but at the time of transfer it was being used for the same purpose as the PUV land already owned by the new owner.
   - At the time of transfer, the land being transferred met the production and sound management requirements.
   - The new owner timely files a new application during the next listing period, typically the month of January.[2]

BILL ANALYSIS: The proposal would allow a third exception to the ownership requirements under the PUV program if all of the following requirements are met:

- The owner acquires land that is not eligible for the PUV program at the time of transfer.
- The owner already owns land classified as agricultural land in the PUV program.
- The new owner begins using the newly acquired land as agricultural land within one year of the date of its acquisition.
- A timely application is filed.

EFFECTIVE DATE: This act becomes effective for taxes imposed for taxable years beginning on or after July 1, 2011, and applies to property acquired on or after January 1, 2010.

2009-LAz-24-SMLA-88 v4

[2] Since land attempting to qualify under this exception is not in PUV at the time of transfer, the land will need to qualify under an initial application. An initial application for PUV should be filed during the regular listing period of the next tax year.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-RBz-49 [v.1] (04/15)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/20/2010 4:08:48 PM

Short Title: Construction of Wills and Trusts. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CONSTRUE CERTAIN FORMULA CLAUSES THAT REFER TO FEDERAL ESTATE AND GENERATION-SKIPPING TRANSFER TAX LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 31 of the General Statutes is amended by adding a new section to read:

"**§ G.S. 31-46.1. Construction of certain formula clauses to refer to federal estate and generation-skipping transfer tax laws applicable to estates of decedents dying after December 31, 2009, and before January 1, 2011.**

(a) Purpose. – The federal estate tax and generation-skipping transfer tax expired January 1, 2010, for one year. To carry out the intent of decedents in the construction of wills and trusts, and to promote judicial economy in the administration of trusts and estates, this section construes certain formula clauses to refer to federal estate and generation-skipping transfer tax rules applicable to estates of decedents dying on December 31, 2009.

(b) Applicability. – This section applies to a will of a decedent who dies after December 31, 2009, and before January 1, 2011. If the federal estate tax and generation-skipping transfer tax becomes effective prior to January 1, 2011, then the reference to this date becomes the first date on which the federal taxes become effective.

This section does not apply to a will that is executed or amended after December 31, 2009, or to a will that clearly manifests an intent that a contrary rule applies in cases where the decedent dies on a date on which there is no then-applicable federal estate or federal generation-skipping transfer tax.

(c) Construction. – A will of a decedent who dies after December 31, 2009, and before January 1, 2011, is deemed to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009, if the will contains a formula that meets one or more of the following conditions:

(1) The formula refers to any of the following: 'unified credit', 'estate tax exemption', 'applicable exemption amount', applicable credit amount', applicable exclusion amount', generation-skipping transfer tax exemption', 'GST exemption', 'marital deduction', 'maximum marital deduction', unlimited marital deduction', 'inclusion ratio', or 'applicable fraction'.

(2) The formula measures a share of an estate or trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer taxes.

(3) The formula is otherwise based on a provision of federal estate tax or federal generation-skipping transfer tax law similar to the provisions in subdivisions (1) or (2) of this subsection.

(d) Judicial Determination. – The personal representative or any affected beneficiary under a will or testamentary trust may bring an action in the superior court division of the General Court of Justice under Article 26 of Chapter 1 of the General Statutes and the trustee of a trust created under the will or any affected beneficiary under the trust may bring a proceeding as permitted under Chapter 36C of the General Statutes to determine whether the decedent intended that the references under subsection (c) of this section be construed with respect to the federal law as it existed after December 31, 2009. The action must be commenced within 12 months following the death of the decedent."

SECTION 2. Article 1 of Chapter 36C of the General Statutes is amended by adding a new section to read:

"**§ G.S. 36C-1-112.1. Construction of certain formula clauses to refer to federal estate and generation-skipping transfer tax laws applicable to estates of decedents dying after December 31, 2009, and before January 1, 2011.**

(a) Purpose. – The federal estate tax and generation-skipping transfer tax expired January 1, 2010, for one year. To carry out the intent of decedents in the construction of wills and trusts, and to promote judicial economy in the administration of trusts and estates, this section construes certain formula clauses to refer to federal estate and generation-skipping transfer tax rules applicable to estates of decedents dying on December 31, 2009.

(b) Applicability. – This section applies to a trust created by a settlor who dies after December 31, 2009, and before January 1, 2011. If the federal estate tax and generation-skipping transfer tax becomes effective prior to January 1, 2011, then the reference to this date becomes the first date on which the federal taxes become effective.

This section does not apply to a trust that is executed or amended after December 31, 2009, or to a trust that clearly manifests an intent that a contrary rule applies in cases where the decedent dies on a date on which there is no then-applicable federal estate or federal generation-skipping transfer tax.

(c) Construction. – A trust created by a settlor who dies after December 31, 2009, and before January 1, 2011, is deemed to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009, if the trust contains a formula that meets one or more of the following conditions:

(1) The formula refers to any of the following: 'unified credit', 'estate tax exemption', 'applicable exemption amount', applicable credit amount', applicable exclusion amount', generation-skipping transfer tax exemption', 'GST exemption', 'marital deduction', 'maximum marital deduction', unlimited marital deduction', 'inclusion ratio', or 'applicable fraction'.

(2) The formula measures a share of a trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer taxes.

(3) The formula is otherwise based on a provision of federal estate tax or federal generation-skipping transfer tax law similar to the provisions in subdivisions (1) or (2) of this subsection.

(d) Judicial Determination. – The trustee of the trust or any affected beneficiary under the trust may commence a proceeding to determine whether the settlor intended that the references under subsection (c) of this section be construed with respect to the federal law as it

existed after December 31, 2009. The action must be commenced within 12 months following the death of the settlor."

SECTION 3. G.S. 36C-2-203(f) is amended by adding a new

"(f) Without otherwise limiting the jurisdiction of the superior court division of the General Court of Justice, proceedings concerning the internal affairs of trusts shall not include, and, therefore, the clerk of superior court shall not have jurisdiction under subsection (a) of this section of the following:

(1) Actions to reform, terminate, or modify a trust as provided by G.S. 36C-4-410 through G.S. 36C-4-416;
(2) Actions by or against creditors or debtors of a trust;
(3) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence;
(4) Actions to enforce a charitable trust under G.S. 36C-4-405.1;
(5) Actions to amend or reform a charitable trust under G.S. 36C-4A-1; and
(6) Actions involving the exercise of the trustee's special power to appoint to a second trust pursuant to G.S. 36C-8-816.1.
(7) Actions to construe a formula that refers to federal estate and generation-skipping transfer tax laws applicable to estates of decedents dying after December 31, 2009, and before January 1, 2011, as allowed under G.S. 36C-1-112.1."

SECTION 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of its provisions to other persons or circumstances is not affected.

SECTION 5. This act is effective when it becomes law.

North Carolina legislature

April 21, 2010

epb Fiber Optics

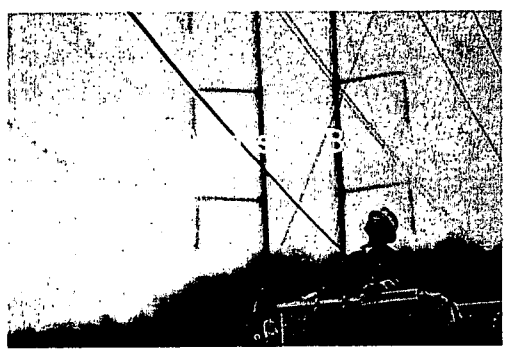
Colman Keane, CPA
EPB

State of Tennessee, Fiscal Director 5 years
CAFR, Statewide Indirect Cost Allocation Plan

Public Accounting/ Private Industry, CFO 9 years
Merger/Acquisition, MAS, Business Start Ups, Financing

EPB (Electric Power Board of Chattanooga) 10 years
Financial Reporting, Budget, IT, FTTH Business Plan,
Project Mgt – FTTH Electrics

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1876
"The telephone has too many shortcomings...the device is inherently of no value to us."

Western Union

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1897
"Radio has no future."

Lord Kelvin, President, Royal Society

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1899
"Everything that can be invented has already been invented."

Director, U.S. Patent Office

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1927
"Who the hell wants to hear actors talk?"

H.M. Warner, Warner Brothers

epb Fiber Optics

1943
"I think there is a world market for maybe five computers."

Thomas Watson, Chairman IBM

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1977
"There is no reason anyone would want a computer in their home."

Ken Olsen, Founder and Chairman DEC (Digital Equipment Corporation, now part of Compaq)

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1981
"640K ought to be enough for anyone."

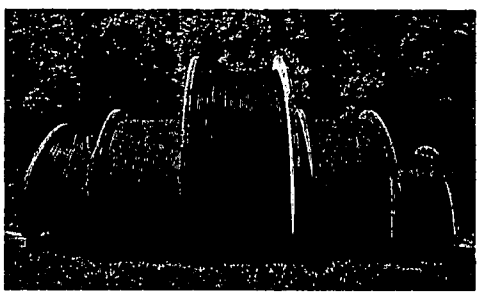
Bill Gates

epb Fiber Optics

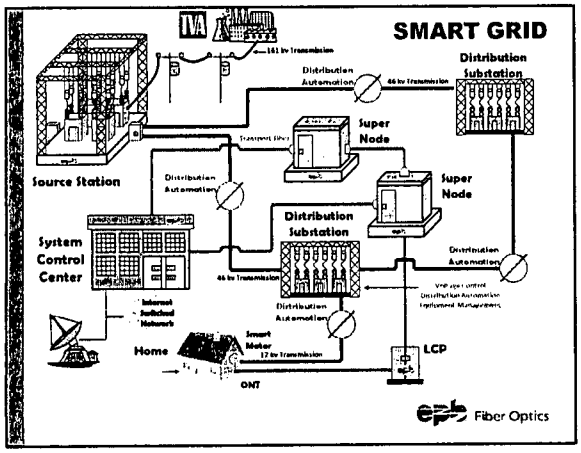
Name this country . . .

- Richest in the World
- Largest Military
- Center of world business and finance
- Strongest education system
- World center of innovation and invention
- Currency the world standard of value
- Highest standard of living

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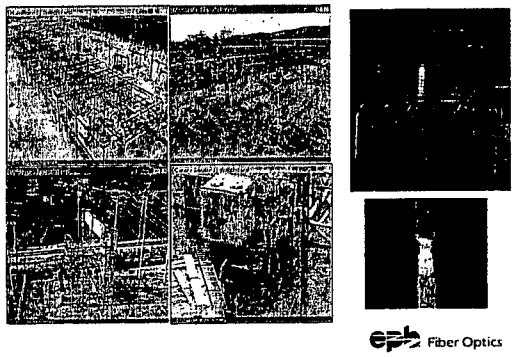


EPB Smart Grid

Improve Customer Communication	Reduce Costs / Improve Operations	Improve Reliability and Power Quality
Smart Meters		
In-Home Electronics		
	Asset Management	
Web Interface	Power Cost Management	Distribution Automation
	Security and Safety	

epb Fiber Optics

Smart Grid Applications



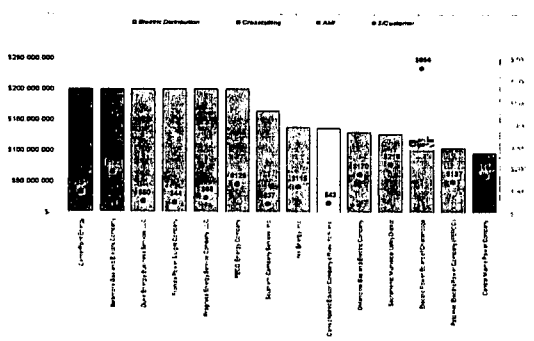
epb Fiber Optics

Smart Grid Grant

$111,567,606 for EPB Electric Power Customers

epb Fiber Optics

ARRA SGIG AWARDS $ PER TOTAL CUSTOMERS IN SERVICE TERRITORY



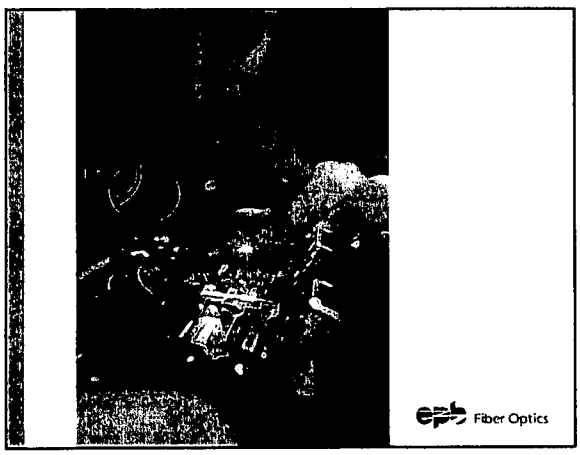
epb Fiber Optics

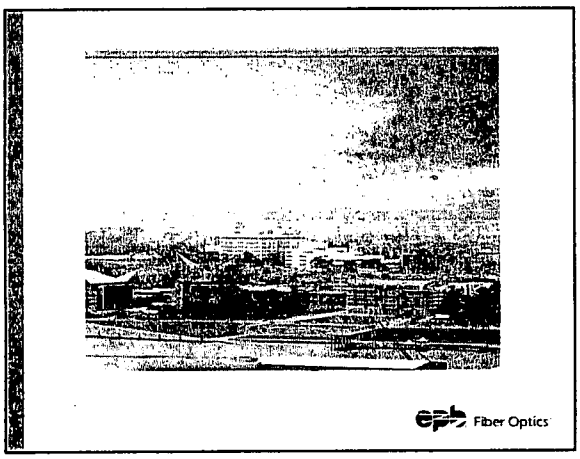
Grant Projects

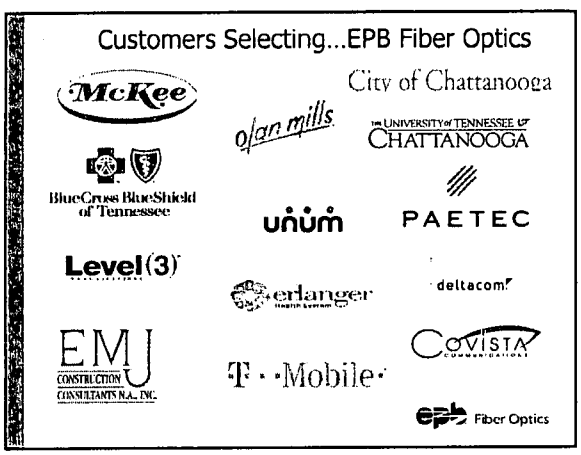
• Fiber Build	$34,440,000
• Network Electronics	$31,600,000
• Distribution Automation	$26,360,000
• SCADA Upgrade	$2,500,000
• Smart Meters	$12,730,000
• Meter Data Mgmt System	$1,080,000
• In-Home Electronics	$750,000
• Web Interface	$190,000

Partners Committing Additional $4 million

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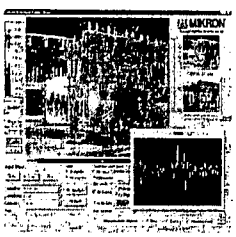

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Customers Selecting...EPB Fiber Optics
McKee
City of Chattanooga
olan mills
The University of Tennessee at Chattanooga
BlueCross BlueShield of Tennessee
unum
PAETEC
Level(3)
erlanger
deltacom
EMJ Construction Consultants N.A., Inc.
T-Mobile
CoVista Communications
epb Fiber Optics

Value to Electric Customers

EPRI



$300 M electric system value over 10 years

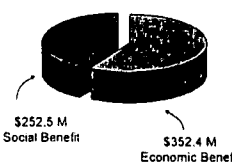
- Power Quality & Reliability
- Reduction in theft
- Operational and Capital Savings
- Customer Benefit
- EPRI Validated of EPB Study states:

" EPB is to be commended for making a key strategic decision for implementation and use of a fiber optic network. It is difficult to imagine any competing move offering such significant potential for expanding customer services."

epb Fiber Optics

Economic Development & Quality of Life

Benefits of Fiber-to-the-Home Deployment in Hamilton County



$252.5 M Social Benefit

$352.4 M Economic Benefit

IMPLAN Model Forecast 10 Year Value:

$604.9 M PV Return @ 10%

2,638 New Jobs Forecast

"Second generation broadband must come to communities like Hamilton County if the U.S. is to remain competitive globally. Communities would do well to give serious thought to adopting this technology sooner rather than later."

Source: *The Impact of Broadband in Hamilton County, TN*, March 2006 Bento Lobo Ph.D., Andy Novobilski Ph.D. and Soumen Ghosh Ph.D. University of Tennessee Chattanooga, Tennessee State University.

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Attract New Business

Top 10 Site Selection Factors	2005
1. Availability of Telecommunications Service	96
2. State & Local Incentives	95.9
3. Highway Accessibility	94
4. Labor Cost	93.8
4. Proximity to Major Markets	93.8
4. Availability of High Speed Internet	93.8
5. Availability of Skilled Workforce	89.6
6. Availability of Land	89.1
7. Tax Exemptions	86
8. Corporate Tax Rate	85.7
9. Occupancy or Construction Cost	84.3
10. Energy Availability and Cost	83.7

Source: KPFA Economic Development Conference July 2006 Hanyon Business Publications, Inc.

Study: Understanding the Benefits of Municipal Broadband in Tennessee MIT Professor William Lehr Ph.D. and Sharon Gillett, Feb 2006.

Broadband networks will create 1.2 M new jobs in the United States.

Benefits of broadband in Tennessee Suggest $10 billion in additional GDP and 20,000 new jobs.

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Regulatory Landscape

Local Franchise Authority

- Rates for Basic Tier
- Handles customer complaints
- Public Right of Ways

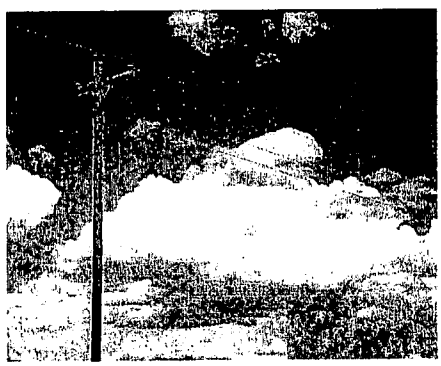
FCC

- Franchise standards
- Signal carriage
- Program nonduplication/exclusivity
- Nonbroadcast or cablecasting services
- Cross-ownership
- Equal employment opportunity
- Technical standards.

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What is the Fi Lab?
Fi-Speed Internet
Fi TV
Fi Phone
You Pick
You're on the ONLY 100% fiber optic network
Fi-Speed Internet Fi TV Fi Phone
Check Availability
About Fi-Speed
Fi-Speed Comparison
Plans & Features
Help Forum & Support
Fi-nally, the future is here
Check Availability
Get the Fi Bundle that fits you
YOU PICK
Fiber Optics

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-RBxz-48 [v.12] (04/15)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/21/2010 9:33:24 AM

Short Title:	Rev. Laws Technical & Admin. Changes - Part 2.	(Public)
Sponsors:	Unknown.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS – PART 2.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.16D(b1) reads as rewritten:

"(b1) Alternative Production Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that constructs and places in service in this State three or more commercial facilities for processing renewable fuel and that invests a total amount of at least four hundred million dollars ($400,000,000) in the facilities is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities. In order to claim the credit, the taxpayer must obtain a written determination from the Secretary of Commerce that the taxpayer is expected to invest within a five-year period a total amount of at least four hundred million dollars ($400,000,000) in three or more facilities. The credit must be taken in seven equal annual installments beginning with the taxable year in which the first facility is placed in service. If, in one of the years in which the installment of credit accrues, a facility with respect to which the credit was claimed is disposed of or taken out of service and the investment requirements of this subsection are no longer satisfied, the credit expires and the taxpayer may take any remaining installment of the credit only to the extent allowed under subsection (b) of this section. The taxpayer may, however, take the portion of an installment under this subsection that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. Notwithstanding the provisions of G.S. 105-129.17, a taxpayer may carry forward unused portions of the credit allowed under this subsection for the succeeding 10 years.

If a taxpayer that claimed a credit under this subsection fails to meet the requirements of this subsection but meets the requirements of subsection (b) of this section, the taxpayer forfeits the difference between the alternative credit claimed under this subsection and the credit allowed under subsection (b) of this section. A taxpayer that forfeits part of the alternative credit under this subsection is liable for the additional taxes avoided plus interest at the rate established under ~~G.S. 105-241.1(i),~~ G.S. 105-241.21, computed from the date the additional taxes would have been due if the credit had not been allowed. The additional taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the additional taxes and interest by the due date is subject to penalties provided in G.S. 105-236."

SECTION 2. G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of ~~the month of either January or July,~~ any calendar quarter, as set by the board of county commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least ~~90~~60 days advance notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax or tax rate change."

SECTION 3.(a) G.S. 105-241.9(c) reads as rewritten:

"(c) Notice. – The Secretary must give a taxpayer written notice of a proposed assessment. The notice of a proposed assessment must contain the following information:

(1) The basis for the proposed assessment. The statement of the basis for the proposed assessment does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties included in the proposed assessment. The amount for each of these must be stated separately.

(2a) The date a failure to pay penalty will apply to the proposed assessment if the proposed assessment is not paid by that date and the amount of the penalty. If the proposed assessment is not paid by the specified date, the failure to pay penalty is considered to be assessed and applies to the proposed assessment without further notice.

(3) The circumstances under which the proposed assessment will become final and collectible."

SECTION 3.(b) G.S. 105-241.11 is amended by adding a new subsection to read:

"(c) FTP Penalty. – A request for a Departmental review of a proposed assessment is considered a request for a Departmental review of a failure to pay penalty that is based on the assessment. A taxpayer who does not request a Departmental review of a proposed assessment may not request a Departmental review of a failure to pay penalty that is based on the assessment."

MOTOR FUEL TAX CHANGES

SECTION 4. G.S. 105-241(b)(2a) reads as rewritten:

"(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required as provided in this subsection.

...

(2a) Motor fuel taxes. – A taxpayer that is required to file an electronic return under ~~Article 36C or Article 36D~~ Subchapter V of this Chapter or Article 3 of Chapter 119 of the General Statutes must pay the tax by electronic funds transfer.

SECTION 5.(a) G.S. 105-449.39 reads as rewritten:

"**§ 105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly ~~report~~ return for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter covered by the ~~report.~~ return. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the excess is refundable in accordance with G.S. 105-241.7."

SECTION 5.(b) G.S. 105-449.40(a) reads as rewritten:

"(a) Authority. – The Secretary may require a motor carrier to furnish a bond when any of the following occurs:

(1) The motor carrier fails to file a ~~report~~ return within the time required by this Article.

(2) The motor carrier fails to pay a tax when due under this Article.

(3) After auditing the motor carrier's records, the Secretary determines that a bond is needed to protect the State from loss in collecting the tax due under this Article."

SECTION 5.(c) G.S. 105-449.42 reads as rewritten:

"§ 105-449.42. Payment of tax.

The tax levied by this Article is due when a motor carrier files a quarterly ~~report~~ return under G.S. 105-449.45. The amount of tax due is calculated on the amount of motor fuel or alternative fuel used by the motor carrier in its operations within this State during the quarter covered by the ~~report.~~return."

SECTION 5.(d) G.S. 105-449.42A reads as rewritten:

"§ 105-449.42A. Leased motor vehicles.

(a) Lessor in Leasing Business. – A lessor who is regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation is the motor carrier for a leased or rented motor vehicle unless the lessee of the leased or rented motor vehicle gives the Secretary written notice, by filing a ~~report~~ return or otherwise, that the lessee is the motor carrier. In that circumstance, the lessee is the motor carrier for the leased or rented motor vehicle.

Before a lessee gives the Secretary written notice under this subsection that the lessee is the motor carrier, the lessee and lessor must make a written agreement for the lessee to be the motor carrier. Upon request of the Secretary, the lessee must give the Secretary a copy of the agreement.

(b) Independent Contractor. – The lessee of a motor vehicle that is leased from an independent contractor is the motor carrier for the leased motor vehicle unless ~~either of the following applies:~~one of the circumstances listed in this subdivision applies. If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.

(1) The motor vehicle is leased for fewer than 30 days.

(2) The motor vehicle is leased for at least 30 days and the lessor gives the Secretary written notice, by filing a ~~report~~ return or otherwise, that the lessor is the motor carrier. Before a lessor gives the Secretary written notice that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.

~~If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.~~

~~Before a lessor gives the Secretary written notice under subdivision (2) that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.~~

(c) Liability. – An independent contractor who leases a motor vehicle to another for fewer than 30 days is liable for compliance with this Article and the person to whom the motor vehicle is leased is not liable. Otherwise, both the lessor and lessee of a motor vehicle are jointly and severally liable for compliance with this Article."

SECTION 5.(e) G.S. 105-449.44(b) reads as rewritten:

"(b) Presumption. – The Secretary must check ~~reports~~ returns filed under this Article against the weigh station records and other records of the Division of Motor Vehicles of the Department of Transportation and the State Highway Patrol of the Department of Crime

Control and Public Safety concerning motor carriers to determine if motor carriers that are operating in this State are filing the ~~reports~~ returns required by this Article. If the records indicate that a motor carrier operated in this State in a quarter and either did not file a ~~report~~ return for that quarter or understated its mileage in this State on a ~~report~~ return filed for that quarter by at least twenty-five percent (25%), the Secretary may assess the motor carrier for an amount based on the motor carrier's presumed operations. The motor carrier is presumed to have mileage in this State equal to 10 trips of 450 miles each for each of the motor carrier's qualified motor vehicles and to have fuel usage of four miles per gallon."

SECTION 5.(f) G.S. 105-449.45 reads as rewritten:

"**§ 105-449.45. ~~Reports~~ Returns of carriers.**

(a) ~~Report.~~ Return. – A motor carrier must report its operations to the Secretary on a quarterly basis unless subsection (b) of this section exempts the motor carrier from this requirement. A quarterly ~~report~~ return covers a calendar quarter and is due by the last day in April, July, October, and January. A ~~report~~ return must be filed in the form required by the Secretary.

(b) Exemptions. – A motor carrier is not required to file a quarterly ~~report~~ return if any of the following applies:

(1) All the motor carrier's operations during the quarter were made under a temporary permit issued under G.S. 105-449.49.

(2) The motor carrier is an intrastate motor carrier, as indicated on the motor carrier's application for registration with the Secretary.

(c) ~~Other Reports.~~ Informational Returns. – A motor carrier must file with the Secretary ~~other reports~~ any informational returns concerning its operations that the Secretary requires.

(d) Penalties. – A motor carrier that fails to file a ~~report~~ return under this section by the required date is subject to a penalty of fifty dollars ($50.00)."

SECTION 6. G.S. 105-449.37(a)(1) reads as rewritten:

"(a) Definitions. – The following definitions apply in this Article:

(1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the International Fuel Tax Association, Inc., as amended as of ~~June 1, 2008.~~ June 1, 2010.

...".

SECTION 7. G.S. 105-449.47A reads as rewritten:

"**§ 105-449.47A. Reasons why the Secretary can deny an application for a registration and decals.**

The Secretary may refuse to register and issue a decal to an applicant that does not meet the requirements set out in G.S. 105-449.69(b) or that has done any of the following:

(1) Had a registration issued under Chapter 105 or Chapter 119 of the General Statutes cancelled by the Secretary for cause.

(2) Had a registration issued by another jurisdiction, pursuant to the International Fuel Tax Agreement, cancelled for cause.

(3) Been convicted of fraud or misrepresentation.

(4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if registered and issued a decal.

(5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.

(6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes."

SECTION 8.(a) G.S. 105-449.105A reads as rewritten:

"**§ 105-449.105A. Monthly refunds for kerosene.**

~~(a) Refund.~~ A distributor who sells kerosene ~~to any of the following~~ may obtain a monthly refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under ~~G.S. 105-449.93:~~

~~(1) The end-user of the kerosene,~~

G.S. 105-449.93, if the distributor dispenses the kerosene into a storage facility of the end-user that contains fuel used only for one of the following purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable:

(1) ~~a.~~ Heating.

(2) ~~b.~~ Drying crops.

(3) ~~c.~~ A manufacturing process.

~~(2) A retailer of kerosene, if the distributor dispenses the kerosene into a storage facility that meets both of the following conditions:~~

~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~

~~b. It either has a dispensing device that is not suitable for use in fueling a highway vehicle or is kept locked by the retailer and must be unlocked by the retailer for each sale of kerosene.~~

~~(3) An airport, if the distributor dispenses the kerosene into a storage facility that contains fuel used only for fueling airplanes and that meets at least one of the following conditions:~~

~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~

~~b. It has a dispensing device that is not suitable for use in fueling a highway vehicle.~~

~~(b) Liability. If the Secretary determines that the Department overpaid a distributor by refunding more tax to the distributor than is due under this section, the distributor is liable for the amount of the overpayment. This liability applies regardless of whether the actions of a retailer of kerosene contributed to the overpayment.~~"

SECTION 8.(b) This section becomes effective January 1, 2011, and applies to sales of kerosene made by a distributor on or after that date.

SECTION 9. G.S. 105-449.105B reads as rewritten:

"**§ 105-449.105B. Monthly hold harmless refunds for licensed distributors and some licensed importers.**

~~quarter~~

If a licensed distributor or licensed importer purchases motor fuel from a licensed supplier during a month and the discount the distributor or importer receives under G.S. 105-449.93(b) on the motor fuel is less than the amount the distributor or importer would have received during that month if the distributor or importer had been allowed a discount on taxable gasoline purchased by the distributor or importer from a supplier under the following schedule, the distributor or importer is allowed a monthly refund of the difference:

Amount of Gasoline Purchased Each Month	Percentage Discount
First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%.

In determining the amount of discounts a distributor or importer received under G.S. 105-449.93(b) for motor fuel purchased in a month, a distributor or importer is considered to have received the amount of any discounts the distributor or importer could have received

under that subsection but did not receive because the distributor or importer failed to pay the tax due to the supplier by the date the supplier had to pay the tax to the State."

SECTION 10.(a) G.S. 105-449.106(b) reads as rewritten:

"(b) Taxi. – A person who purchases and uses motor fuel in a ~~taxicab, as defined in G.S. 20-87(1),~~ taxicab while the taxicab is engaged in transporting passengers for hire, or in a bus operated as part of a city transit system that is exempt from regulation by the North Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. For purposes of this subsection, the term "taxicab" means a motor vehicle that seats no more than nine passengers, transports passengers for hire, operates on call or demand, and accepts and solicits passengers indiscriminately. An application for a refund must be made in accordance with this Part."

SECTION 10.(b) G.S. 105-449.106(c) reads as rewritten:

(c) Special Mobile Equipment. – A person who purchases and uses motor fuel ~~to operate special mobile equipment off-highway~~ for the off-highway operation of special mobile equipment registered under Chapter 20 of the General Statutes may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax or privilege tax due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

SECTION 10.(c) Subsection (b) of this section becomes effective October 1, 2010, and applies to motor fuel purchased on or after that date. The remainder of this section is effective when it becomes law.

SECTION 11. G.S. 105-449.108(b) reads as rewritten:

"(b) Requirements. – An application for ~~an annual~~ a refund allowed under this Part must be filed with the Secretary and be in the form required by the Secretary. The application ~~must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year. An application for a refund allowed under this Part~~ must state that the applicant has paid for the fuel for which a refund is claimed or that payment for the fuel has been secured to the seller's satisfaction. An application for an annual refund must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year."

..."

OTHER CHANGES

SECTION 12.(a) G.S. 143B-437.012(j) reads as rewritten:

"(j) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for a grant under this section, the Department shall enter into an agreement to provide a grant or grants for a project recommended by the Committee. Each grant agreement is binding and constitutes a continuing contractual obligation of the State and the business. The grant agreement shall include the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department.

Each grant agreement ~~for a business that is a major employer under subdivision (1) of subsection (d) of this section~~ shall contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved. Each grant agreement for a business that is a major employer under subdivision (a) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level at the project that is the subject of the agreement that is the lesser of the level it had at the time it applied for a grant under this section or that it had at the time that the

investment required under subsection (d) of this section began. For the purposes of this subsection, the employment level includes full-time employees and equivalent full-time contract employees. The agreement shall further specify that the amount of a grant shall be reduced in proportion to the extent the business fails to maintain employment at this level and that the business shall not be eligible for a grant in any year in which its employment level is less than eighty percent (80%) of that required.

Each grant agreement for a business that is a large manufacturing employer under subdivision (2) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level required under that subdivision at the project that is the subject of the grant. The agreement shall further specify that the business is not eligible for a grant in any year in which the business fails to maintain the employment level.

A grant agreement may obligate the State to make a series of grant payments over a period of up to 10 years. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Attorney General's office in preparing the documentation for the grant agreement. The Attorney General shall review the terms of all proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section shall be signed personally by the Attorney General."

SECTION 12.(b) This section becomes effective July 1, 2010.

EFFECTIVE DATE

SECTION 13. Except as otherwise provided, this act is effective when it becomes law.

Bill Draft 2009-RBxz-48: Rev. Laws Technical & Admin. Changes - Part 2.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	April 19, 2010
Introduced by:		**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	2009-RBxz-48		

SUMMARY: ***This proposal makes technical, clarifying, and administrative changes to various tax statutes and related laws. This draft is the second one presented to the Committee this interim. This draft only contains the changes presented to the Committee at this meeting. If you would like to see the changes presented to the Committee at its meeting on March 31, 2010, please see the Draft Proposal 2009-TD-23 on the Committee's website. Additional changes will be added to the bill at its next meeting. These changes will be available to review prior to the May 5th meeting on the Committee's website. Please call one of the drafters if you have any questions or comments about a section included in the draft. The Committee's website may be viewed at*** *http://www.ncleg.net/DocumentSites/committees/revenuelaws/Homepage*

BILL ANALYSIS: Except as otherwise specified, this proposal would become effective when it becomes law.

Section	Explanation
	VARIOUS TAX LAW CHANGES
1	Corrects a statutory cite.
2	Provides that a local sales tax rate may be changed on the first day of any calendar quarter so long as the county gives the Department of Revenue at least 60 days notice. The current law requires 90 days notice and provides that a tax rate change may only be made on the first day of either January or July. The General Assembly enacted the current provision in July 2000 as part of the Streamlined Sales Tax Agreement changes. The Agreement, subsequently enacted in January 2001, provided for the quarterly dates and 60 days notice. This change will conform the local statutes to the SSTA.
3	Section 3 consolidates two separate notices concerning taxes owed into one notice. The two notices are a notice of a proposed assessment of tax and a notice of a failure to pay penalty if the proposed assessment of tax is not paid within 45 days. Section 3(a) requires a notice of a proposed assessment of tax to inform the taxpayer that a failure to pay penalty will apply to the assessed tax if the assessment is not paid or protested within 45 days. This change streamlines the assessment process and eliminates the mailing costs for the current, separate notice of the failure to pay penalty. Section 3(b) clarifies that the protest of a proposed assessment applies to any failure to pay penalty imposed on the underlying assessment.
	MOTOR FUEL TAX CHANGES
4	Requires taxpayers who must file a return electronically to pay the tax by electronic funds transfer. Current law already requires electronic funds transfer of taxes due by corporations that must pay federal estimated tax by EFT, sales tax prepayments, utilities franchise tax payments, and taxpayers of motor fuel taxes and alternative fuel taxes. This section would expand the requirement to motor carriers and to kerosene suppliers under Article 3 of

	Chapter 119.
5	Changes the word "report" to "return" to more accurately reflect the type of document described.
6	Updates the reference to the International Fuel Tax Agreement.
7	Provides that a motor carrier who wants to register in North Carolina as its base state under IFTA must be incorporated in this State or authorized to transact business in this State.
8	Repeals the monthly refunds for kerosene given to distributors who dispense undyed kerosene into certain types of storage facilities held by retailers because the distributor is held liable for actions taken by the retailer that may cause the distributor to be assessed an overpayment of a refund. The end-user of the undyed kerosene that uses the fuel for a non-highway use may continue to seek a refund of the motor fuel tax paid through G.S. 105-449.107. It also repeals the monthly refund allowed to a distributor who dispenses undyed diesel fuel into a storage facility at an airport because this provision has not been used in recent years. This section becomes effective January 1, 2011, and applies to sales of kerosene made by a distributor on or after that date.
9	Removes a miscellaneous word created by a redlining error.
10(a)	Provides a definition of taxicab that is substantially the same as the one that existed in G.S. 20-87(1), prior to repeal.
10(b)	Clarifies that the quarterly refund of motor fuel tax paid on fuel used to operate special mobile equipment is for the *non-highway* operation of the equipment and for equipment that is registered as SME under Chapter 20. This section becomes effective October 1, 2010, and applies to motor fuel purchased on or after that date.
11	Provides that applications for refunds must be filed in the form required by the Secretary. This change will allow for the electronic filing of refund applications.
	OTHER CHANGES
12	Corrects a drafting error in S.L. 2009-520. This section becomes effective July 1, 2010; the same date S.L. 2009-520 becomes effective.
	EFFECTIVE DATE
13	Except as otherwise noted, this act is effective when it becomes law.

2009-RBx-48-SMRB-56 v3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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BILL DRAFT 2009-RBxz-48 [v.12] (04/15)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/21/2010 9:33:24 AM

Short Title:	Rev. Laws Technical & Admin. Changes - Part 2.	(Public)
Sponsors:	Unknown.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS – PART 2.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.16D(b1) reads as rewritten:

"(b1) Alternative Production Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that constructs and places in service in this State three or more commercial facilities for processing renewable fuel and that invests a total amount of at least four hundred million dollars ($400,000,000) in the facilities is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities. In order to claim the credit, the taxpayer must obtain a written determination from the Secretary of Commerce that the taxpayer is expected to invest within a five-year period a total amount of at least four hundred million dollars ($400,000,000) in three or more facilities. The credit must be taken in seven equal annual installments beginning with the taxable year in which the first facility is placed in service. If, in one of the years in which the installment of credit accrues, a facility with respect to which the credit was claimed is disposed of or taken out of service and the investment requirements of this subsection are no longer satisfied, the credit expires and the taxpayer may take any remaining installment of the credit only to the extent allowed under subsection (b) of this section. The taxpayer may, however, take the portion of an installment under this subsection that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. Notwithstanding the provisions of G.S. 105-129.17, a taxpayer may carry forward unused portions of the credit allowed under this subsection for the succeeding 10 years.

If a taxpayer that claimed a credit under this subsection fails to meet the requirements of this subsection but meets the requirements of subsection (b) of this section, the taxpayer forfeits the difference between the alternative credit claimed under this subsection and the credit allowed under subsection (b) of this section. A taxpayer that forfeits part of the alternative credit under this subsection is liable for the additional taxes avoided plus interest at the rate established under ~~G.S. 105-241.1(i),~~ G.S. 105-241.21, computed from the date the additional taxes would have been due if the credit had not been allowed. The additional taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the additional taxes and interest by the due date is subject to penalties provided in G.S. 105-236."

SECTION 2. G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of ~~the month of either January or July,~~ any calendar quarter, as set by the board of county commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least ~~90~~60 days advance notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax or tax rate change."

SECTION 3.(a) G.S. 105-241.9(c) reads as rewritten:

"(c) Notice. – The Secretary must give a taxpayer written notice of a proposed assessment. The notice of a proposed assessment must contain the following information:

(1) The basis for the proposed assessment. The statement of the basis for the proposed assessment does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties included in the proposed assessment. The amount for each of these must be stated separately.

(2a) The date a failure to pay penalty will apply to the proposed assessment if the proposed assessment is not paid by that date and the amount of the penalty. If the proposed assessment is not paid by the specified date, the failure to pay penalty is considered to be assessed and applies to the proposed assessment without further notice.

(3) The circumstances under which the proposed assessment will become final and collectible."

SECTION 3.(b) G.S. 105-241.11 is amended by adding a new subsection to read:

"(c) FTP Penalty. – A request for a Departmental review of a proposed assessment is considered a request for a Departmental review of a failure to pay penalty that is based on the assessment. A taxpayer who does not request a Departmental review of a proposed assessment may not request a Departmental review of a failure to pay penalty that is based on the assessment."

MOTOR FUEL TAX CHANGES

SECTION 4. G.S. 105-241(b)(2a) reads as rewritten:

"(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required as provided in this subsection.

...

(2a) Motor fuel taxes. – A taxpayer that is required to file an electronic return under ~~Article 36C or Article 36D~~ Subchapter V of this Chapter or Article 3 of Chapter 119 of the General Statutes must pay the tax by electronic funds transfer.

SECTION 5.(a) G.S. 105-449.39 reads as rewritten:

"**§ 105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly ~~report~~ return for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter covered by the ~~report.~~ return. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the excess is refundable in accordance with G.S. 105-241.7."

SECTION 5.(b) G.S. 105-449.40(a) reads as rewritten:

"(a) Authority. – The Secretary may require a motor carrier to furnish a bond when any of the following occurs:

(1) The motor carrier fails to file a ~~report~~ return within the time required by this Article.

(2) The motor carrier fails to pay a tax when due under this Article.

(3) After auditing the motor carrier's records, the Secretary determines that a bond is needed to protect the State from loss in collecting the tax due under this Article."

SECTION 5.(c) G.S. 105-449.42 reads as rewritten:

"§ 105-449.42. Payment of tax.

The tax levied by this Article is due when a motor carrier files a quarterly ~~report~~ return under G.S. 105-449.45. The amount of tax due is calculated on the amount of motor fuel or alternative fuel used by the motor carrier in its operations within this State during the quarter covered by the ~~report.~~return."

SECTION 5.(d) G.S. 105-449.42A reads as rewritten:

"§ 105-449.42A. Leased motor vehicles.

(a) Lessor in Leasing Business. – A lessor who is regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation is the motor carrier for a leased or rented motor vehicle unless the lessee of the leased or rented motor vehicle gives the Secretary written notice, by filing a ~~report~~ return or otherwise, that the lessee is the motor carrier. In that circumstance, the lessee is the motor carrier for the leased or rented motor vehicle.

Before a lessee gives the Secretary written notice under this subsection that the lessee is the motor carrier, the lessee and lessor must make a written agreement for the lessee to be the motor carrier. Upon request of the Secretary, the lessee must give the Secretary a copy of the agreement.

(b) Independent Contractor. – The lessee of a motor vehicle that is leased from an independent contractor is the motor carrier for the leased motor vehicle unless ~~either of the following applies:~~one of the circumstances listed in this subdivision applies. If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.

(1) The motor vehicle is leased for fewer than 30 days.

(2) The motor vehicle is leased for at least 30 days and the lessor gives the Secretary written notice, by filing a ~~report~~ return or otherwise, that the lessor is the motor carrier. Before a lessor gives the Secretary written notice that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.

~~If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.~~

~~Before a lessor gives the Secretary written notice under subdivision (2) that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.~~

(c) Liability. – An independent contractor who leases a motor vehicle to another for fewer than 30 days is liable for compliance with this Article and the person to whom the motor vehicle is leased is not liable. Otherwise, both the lessor and lessee of a motor vehicle are jointly and severally liable for compliance with this Article."

SECTION 5.(e) G.S. 105-449.44(b) reads as rewritten:

"(b) Presumption. – The Secretary must check ~~reports~~ returns filed under this Article against the weigh station records and other records of the Division of Motor Vehicles of the Department of Transportation and the State Highway Patrol of the Department of Crime

Control and Public Safety concerning motor carriers to determine if motor carriers that are operating in this State are filing the ~~reports~~ returns required by this Article. If the records indicate that a motor carrier operated in this State in a quarter and either did not file a ~~report~~ return for that quarter or understated its mileage in this State on a ~~report~~ return filed for that quarter by at least twenty-five percent (25%), the Secretary may assess the motor carrier for an amount based on the motor carrier's presumed operations. The motor carrier is presumed to have mileage in this State equal to 10 trips of 450 miles each for each of the motor carrier's qualified motor vehicles and to have fuel usage of four miles per gallon."

SECTION 5.(f) G.S. 105-449.45 reads as rewritten:

"**§ 105-449.45. ~~Reports~~ Returns of carriers.**

(a) ~~Report.~~ Return. – A motor carrier must report its operations to the Secretary on a quarterly basis unless subsection (b) of this section exempts the motor carrier from this requirement. A quarterly ~~report~~ return covers a calendar quarter and is due by the last day in April, July, October, and January. A ~~report~~ return must be filed in the form required by the Secretary.

(b) Exemptions. – A motor carrier is not required to file a quarterly ~~report~~ return if any of the following applies:

(1) All the motor carrier's operations during the quarter were made under a temporary permit issued under G.S. 105-449.49.

(2) The motor carrier is an intrastate motor carrier, as indicated on the motor carrier's application for registration with the Secretary.

(c) ~~Other Reports.~~ Informational Returns. – A motor carrier must file with the Secretary ~~other reports~~ any informational returns concerning its operations that the Secretary requires.

(d) Penalties. – A motor carrier that fails to file a ~~report~~ return under this section by the required date is subject to a penalty of fifty dollars ($50.00)."

SECTION 6. G.S. 105-449.37(a)(1) reads as rewritten:

"(a) Definitions. – The following definitions apply in this Article:

(1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the International Fuel Tax Association, Inc., as amended as of ~~June 1, 2008.~~ June 1, 2010.

...".

SECTION 7. G.S. 105-449.47A reads as rewritten:

"**§ 105-449.47A. Reasons why the Secretary can deny an application for a registration and decals.**

The Secretary may refuse to register and issue a decal to an applicant that does not meet the requirements set out in G.S. 105-449.69(b) or that has done any of the following:

(1) Had a registration issued under Chapter 105 or Chapter 119 of the General Statutes cancelled by the Secretary for cause.

(2) Had a registration issued by another jurisdiction, pursuant to the International Fuel Tax Agreement, cancelled for cause.

(3) Been convicted of fraud or misrepresentation.

(4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if registered and issued a decal.

(5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.

(6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes."

SECTION 8.(a) G.S. 105-449.105A reads as rewritten:

"**§ 105-449.105A. Monthly refunds for kerosene.**

~~(a) Refund. A distributor who sells kerosene to any of the following~~ may obtain a monthly refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under ~~G.S. 105-449.93:~~

~~(1) The end-user of the kerosene,~~

G.S. 105-449.93, if the distributor dispenses the kerosene into a storage facility of the end-user that contains fuel used only for one of the following purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable:

(1) ~~a.~~ Heating.

(2) ~~b.~~ Drying crops.

(3) ~~c.~~ A manufacturing process.

~~(2) A retailer of kerosene, if the distributor dispenses the kerosene into a storage facility that meets both of the following conditions:~~

~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~

~~b. It either has a dispensing device that is not suitable for use in fueling a highway vehicle or is kept locked by the retailer and must be unlocked by the retailer for each sale of kerosene.~~

~~(3) An airport, if the distributor dispenses the kerosene into a storage facility that contains fuel used only for fueling airplanes and that meets at least one of the following conditions:~~

~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~

~~b. It has a dispensing device that is not suitable for use in fueling a highway vehicle.~~

~~(b) Liability. If the Secretary determines that the Department overpaid a distributor by refunding more tax to the distributor than is due under this section, the distributor is liable for the amount of the overpayment. This liability applies regardless of whether the actions of a retailer of kerosene contributed to the overpayment.~~"

SECTION 8.(b) This section becomes effective January 1, 2011, and applies to sales of kerosene made by a distributor on or after that date.

SECTION 9. G.S. 105-449.105B reads as rewritten:

"**§ 105-449.105B. Monthly hold harmless refunds for licensed distributors and some licensed importers.**

~~quarter~~

If a licensed distributor or licensed importer purchases motor fuel from a licensed supplier during a month and the discount the distributor or importer receives under G.S. 105-449.93(b) on the motor fuel is less than the amount the distributor or importer would have received during that month if the distributor or importer had been allowed a discount on taxable gasoline purchased by the distributor or importer from a supplier under the following schedule, the distributor or importer is allowed a monthly refund of the difference:

Amount of Gasoline Purchased Each Month	Percentage Discount
First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%.

In determining the amount of discounts a distributor or importer received under G.S. 105-449.93(b) for motor fuel purchased in a month, a distributor or importer is considered to have received the amount of any discounts the distributor or importer could have received

under that subsection but did not receive because the distributor or importer failed to pay the tax due to the supplier by the date the supplier had to pay the tax to the State."

SECTION 10.(a) G.S. 105-449.106(b) reads as rewritten:

"(b) Taxi. – A person who purchases and uses motor fuel in a ~~taxicab, as defined in G.S. 20-87(1),~~ taxicab while the taxicab is engaged in transporting passengers for hire, or in a bus operated as part of a city transit system that is exempt from regulation by the North Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. For purposes of this subsection, the term "taxicab" means a motor vehicle that seats no more than nine passengers, transports passengers for hire, operates on call or demand, and accepts and solicits passengers indiscriminately. An application for a refund must be made in accordance with this Part."

SECTION 10.(b) G.S. 105-449.106(c) reads as rewritten:

(c) Special Mobile Equipment. – A person who purchases and uses motor fuel ~~to operate special mobile equipment off-highway~~ for the off-highway operation of special mobile equipment registered under Chapter 20 of the General Statutes may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax or privilege tax due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

SECTION 10.(c) Subsection (b) of this section becomes effective October 1, 2010, and applies to motor fuel purchased on or after that date. The remainder of this section is effective when it becomes law.

SECTION 11. G.S. 105-449.108(b) reads as rewritten:

"(b) Requirements. – An application for ~~an annual~~ a refund allowed under this Part must be filed with the Secretary and be in the form required by the Secretary. The application ~~must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year. An application for a refund allowed under this Part~~ must state that the applicant has paid for the fuel for which a refund is claimed or that payment for the fuel has been secured to the seller's satisfaction. An application for an annual refund must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year."

..."

OTHER CHANGES

SECTION 12.(a) G.S. 143B-437.012(j) reads as rewritten:

"(j) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for a grant under this section, the Department shall enter into an agreement to provide a grant or grants for a project recommended by the Committee. Each grant agreement is binding and constitutes a continuing contractual obligation of the State and the business. The grant agreement shall include the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department.

Each grant agreement ~~for a business that is a major employer under subdivision (1) of subsection (d) of this section~~ shall contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved. Each grant agreement for a business that is a major employer under subdivision (a) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level at the project that is the subject of the agreement that is the lesser of the level it had at the time it applied for a grant under this section or that it had at the time that the

investment required under subsection (d) of this section began. For the purposes of this subsection, the employment level includes full-time employees and equivalent full-time contract employees. The agreement shall further specify that the amount of a grant shall be reduced in proportion to the extent the business fails to maintain employment at this level and that the business shall not be eligible for a grant in any year in which its employment level is less than eighty percent (80%) of that required.

Each grant agreement for a business that is a large manufacturing employer under subdivision (2) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level required under that subdivision at the project that is the subject of the grant. The agreement shall further specify that the business is not eligible for a grant in any year in which the business fails to maintain the employment level.

A grant agreement may obligate the State to make a series of grant payments over a period of up to 10 years. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Attorney General's office in preparing the documentation for the grant agreement. The Attorney General shall review the terms of all proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section shall be signed personally by the Attorney General."

SECTION 12.(b) This section becomes effective July 1, 2010.

EFFECTIVE DATE

SECTION 13. Except as otherwise provided, this act is effective when it becomes law.

Bill Draft 2009-RBxz-48: Rev. Laws Technical & Admin. Changes - Part 2.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	April 19, 2010
Introduced by:		**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	2009-RBxz-48		

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	Chapter 119.
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9	Removes a miscellaneous word created by a redlining error.
10(a)	Provides a definition of taxicab that is substantially the same as the one that existed in G.S. 20-87(1), prior to repeal.
10(b)	Clarifies that the quarterly refund of motor fuel tax paid on fuel used to operate special mobile equipment is for the *non-highway* operation of the equipment and for equipment that is registered as SME under Chapter 20. This section becomes effective October 1, 2010, and applies to motor fuel purchased on or after that date.
11	Provides that applications for refunds must be filed in the form required by the Secretary. This change will allow for the electronic filing of refund applications.
	OTHER CHANGES
12	Corrects a drafting error in S.L. 2009-520. This section becomes effective July 1, 2010; the same date S.L. 2009-520 becomes effective.
	EFFECTIVE DATE
13	Except as otherwise noted, this act is effective when it becomes law.

2010-2011

REVENUE LAWS STUDY COMMITTEE

MINUTES

REVENUE LAWS STUDY COMMITTEE
Wednesday, May 5, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, May 5, 2010, in room 544 of the Legislative Office Building. Eighteen members of the committee were present. Representative Luebke presided as chair.

Approval of Minutes from April 21, 2010 Meeting

Representative Brubaker motioned for the approval of the April 21, 2010 minutes and the motion carried. A copy of the minutes is attached.

Briefing on *Amazon v. NC Department of Revenue*

Tiare Smiley, Special Deputy Attorney General, Department of Justice, was recognized for a brief explanation regarding the lawsuit. She said that Amazon.com gave information not requested and is now suing since it could possibly be matched up with the information that was requested which would violate the First Amendment, hence the lawsuit. A copy of her remarks is attached.

Legislative Proposals for Consideration

- **#1: IRC Update**

Cindy Avrette, a staff attorney with the Research Division, was recognized to explain why the update was needed. Jonathan Tart, a fiscal analyst with the Fiscal Research Division, was recognized to explain the proposed bill draft. The bill draft would update the reference to the Internal Revenue Code used in defining and determining certain State tax provisions. Senator Hoyle moved to include the bill draft in the Committee's recommendations to the Legislature and the motion carried. A copy of the bill draft and the fiscal memo is attached.

- **#2: Construction of Wills and Trusts**

Cindy Avrette was recognized. She explained that the proposed bill draft would construe certain formula clauses that refer to federal estate and generation-skipping transfer tax laws. Senator Hoyle moved to include the bill draft in the Committee's recommendations to the Legislature. The motion was approved. A copy of the bill draft and the summary is attached.

- **#3: Economic Incentives Alignment and Changes**

Dan Ettefagh, a staff attorney with the Bill Drafting Division, was recognized. He described the proposed bill draft which would increase uniformity in sunset and reporting requirements of economic incentives tools and eliminate non-utilized economic incentives. Senator Tillman moved to include the bill draft in the Committee's final report to the Legislature and the motion carried. Senator Clodfelter recused himself from the vote. A copy of the bill draft and the summary is attached.

- **#4: Reinstate Stamps on Cigarettes**

Cindy Avrette and Sandra Johnson, a fiscal analyst with the Fiscal Research Division, were recognized to explain the proposed bill draft. It would improve the enforcement of the cigarette excise tax and deter the unlawful sale of nontaxpaid cigarettes by reinstating the requirement that cigarettes bear a stamp indicating payment of the tax. After much discussion about the cost of stamping machines for small manufacturers, Senator Hartsell moved to not include the bill draft in the Committee's recommendations. The motion carried. A copy of the bill draft, the summary and fiscal memos is attached.

- **#5: Modernize Admissions Tax & Restore Amenities Exclusion**

Trina Griffin, a staff attorney with the Research Division, was recognized. She explained the proposed bill draft which would modernize and equalize the admissions tax by extending it to internet ticket resellers and it would apply the tax only to the charge for admission to an event and not to extra amenities. It would also require the Secretary of Revenue to provide advance notice of certain revised interpretations of the Department. Rodney Bizzell, a fiscal analyst with the Fiscal Research Division, was recognized to explain State and local benefits of the proposed bill. Senator Hartsell moved to include the bill draft in the Committee's recommendations and the motion carried. A copy of the bill draft, the summary and the fiscal memo is attached.

- **#6: Modernize Sales Tax on Accommodations**

Trina Griffin was recognized to explain the proposed bill draft. It would modernize the application of the sales tax on accommodations by recognizing that the sales price is the price paid by the consumer regardless of whether it is paid to the accommodations provider or a third party. Sandra Johnson was recognized to explain State and local benefits of the proposed bill. Senator Hoyle moved to include the bill draft in the Committee's recommendations and the motion carried. A copy of the bill draft, the summary and the fiscal memo is attached.

- **#7: Improve Tax & Debt Collection Process**

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized to explain the proposed bill draft. It would improve the collection of tax debts and other debts owed to the State. Rodney Bizzell was recognized to answer questions. Senator Clodfelter moved to include the bill draft in the Committee's recommendations. The motion carried. A copy of the bill draft, the summary and the fiscal memo is attached.

- **#8: Expand Exception to PUV Ownership Requirements**

Martha Walston was recognized to explain the proposed bill draft which would expand the exceptions to ownership requirements for agricultural land under the Present-Use Value (PUV) program. Representative Hill moved to include the bill draft in the Committee's recommendations and the motion carried. A copy of the bill draft, the summary and the fiscal memo is attached.

- **#9: Revenue Laws Technical, Administrative & Clarifying Changes**

Cindy Avrette was recognized to explain the proposed bill draft. It would make technical, clarifying, and administration changes to various tax statutes and related laws. Representative Wainwright moved to include the bill draft in the Committee's recommendations and the motion carried. A copy of the bill draft and the summary is attached.

No Nonvoted Local Debt for Competing System

Senator Hoyle was recognized to propose legislation which ensures that a local government that competes with private companies in providing communication services has the support of its citizens in financing those services. The bill draft would also continue the Revenue Laws Study Committee's review of the tax and economic development impacts of local government owned and operated communication services. Victoria Peterson, a Durham citizen, was recognized to speak in opposition of the bill draft, stating that citizens need the service which provides jobs. Octavia Raney was in favor of the bill wanting to have a vote in saying yea or nay in raising taxes. Kelli Kukura, representing the NC League of Municipalities, disagreed with the current proposal. Marcus Trathen, NC Cable Communications Association, supports the bill, but wants it to also address unfair competition. Michael Taylor of Stanley County is against the bill since local officials understand the risks and are just doing what they were elected to do. Susan Klutz, Mayor of Salisbury, and Bruce Rose, Mayor of Wilson, oppose the bill and want fewer restrictions. Senator Tillman moved to include the bill draft in the Committee's report and the motion carried. A copy of the bill draft and the summary is attached. Also attached are city resolutions (Monroe and Littleton) against the proposed bill.

Video Programming Services Competition Report

Cindy Avrette was recognized. She outlined the goal of SL 2006-151, the reporting requirement and the revenue required for local distribution. She also reported on the number and types of complaints received by the Attorney General's office and on the complaints' resolutions. Catherine Rice, SEATOA, was recognized to state that the Act has failed and led to the decline of the PEG channels. A copy of Ms. Avrette's power point is attached as are the required reports of video service providers (AT&T, North State Communications, NC Telephone Cooperative Coalition, Inc., NC League of Municipalities, Southeast Association of Telecommunications Officers & Advisors, and the Attorney General's report on cable complaints).

Mike Pate was recognized to point out a technical glitch that needs correction. The Secretary of State is interpreting law in a manner that hurts limited liability companies at their initial startup. Senator Jenkins asked that clarifying language be added to the Revenue Laws Technical Corrections bill draft and the motion carried.

Senator Clodfelter was recognized to make a motion to approve items 1 through 3, 5 through 9 and 9 as amended in the recommendations of the Revenue Laws Study Committee to the 2010 Session. The motion carried.

The meeting adjourned at 12:20 p.m.

Representative Paul Luebke, Presiding Chair

DeAnne Mangum, Committee Clerk

REVENUE LAWS STUDY COMMITTEE AGENDA

Sen. Daniel Clodfelter Rep. Paul Luebke

Wednesday, May 5, 2010
Room 544, Legislative Office Building
9:30 a.m.

I. **Approval of Minutes from April 21, 2010 Meeting**

II. **Briefing on *Amazon v. NC Department of Revenue***
– *Tiare Smiley, Special Deputy Attorney General, Department of Justice*

III. **Legislative Proposals For Consideration**

- **#1: IRC Update**
  Cindy Avrette, Research Division
  Jonathan Tart, Fiscal Research Division
- **#2: Construction of Wills and Trusts**
  Cindy Avrette, Research Division
- **#3: Economic Incentives Alignment and Changes**
  Dan Ettefagh, Legislative Drafting Division
- **#4: Reinstate Stamps on Cigarettes**
  Heather Fennell, Research Division
  Sandra Johnson, Fiscal Research Division
- **#5 Modernize Admissions Tax & Restore Amenities Exclusion**
  Trina Griffin, Research Division
  Rodney Bizzell, Fiscal Research Division
- **#6: Modernize Sales Tax on Accommodations**
  Trina Griffin, Research Division
  Sandra Johnson, Fiscal Research Division
- **#7: Improve Tax & Debt Collection Process**
  Martha Walston, Research Division
  Rodney Bizzell, Fiscal Research Division
- **#8: Expand Exception to PUV Ownership Requirements**
  Martha Walston, Fiscal Research
  Rodney Bizzell, Fiscal Research Division
- **#9: Revenue Laws Technical, Administrative, & Clarifying Changes**
  Cindy Avrette and Heather Fennell, Research Division
  Martha Walston and Rodney Bizzell, Fiscal Research Division

IV. **Video Programming Services Competition Report**
– Cindy Avrette, Research Division

V. **Approval of Final Report**

VI. **Adjournment**

Tiare Smiley's Amazon versus Department of Revenue lawsuit briefing at the Revenue Laws Study Committee meeting on May 5, 2010.

"Amazon.com, as everyone has heard, filed a lawsuit. We will be defending that lawsuit. What's it's about, is what in some ways, I consider it to be an accidental lawsuit; the background is the Department of Revenue is doing a normal audit of Amazon.com. Their field auditors are in Seattle. They are doing a sales tax and use tax audit. This is something that the Department of Revenue does with out-of-state corporations. Cooperation was going on, they were getting the information they needed. They were asking for certain information that's needed to in order to conduct their audit. One of the things that you have to understand is that different taxes have different tax rates. So, although the Department really doesn't care whether somebody buys Catcher in the Rye. or Lolita., it does need to know if the item is a book or food. Food is one of the best examples, it is taxed at a different rate than a video or a book. So the Department wanted a code of some kind so it could determine what kinds of items were being sold so that if you were doing an audit you could calculate based on the appropriate tax rate. What Amazon.com did is that it gave the Department what it calls its ASIN code and this is the complicated code that not only tells you what the item is, whether it is a book or a vitamin but it gives all the way down to the nth detail so you know whether its Fifty Ways to Lose Weight. or Fifty Ways to Run a Race. or anything else. What the Department wanted was the names of the customers, the amount of money, the amount of the purchases and the item based on a general code for tax purposes. Amazon decided that they would give the ASIN code which was much more information than the Department needed but would not give the customer names. They are now alleging, because the Department has said well, we are entitled to the customer names, they are now alleging that this is a First Amendment violation of privacy, that the Department is getting into expressive content, because if they give the names they can now take the ASIN code and they could go and hook-up on the web and figure out from the ASIN code what book or film someone from North Carolina bought. Well, the Department of Revenue has explained to Amazon.com that they are not interested in the name of the book; however, for the purposes of the audit whether it be sales tax or the use tax, the Department does need customer names for a variety of reasons. So, in my way of thinking, this has kind of backed into a First Amendment lawsuit as the Department of Revenue is trying not only to get customer names, but trying to get expressive content. The entire lawsuit is about First Amendment. It is about the Department seeking expressive content information about customers in North Carolina. That is not what the Department of Revenue is looking for, it's not what it needs and one would think that reasonable people could work this out. Whether or not how far we'll have to go into litigation, I do not know. But that's essentially what the lawsuit's about. The Department needs certain information; they were given the wrong information and too much information that goes to the First Amendment issue and we'll just have to deal with how we resolve that particular issue."

Luebke: "Thank you and members of the Committee; do you have any questions for Ms. Smiley?"

Clodfelter: "Mr. Chairman, so it sounds like Amazon is trying to cover up for their mistake; they gave you something that they shouldn't have given you and now they're trying to blame it on you?"

Tiare: "Well, I don't know whether that might be what they are doing, it maybe that they have a different agenda and what they really don't want to give is customer names regardless. It's hard to say. Certainly, they gave us more information than we wanted or needed and not the information that we do need. That's how lawsuits, unfortunately, come about."

Luebke: "Any questions from other members of the Committee? Representative Gibson."

Gibson: "Tiare, over here. Is there been any change in Amazon's reaction to the New York scenario lately, that you are aware of?"

Tiare: "I really have not heard anything, I have not heard anything. I have no information."

Luebke: "Alright, are there other questions from members of the Committee? I might ask you one…how is time wise, how is it proceeding, timeline?"

Tiare: "Well, we have had a little bit of confusion about service of process. Our answer to the complaint or answer or other pleading would be due earliest May 18th. That will probably be extended. I honestly don't think that this lawsuit will go on I shouldn't say that very long. But in the next sixty days we will probably have a better idea what's happening."

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — May 5, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Doug Lassiter	NCSTA
Connie Wilson	CWC
[illegible]	TSS
[illegible]	NCRMA
Doug Miskew	PSG
Paul Meyer	NCLM
Michael Houser	NC Dept of Revenue
Joe Lanier	Nelson Mullins
Dana Simpson	Smith Anderson
John Shaw	PCS
Tom Carruthers	City of Greensboro

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — May 5, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Patrick Buffkin	NC Assoc of Electric Coops
Gary Mc[illegible]	NCAOC
Amy Hobbs	MWC
W. Gardner Culpepper	Personal Interest
Barbara Canales	BCBC
[illegible]	Illinois Tool Works
Will Culpepper	MVA
Rita Harris	NC Commerce
Jane Patterson	e-NC Authority
[illegible]	NNC-CH
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — May 5, 2010

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NAME	FIRM OR AGENCY AND ADDRESS
Cam Cover	BPMHC
Jimmy Fuller	Hunton & Williams
Stan Pace	Verizon
Bill Craig	Alltel
Doug Heron	Williams Mullen
Larry Bewley	LBA
Victoria Peterson	TERC
Jay Brittle	C.W.F.B.
Chris	Att Sprint
Mike	TOM
J. P. Boyette	Smith Moore Leatherwood

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — May 5, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John Sugarth	citizen
Kirby Bowers	Triangle J Council of Governments
Richard Thigpen	NC Travel & Tourism Coalition Raleigh
George E Brower	Citizen.
Nick Tosco	NCLM
DAVID BARNES	Pegram Spruill
L. Andrews	NCFB
Michael Crowell	City of Salisbury
AREK KEMPINSKI	Town of Chapel Hill
Brian Bowman	City of Asheville
Tom Vanderbeck	Chatham Co

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — May 5, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kym Crowell	NCBA
Fred Baron	Baron Asso.
Elaine Mejia	NC Justice Center
Ray Sanderson	NC Dept of Revenue
Pam Melton	CenturyLink
Shannon Smith	NCGA
Beatrice Williams	CLCA
Amber Young	NC office of State Controller
Leon Mullin	Nelson Mullins
Bill Spencer	NCDOR
GAIL Beamon	NCDOR

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Revenue Laws Study Committee — May 5, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Daniel Ambuva	Electricities of N.C., Inc.
Gary Harris	NC Petroleum & Conv. Mktrs.
[signature]	ATT
JOHN GOODMAN	NC CHAMBER
[signature]	NBS
[signature]	City of Wilson
David Braswell	DaySpring Media
George Bryant	DaySpring Media
Mitch Kokai	John Locke Foundation
Paul Stock	NCBA
Octavia Rainey	

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — May 5, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Robert Wells	North State Communications
Mike Taylor	Stanly County
Kevin Andersen	NC DOT
David Baker	NC DOR
Sharon Roberson	TWC
Bill Phillips	TWC
Buck Goodson	TWC
Melissa Buscher	TWC
Mary Anne Jacobs	TWC
Sonny Wooten	Southco Dept. Co.
[illegible]	JD, AL, PA

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — May 5, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Eric Wayne	NCDOR
Lennie Collins	NCDOR
AL MILAK	NCDOR
PAIGE WORSHAM	DAILY BULLETIN (SOG)
Sheria Reid	Daily Bulletin (SOG)
[illegible]	NCACC
[illegible] Goff	Smith Anderson
Betsy Yetter	American Heart Assn
Sarah Clapp	NCWRC
Karl Knapp	NCLM
Michelle Frazier	MF+S

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — May 5, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Allison Cooper	RPW Attorneys, P.A.
Jack Cozort	NSS
Morris Tratter	Brady Pierce
Jack Stanley	TWC
Doug Paris	City of Salisbury
Susan Klutiz	Mayor of Salisbury
Agnes Speight	City of Wilson
Bruce Rose, Mayor	City of Wilson
Grant Gaines	Wilson
Jan Caudle	Wilson
Herb Crenshaw	AT&T

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — May 5, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Justis Peters	Citizen 1318 Lorimer Rd., Raleigh, NC 27606
Joyce Peters	JP Assoc
Preston Howard	MCIC
BV Sepe	Action Audits
BNBSLY	Williams Mullen, Ransom
John Metcalf	Policy Group
Wendy Kelly	RLG Group
Doug Hoyt	NC Petro & C-Stores
Jason Parks	ACCESS16 Television

LEGISLATIVE PROPOSAL #1

IRC UPDATE

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-RBxz-53 [v.1] (04/26)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/4/2010 4:00:47 PM

Short Title: IRC Update. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2009,~~ May 1, 2010, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 2. This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 5, 2010

TO: Revenue Laws Study Committee

FROM: Jonathan Tart
Fiscal Research Division

RE: IRC Update

FISCAL IMPACT

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2010-11	**FY 2011-12**	**FY 2012-13**	**FY 2013-14**	**FY 2014-15**
REVENUES:					
($ millions)					
Increase medical expense threshold from 7.5% to 10%	0	0	0	$8.5	$8.8
FSA, HSA changes	Insignificant Impact based on information obtained from US Joint Committee on Taxation				
Exec. Compensation	Insignificant Impact based on information obtained from US Joint Committee on Taxation				
Enhanced Expensing	(1.2)	(.8)	.6	.4	.3
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: Effective when it becomes law

BILL SUMMARY: This proposal would update the reference to the Internal Revenue Code used in defining and determining certain State tax provisions from May 1, 2009 to May 1, 2010. By doing so, North Carolina would conform to the changes made by three federal acts. This proposal would become effective when it became law.

CURRENT LAW: North Carolina's tax law tracks many provisions of the federal Internal Revenue Code by reference to the Code.[1] The General Assembly determines each year whether to update its reference to the Internal Revenue Code.[2] Updating the Internal Revenue Code reference makes recent amendments to the Code applicable to the State to the extent that State law tracks federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made.

BILL ANALYSIS:

This proposal would change the reference date to May 1, 2010, effective when the bill becomes law. Changing the reference date to May 1, 2010 would incorporate the changes made in the Patient Protection and Affordable Health Care Act, the Health Care and Education Affordability Act, and the Hiring Incentives to Restore Employment (HIRE) Act. The changes identified below will have an impact on State revenues.

- Itemized Deductions: Effective January 1, 2013, the threshold for unreimbursed medical expenses is increased from 7.5% to 10% of income. This will lower the amount of medical deductions that can be taken and increase taxable income by a small amount. This change is waived for individuals 65 and over for tax years 2013 through 2016.

- FSA and HSA Changes: Effective January 1, 2013, the legislation excludes costs for OTC drugs and limits contributions to an FSA to $2,500 per year with COL adjustment. This change will result in a minor increase in taxable income by lowering the amount of eligible pre-tax spending.

- Executive Compensation: Effective January 1, 2013, health insurance providers will be limited in the amount of executive compensation that can be deducted to $500,000 per individual. This will result in a decrease in health provider deductions, resulting in a small increase in taxable income.

- Payroll Exemption: Effective from March 19, 2010, through December 31, 2010, employers are exempt from the employer's 6.2 percent share of social security tax on all wages paid to qualified employees. Qualified employees are individuals who

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[1] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[2] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

begin employment with a qualified employer after February 3, 2010, and before January 1, 2011, who have been unemployed or employed for less than 40 hours during the 60-day period ending on the date such employment begins, and who are not family members of or related in certain other ways to the employer. This will result in a decrease in the employer's deductions from gross income, resulting in an increase in taxable income. This provision is estimated to have a $15.8 million positive impact on State revenues for FY 10-11. However, since the impact is not dependent on whether the State conforms to the changes made to the Internal Revenue Code, it is not included in the table showing the fiscal impact of the IRC update.

- Enhanced Expensing: The HIRE Act extended through 2010 the increased IRC Section 179 expensing levels. Taxpayers can expense up to $250,000 in purchases of business property that would otherwise be depreciated as long as they don't spend more than $800,000. Without the extension, the expensing limit would have been capped at approximately $130,000 and the phase-out level would be approximately $500,000. The extension of this provision accelerates business deductions, resulting in a decrease in taxable income in the first two years and an increase in taxable income in the next three years.

ASSUMPTIONS AND METHODOLOGY:

Increase the Medical Expense Threshold From 7.5% to 10%

Effective on January 1, 2013, the threshold for unreimbursed medical expenses is increased from 7.5% to 10% of adjusted gross income. To estimate the impact of increasing the threshold for the federal deduction would have on North Carolina individual income tax collections, the scenario was entered into the North Carolina Individual Income Tax Model. Increasing the threshold would result in a full fiscal year revenue increase of approximately $21 million in revenues. However, this change is waived for taxpayers 65 years and over for tax years 2013 through 2016. Using IRS SOI data, approximately 60% of the medical expense deduction comes from this age group. Therefore, until the new 10% threshold is assumed for all taxpayers in 2017, the revenue increase would be approximately $8.5 million for FY 13-14. This amount was then grown using Moody's Economy.com's Medical Care forecast.

FSA/HSA and Executive Compensation Changes

The fiscal impact was estimated to be insignificant based on prorating the US Joint Committee on Taxation estimates of the nationwide federal impact and applying an approximate state effective tax rate.

Enhanced Expensing

The methodology used begins with the US Joint Committee on Taxation estimates of the nationwide federal impact by federal fiscal year ((federal fiscal years run from October through

September). The national numbers were prorated and an approximate state effective tax rate was applied to arrive at the estimated impact based on the federal fiscal year. Fiscal Research adjusted these numbers to an approximate fiscal impact based on the State's fiscal year.

SOURCES OF DATA: US Joint Committee on Taxation, Moody's Economy.com, IRS

TECHNICAL CONSIDERATIONS: None

LEGISLATIVE PROPOSAL #2

CONSTRUCTION OF WILLS AND TRUSTS

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-RBz-49 [v.4] (04/15)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/4/2010 8:53:30 AM

Short Title: Construction of Wills and Trusts. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CONSTRUE CERTAIN FORMULA CLAUSES THAT REFER TO FEDERAL ESTATE AND GENERATION-SKIPPING TRANSFER TAX LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 31 of the General Statutes is amended by adding a new section to read:

"**§ G.S. 31-46.1. Construction of certain formula clauses applicable to estates of decedents dying in calendar year 2010.**

(a) Purpose. – The federal estate tax and generation-skipping transfer tax expired January 1, 2010, for one year. To carry out the intent of decedents in the construction of wills and trusts, and to promote judicial economy in the administration of trusts and estates, this section construes certain formula clauses that reference federal estate and generation-skipping transfer tax laws and that are used in wills of decedents who die in calendar year 2010.

(b) Applicability. – This section applies to a will of a decedent who dies after December 31, 2009, and before the earlier of January 1, 2011, and the effective date of the reinstatement of the federal estate tax and generation-skipping transfer tax. This section does not apply to a will that is executed or amended after December 31, 2009, or to a will that clearly manifests an intent that a contrary rule applies when a decedent dies on a date on which there is no then-applicable federal estate or generation-skipping transfer tax.

(c) Construction. – A will that is subject to this section is considered to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009, if the will contains a formula that meets one or more of the following conditions:

(1) The formula refers to any of the following: 'applicable credit amount,' 'applicable exclusion amount,' 'applicable exemption amount,' 'applicable fraction,' 'estate tax exemption,' 'generation-skipping transfer tax exemption,' 'GST exemption,' 'inclusion ratio,' 'marital deduction,' 'maximum marital deduction,' 'unified credit,' or 'unlimited marital deduction.'

(2) The formula measures a share of an estate or trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer taxes.

(3) The formula is otherwise based on a provision of federal estate tax or federal generation-skipping transfer tax law similar to the provisions in subdivisions (1) or (2) of this subsection.

(d) Judicial Determination. – The personal representative or an affected beneficiary under a will or testamentary trust may bring an action in the superior court division of the General Court of Justice under Article 26 of Chapter 1 of the General Statutes and the trustee of a trust created under the will or an affected beneficiary under the trust may bring a proceeding as permitted under Article 2 of Chapter 36C of the General Statutes to determine whether the decedent intended that the references under subsection (c) of this section be construed with respect to the federal law as it existed after December 31, 2009. The action must be commenced within 12 months following the death of the decedent."

SECTION 2. Article 1 of Chapter 36C of the General Statutes is amended by adding a new section to read:

"**§ G.S. 36C-1-113. Construction of certain formula clauses applicable to estates of decedents dying in calendar year 2010.**

(a) Purpose. – The federal estate tax and generation-skipping transfer tax expired January 1, 2010, for one year. To carry out the intent of decedents in the construction of wills and trusts, and to promote judicial economy in the administration of trusts and estates, this section construes certain formula clauses that reference federal estate and generation-skipping transfer tax laws and that are used in trusts created by settlors who die in calendar year 2010.

(b) Applicability. – This section applies to a trust created by a settlor who dies after December 31, 2009, and before the earlier of January 1, 2011, and the effective date of the reinstatement of the federal estate tax and generation-skipping transfer tax. This section does not apply to a trust that is executed or amended after December 31, 2009, or to a trust that clearly manifests an intent that a contrary rule applies when a decedent dies on a date on which there is no then-applicable federal estate or generation-skipping transfer tax.

(c) Construction. – A trust subject to this section is considered to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009, if the trust contains a formula that meets one or more of the following conditions:

(1) The formula refers to any of the following: 'applicable credit amount,' 'applicable exclusion amount,' 'applicable exemption amount,' 'applicable fraction,' 'estate tax exemption,' 'generation-skipping transfer tax exemption,' 'GST exemption,' 'inclusion ratio,' 'marital deduction,' 'maximum marital deduction,' 'unified credit,' or 'unlimited marital deduction.'

(2) The formula measures a share of a trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer taxes.

(3) The formula is otherwise based on a provision of federal estate tax or federal generation-skipping transfer tax law similar to the provisions in subdivisions (1) or (2) of this subsection.

(d) Judicial Determination. – The trustee of the trust or an affected beneficiary under the trust may commence a proceeding to determine whether the settlor intended that the references under subsection (c) of this section be construed with respect to the federal law as it existed after December 31, 2009. The proceeding must be commenced within 12 months following the death of the settlor."

SECTION 3. G.S. 36C-2-203(f) is amended by adding a new subdivision to read:

"(f) Without otherwise limiting the jurisdiction of the superior court division of the General Court of Justice, proceedings concerning the internal affairs of trusts shall not include, and, therefore, the clerk of superior court shall not have jurisdiction under subsection (a) of this section of the following:

(1) Actions to reform, terminate, or modify a trust as provided by G.S. 36C-4-410 through G.S. 36C-4-416;
(2) Actions by or against creditors or debtors of a trust;
(3) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence;
(4) Actions to enforce a charitable trust under G.S. 36C-4-405.1;
(5) Actions to amend or reform a charitable trust under G.S. 36C-4A-1; and
(6) Actions involving the exercise of the trustee's special power to appoint to a second trust pursuant to G.S. 36C-8-816.1.
(7) Actions to construe a formula contained in a trust subject to G.S. 36C-1-113."

SECTION 4. This act is effective when it becomes law, and applies to the estates of decedents dying after December 31, 2009, and to trusts created by settlors who die after December 31, 2009.

Bill Draft 2009-RBz-49: Construction of Wills and Trusts.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	May 3, 2010
Introduced by:		**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	2009-RBz-49		

SUMMARY: Bill Draft 2009-RBz-49 would construe certain formula clauses that reference federal estate and generation-skipping transfer tax laws applicable to estates and trusts of decedents dying in calendar year 2010, during which time there is no applicable federal estate or generation-skipping transfer tax, to refer to the applicable laws as they applied with respect to estates and trusts of decedents dying on December 31, 2009.

CURRENT LAW: Effective January 1, 2010, the federal estate tax and generation-skipping transfer tax law is repealed for one year. In 2001, Congress enacted the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). That law made significant changes to the federal estate and generation-skipping transfer tax laws, culminating in the repeal of the tax for one year in 2010. The Act provided that the changes made by EGTRRA would expire on December 31, 2010, and the tax law would be applied as if the provisions and amendments made by the legislation had never been enacted.

Most people did not anticipate that Congress would let the estate tax expire. In April 2009, Congress approved a Fiscal 2010 Budget Resolution which called for extending the federal estate tax into 2010. However, Congress did not enact the necessary legislation to extend the tax. The House of Representatives passed HR 4151 on December 12, 2009. That bill would have made permanent the $3,500,000 estate tax exemption amount and the 45% maximum tax rate. The Senate did not pass the legislation; hence the expiration of the estate tax for 2010.

BILL ANALYSIS: Many wills and trust agreements include formula provisions to determine what amounts of the estate will pass to different beneficiaries or to trusts for the benefit of different beneficiaries. These formula provisions are usually based upon the estate and generation-skipping transfer tax laws applicable at the time of the decedent's death. With the repeal of the federal estate law for the year 2010, these provisions could result in a devise contrary to the decedent's intent. For example, a will or trust agreement could include a formula provision allocating the largest amount or percentage of the testator's estate that can pass free of estate tax to a "Family Trust" for the benefit of the testator's children and the remainder of the estate to a "Marital Trust" for the benefit of the testator's surviving spouse. Under the current law, it is possible that this kind of provision would result in the entire estate passing to the Family Trust and nothing passing to the Marital Trust.

This proposal provides that a will or trust agreement of a decedent that dies in calendar year 2010 that refers to the federal estate and generation-skipping transfer tax laws is deemed to refer to the law as it existed on December 31, 2009, unless the document clearly manifests an intent that a contrary rule apply. At least six other states have adopted similar construction provisions[1] and at least four states are considering similar legislation.[2]

EFFECTIVE DATE: The proposal is effective when it becomes law and applies to the estates of decedents who die after December 31, 2009, and to trusts created by settlers who die after December 31, 2009.

[1] Idaho, Indiana, South Dakota, Tennessee, Virginia, and Washington.
[2] Florida, Maryland, Nebraska, and New York.

LEGISLATIVE PROPOSAL #3

ECONOMIC INCENTIVES ALIGNMENT AND CHANGES

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-RBxz-54 [v.2] (05/05)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/5/2010 6:34:45 AM

Short Title: Economic Incentives Alignment & Changes. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCREASE UNIFORMITY IN SUNSET AND REPORTING REQUIREMENTS OF ECONOMIC INCENTIVES TOOLS AND TO ELIMINATE NON-UTILIZED ECONOMIC INCENTIVES.

The General Assembly of North Carolina enacts:

PART I: ECONOMIC INCENTIVES REPORTING AND SUNSETS

SECTION 1.1. G.S. 105-129.6(b) reads as rewritten:

"(b) ~~Reports.~~ Report. – The Department ~~of Revenue shall publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of credits taken for each credit allowed in this Article.
(2) The number and enterprise tier area of new jobs with respect to which credits were generated and to which credits were taken.
(3) The cost and enterprise tier area of machinery and equipment with respect to which credits were generated and to which credits were taken.
(4) The number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.
(5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were taken.
(6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were taken.
(7) The cost and enterprise tier area of real property investment with respect to which credits were generated and to which credits were taken."

SECTION 1.2. G.S. 105-129.19 reads as rewritten:

"**§ 105-129.19. ~~Reports.~~Report.**

The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information ~~for the 12-month period ending the preceding December 31:~~ itemized by credit and by taxpayer:

(1) The number of taxpayers that took the credits allowed in this Article.

(2) The cost of ~~business property and~~ renewable energy property with respect to which credits were taken.

(2a) Repealed by Session Laws 2002-87, s. 6, effective August 22, 2002.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.3. G.S. 105-129.26(e) reads as rewritten:

"(e) ~~Reports.~~ Report. – The ~~Department of Commerce and the~~ Department ~~of Revenue shall jointly publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number and location of large and major recycling facilities qualified under this Article.

(2) The number of new jobs created by each recycling facility.

(3) The amount of investment in each recycling facility.

(4) The amount of credits taken under this Article."

SECTION 1.4. Article 3C of Chapter 105 of the General Statutes is amended by adding the following section to read:

"**§ 105-129.29. Sunset.**

This Article is repealed for taxable years beginning on or after January 1, 2018."

SECTION 1.5. G.S. 105-129.38 reads as rewritten:

"**§ 105-129.38. ~~Reports.~~Report.**

The Department ~~of Revenue must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information ~~for the 12-month period ending the preceding December 31:~~ itemized by taxpayer:

(1) The number of taxpayers that took the credits allowed in this Article.

(2) The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.6. Article 3D of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.39. Sunset.**

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2014."

SECTION 1.7. G.S. 105-129.44 reads as rewritten:

"**§ 105-129.44. Report.**

The Department ~~of Revenue must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information ~~for the 12-month period ending the preceding December 31:~~itemized by taxpayer:

(1) The number of taxpayers that took the credit allowed in this Article.

(2) The location of each qualified North Carolina low-income building or housing development for which a credit was taken.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.8. G.S. 105-129.54 reads as rewritten:

"**§ 105-129.54. ~~Reports.~~Report.**

The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers that took a credit allowed in this Article, itemized by the categories of small business, low-tier, other, and university research.

(2) The amount of each credit taken in each category.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.9. Article 3H of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.75A. Report.**

The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

(1) The number of taxpayers that took the credits allowed in this Article.

(2) The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.10. G.S. 105-129.85(b) reads as rewritten:

"(b) ~~Reports.~~ Report. – The Department ~~of Revenue shall publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number and amount of credits generated and taken for each credit allowed in this Article.

(2) The number and development tier area of new jobs with respect to which credits were generated and to which credits were taken.

(3) The cost and development tier area of business property with respect to which credits were generated and to which credits were taken.

(4) The cost and development tier area of real property investment with respect to which credits were generated and to which credits were taken."

SECTION 1.11. G.S. 105-129.98 reads as rewritten:

"**§ 105-129.98. ~~Reports.~~Report.**

The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following ~~information.~~information itemized by ~~taxpayer, for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers that claimed a credit allowed in this Article.

(2) The amount of each credit claimed and the taxes against which it was applied.

(3) The total cost to the General Fund of the credits claimed."

SECTION 1.12. G.S. 105-130.41(c1) reads as rewritten:

"(c1) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges assessed for the taxable year.

(2a) The amount of the charges attributable to imports.

(2b) The amount of the charges attributable to exports.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.13. G.S. 105-130.45(f) reads as rewritten:

"(f) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of exports with respect to which credits were taken.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.14. G.S. 105-130.46(k) reads as rewritten:

"(k) ~~Reports. Any corporation that takes a credit under this section must submit an annual report by May 1 of each year to the Senate Finance Committee, the House of Representatives Finance Committee, the Senate Appropriations Committee, the House of~~

~~Representatives Appropriations Committee, and the Fiscal Research Division of the General Assembly. The report must state the amount of credit earned by the corporation during the previous year, the amount of credit including carryforwards claimed by the corporation during the previous year, and the percentage of domestic leaf content in cigarettes produced by the corporation during the previous year. The first reports required under this section are due by May 1, 2006.~~Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

(1) The number of taxpayers that took the credit allowed in this section.

(2) The amount of cigarettes and other tobacco products exported through the North Carolina State Ports with respect to which credits were taken.

(3) The percentage of domestic leaf content in cigarettes produced during the previous year, as reported by the taxpayer.

(4) The total cost to the General Fund of the credits taken."

SECTION 1.15. G.S. 105-130.47(h) reads as rewritten:

"(h) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information, itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The location of sites used in a production for which a credit was taken.

(2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.

(3) The number of people employed in the State with respect to credits taken.

(4) The total cost to the General Fund of the credits taken."

SECTION 1.16. G.S. 105-151.22(c1) reads as rewritten:

"(c1) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges assessed for the taxable year.

(2a) The amount of the charges attributable to imports.

(2b) The amount of the charges attributable to exports.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.17. G.S. 105-151.29(h) reads as rewritten:

"(h) Report. – The Department ~~of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following ~~information,~~information itemized by ~~taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:

(1) The location of sites used in a production for which a credit was taken.

(2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.

(3) The number of people employed in the State with respect to credits taken.

(4) The total cost to the General Fund of the credits taken."

SECTION 1.18. G.S. 105-164.14(a1), (f), (g), (h), (j), (k), (*l*), (m), (n), and (o) are repealed.

SECTION 1.19. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.14A. Economic incentive refunds.**

(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

(1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars ($2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under 105-164.14(a). This subdivision is repealed for purchases made on or after January 1, 2011.

(2) Major recycling facility. – An owner of a major recycling facility is allowed a refund of the sales and use tax paid by it on building materials, building supplies, fixtures, and equipment that become a part of the real property of the recycling facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner. This subdivision is repealed for purchases made on or after January 1, 2018."

(3) Business in low-tier area. – A taxpayer that is engaged primarily in one of the businesses listed in G.S. 105-129.83(a) in a development tier one area and that places machinery and equipment in service in that area is allowed a refund of the sales and use tax paid by it on the machinery and equipment. For the purpose of this subdivision, "machinery and equipment" includes engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.83, capitalized for tax purposes under the Code, and not leased to another party. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. The sunset for Article 3J of Chapter 105 of the General Statutes for development tier one areas applies to this subdivision.

(4) Motorsports team or sanctioning body. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For the purpose of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. This subdivision is repealed for purchases made on or after January 1, 2011.

(5) Professional motorsports team. – A professional motorsports racing team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motor racing vehicle. For the purpose of this subdivision, "motorsports accessories" includes instrumentation, telemetry, consumables, and paint. This subdivision is repealed for purchases made on or after January 1, 2014.

(6) Analytical services business. – A taxpayer engaged in analytical services in this State is allowed a refund of sales and use tax paid by it. This subdivision is repealed for purchases made on or after January 1, 2013. The amount of the refund is the greater of the following:

a. Fifty percent (50%) of the eligible amount of sales and use tax paid by it on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use tax paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year.

b. Fifty percent (50%) of the amount of sales and use tax paid by it in the fiscal year on medical reagents.

(7) Railroad Intermodal Facility. – The owner or lessee of an eligible railroad intermodal facility is allowed a refund of sales and use tax paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the facility. Liability incurred indirectly by the owner or lessee of the facility for sales and use taxes on these items is considered tax paid by the owner or lessee. This subdivision is repealed for purchases made on or after January 1, 2038.

(b) Administration. – A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(c) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by refund and by taxpayer:

(1) The number of taxpayers claiming a refund allowed in this section.

(2) The total amount of purchases with respect to which refunds were claimed.

(3) The total cost to the General Fund of the refunds claimed."

SECTION 1.20. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.14B. Certain industrial facilities refunds.**

(a) Definitions. – The following definitions apply in this section:

(1) Air courier services. – The furnishing of air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.

(2) Aircraft manufacturing. – The manufacturing or assembling of complete aircraft or of aircraft engines, blisks, fuselage sections, flight decks, flight deck systems or components, wings, fuselage fairings, fins, moving leading and trailing wing edges, wing boxes, nose sections, tailplanes, passenger doors, nacelles, thrust reversers, landing gear, braking systems, or any combination of these.

(3) Bioprocessing. – Biomanufacturing or processing that includes the culture of cells to make commercial products, the purification of biomolecules from cells, or the use of these molecules in manufacturing.

(4) Reserved.

(5) Reserved.

(6) Facility. – A single building or structure or a group of buildings or structures that are located on a single parcel of land or on contiguous parcels of land under common ownership and any other related real property contained on the parcel or parcels.

(7) Financial services, securities operations, and related systems development. – One or both of the following functions:

a. Performing analysis, operations, trading, or sales functions for investment banking, securities dealing and brokering, securities trading and underwriting, investment portfolio or mutual fund management, retirement services, or employee benefit administration.

b. Developing information technology systems and applications, managing and enhancing operating applications and databases, or providing, operating, and maintaining telecommunications networks and distributed and mainframe computing resources for investment

banking, securities dealing and brokering, securities trading and underwriting, investment portfolio or mutual fund management, retirement services, or employee benefit administration.

(8) Reserved.

(9) Reserved.

(10) Reserved.

(11) Motor vehicle manufacturing. – Any of the following:

a. Manufacturing complete automobiles and light-duty motor vehicles.

b. Manufacturing heavy-duty truck chassis and assembling complete heavy-duty trucks, buses, heavy-duty motor homes, and other special purpose heavy-duty motor vehicles for highway use.

c. Manufacturing complete military armored vehicles, nonarmored military universal carriers, combat tanks, and specialized components for combat tanks.

(12) Reserved.

(13) Reserved.

(14) Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines. – Any of the following:

a. Manufacturing biological and medicinal products. For the purpose of this sub-subdivision, a biological product is a preparation that is synthesized from living organisms or their products and used medically as a diagnostic, preventive, or therapeutic agent. For the purpose of this sub-subdivision, bacteria, viruses, and their parts are considered living organisms.

b. Processing botanical drugs and herbs by grading, grinding, and milling.

c. Isolating active medicinal principals from botanical drugs and herbs.

d. Manufacturing pharmaceutical products intended for internal and external consumption in forms such as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions.

(15) Reserved.

(16) Reserved.

(17) Related entity. – An entity for which the taxpayer possesses directly or indirectly at least eighty percent (80%) of the control and value.

(18) Semiconductor manufacturing. – The development and production of semiconductor material, devices, or components.

(19) Solar electricity generating materials manufacturing. – The development and production of one or more of the following:

a. Photovoltaic materials or modules used in producing electricity.

b. Polymers or polymer films primarily intended for incorporation into photovoltaic materials or modules used in producing electricity.

(20) Strategic partner. – A business that is engaged in activities at the facility that directly contribute to the manufacture and distribution of computers and computer peripherals and with whom the taxpayer has contracted to provide those activities at the facility in direct support of its manufacturing and distribution activities.

(b) Refund. – An owner of an industrial facility that meets the business, minimum investment, and industry-specific requirements of this section is allowed an annual refund of sales and use tax paid by it under this Article on building materials, building supplies, fixtures, and equipment that are installed in the construction of the facility and that become a part of the

real property of the facility. Liability incurred indirectly by the owner for sales and use taxes on those items is considered tax paid by the owner. The requirements are:

(1) Business requirement. – The facility is primarily engaged in one or more of the following:

a. Air courier services.
b. Aircraft manufacturing.
c. Bioprocessing.
d. Financial services, securities operations, and related systems development.
e. Motor vehicle manufacturing.
f. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines.
g. Semiconductor manufacturing.
h. Solar electricity generating materials manufacturing.

(2) Minimum investment requirement. – The Secretary of Commerce has certified that the owner of the facility will invest at least the required amount of private funds to construct the facility in this State. For the purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in a development tier one area, the required amount is fifty million dollars ($50,000,000). For all other facilities, the required amount is one hundred million dollars ($100,000,000). In the case of a computer manufacturing facility, the owner may invest these funds either directly or indirectly through a related entity or strategic partner.

(3) Industry-specific requirements:

a. If the facility is primarily engaged in financial services, securities operations, and related systems development, it satisfies all of the following conditions:
   1. It is owned and operated by the business for which the services are provided or by a related entity of that business as defined in G.S. 105-130.7A.
   2. No part of it is leased to a third-party tenant that is not a related entity of the business.

b. If the facility is primarily engaged in solar electricity generating materials manufacturing, the business satisfies a wage standard at the facility. The wage standard is equal to one hundred five percent (105%) of the lesser of the average weekly wage for all insured private employers in the State and the average weekly wage for all insured private employers in the county. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to the amount required by this sub-subdivision. In making the wage calculation, the business must include any jobs that were filled for at least 1,600 hours during the calendar year.

(c) Forfeiture. – If the owner of an eligible facility does not make the required minimum investment within five years after the first refund under this section with respect to the facility, the facility loses its eligibility and the owner forfeits all refunds already received under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the amount of all past taxes refunded under this section, plus interest at the rate established in G.S. 105-241.21, computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236.

(d) Administration. – A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(e) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by refund and taxpayer:

(1) The number of taxpayers claiming a refund allowed in this section.

(2) The total amount of purchases with respect to which refunds were claimed.

(3) The location of facilities with respect to which refunds were claimed.

(4) The total cost to the General Fund of the refunds claimed.

(f) Sunset. – This section is repealed for sales made on or after January 1, 2013."

SECTION 1.21. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29B. Information to counties and cities.**

The Secretary must give information on refunds of tax made under this Article to a designated county or city official within 30 days after the official makes a written request to the Secretary for the information. For a request made by a county official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one thousand dollars ($1,000) of tax paid to the county. For a request made by a city official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one thousand dollars ($1,000) of tax paid to all the counties in which the city is located. The list must include the name and address of each of these claimants and the amount of the refund received from each county covered by the request.

A claimant that has received a refund under this Article of tax paid to a county must give information on the refund to a designated official of the county or a city located in the county. The claimant must give the information to the county or city official within 30 days after the official makes a written request to the claimant for the information. For a request by a county or city official, the claimant must give the official a copy of the request for the refund and any supporting documentation requested by the official to verify the request. If a claimant determines that a refund it has received under this Article is incorrect, the claimant must file an amended request for a refund.

For the purpose of this section, a designated county official is the chair of the board of county commissioners or a county official designated in a resolution adopted by the Board, and a designated city official is the mayor of the city or a city official designated in a resolution adopted by the city's governing board. Information given to a county or city official under this section is not a public record and may not be disclosed except as provided in G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 1.22. G.S. 105-256(a) is amended by inserting a new subdivision between subdivisions (2) and (3) to read:

"(a) Publications. – The Secretary shall prepare and publish the following:

...

(2a) By May 1 of each year, an economic incentives report that contains information on tax credits and tax refunds, itemized by credit or refund and by taxpayer, for the previous calendar year.

..."

PART II: OBSOLETE ECONOMIC INCENTIVES

SECTION 2.1. Article 3C of Chapter 105 of the General Statutes reads as rewritten:

"Article 3C.

"Tax Incentives For Recycling Facilities.

"**§ 105-129.25. Definitions.**

The following definitions apply in this Article:

...

~~(3) Large recycling facility. A recycling facility that qualifies under G.S. 105-129.26(b).~~

...

"**§ 105-129.26. Qualification; forfeiture.**

(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits provided in this Article and in Article 5 of this Chapter for major recycling facilities if it meets all of the following conditions:

(1) The facility is located in an area that, at the time the owner began construction of the facility, was an enterprise tier one area pursuant to G.S. 105-129.3.

(2) The Secretary of Commerce has certified that the owner will, by the end of the fourth year after the year the owner begins construction of the recycling facility, invest at least three hundred million dollars ($300,000,000) in the facility and create at least 250 new, full-time jobs at the facility.

(3) The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.

~~(b) Large Recycling Facility. – A recycling facility qualifies for the tax credit provided in G.S. 105-129.27 for large recycling facilities if it meets all of the following conditions:~~

~~(1) The facility is located in an area that, at the time the owner began construction of the facility, was an enterprise tier one area pursuant to G.S. 105-129.3.~~

~~(2) The Secretary of Commerce has certified that the owner will, by the end of the second year after the year the owner begins construction of the recycling facility, invest at least one hundred fifty million dollars ($150,000,000) in the facility and create at least 155 new, full-time jobs at the facility.~~

~~(3) The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.~~

...

(e) Reports. – The Department of Commerce and the Department of Revenue shall jointly publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

(1) The number and location of ~~large and~~ major recycling facilities qualified under this Article.

(2) The number of new jobs created by each recycling facility.

(3) The amount of investment in each recycling facility.

(4) The amount of credits taken under this Article.

"**§ 105-129.27. Credit for investing in ~~large or~~ major recycling facility.**

(a) Credit. – An owner that purchases or leases machinery and equipment for a major recycling facility in this State during the taxable year is allowed a credit equal to fifty percent (50%) of the amount payable by the owner during the taxable year to purchase or lease the machinery and equipment. ~~An owner that purchases or leases machinery and equipment for a large recycling facility in this State during the taxable year is allowed a credit equal to twenty percent (20%) of the amount payable by the owner during the taxable year to purchase or lease the machinery and equipment.~~

..."

SECTION 2.2. Article 3G of Chapter 105 of the General Statutes is repealed.

PART III: CONFORMING CHANGES

SECTION 3.1. G.S. 75-29(a) reads as rewritten:

"(a) No person, firm or corporation shall advertise the sale of its merchandise using the term "wholesale" with regard to its sale prices, except as such word may appear in the company or firm name, unless such advertised sale or sales is, or are, to a customer or customers having a certificate of resale issued pursuant to G.S. 105-164.28 and recorded as required by G.S. 105-164.25 or unless the wholesale price is established by an independent agency not engaged in the manufacture, distribution or sale of such merchandise.

No person, firm or corporation shall utilize in any commercial transaction a company or firm name which contains the word "wholesale" unless such person, firm or corporation is engaged principally in sales at wholesale as defined in G.S. 105-164.3. For the purposes of determining whether sales are made principally at wholesale or retail, all sales to employees of any such person, firm or corporation, all sales to organizations subject to refunds pursuant to ~~G.S. 105-164.14,~~G.S. 105-164.14 through G.S. 105-164.14B and all exempt sales pursuant to G.S. 105-164.13 shall be considered sales at wholesale. Sales of merchandise for delivery by the seller to the purchaser at a location other than the seller's place of business shall be considered sales at wholesale for the purposes of this section."

SECTION 3.2. G.S. 105-129.2 reads as rewritten:

"**§ 105-129.2. Definitions.**

The following definitions apply in this Article:

...

(8a) Eligible major industry. – A taxpayer is an eligible major industry for the purposes of this Article if the taxpayer is primarily engaged in one of the industries listed in ~~G.S. 105-164.14(j)(3)~~G.S. 105-164.14B and the Secretary of Commerce has certified that the owner of the facility will invest at least one hundred million dollars ($100,000,000) of private funds to acquire, construct, and equip a facility in this State to engage in one or more of those industries.

..."

SECTION 3.3. G.S. 105-164.3 is amended by adding a new subsection to read:

"(6a) Development tier. – The classification assigned to an area pursuant to G.S. 143B-437.08."

SECTION 3.4. G.S. 105-187.18(b) reads as rewritten:

"(b) Except for the exemption for sales a state cannot constitutionally tax, the exemptions ~~in G.S. 105-164.13~~ and ~~the~~ refunds allowed in ~~G.S. 105-164.14~~Article 5 of this Chapter do not apply to the taxes imposed by this Article."

SECTION 3.5. G.S. 105-187.23 reads as rewritten:

"**§ 105-187.23. Exemptions and refunds.**

(a) Exemptions. – Except for the exemption for sales a state cannot constitutionally tax, the exemptions allowed in ~~G.S. 105-164.13~~ Article 5 of this Chapter do not apply to the taxes imposed by this Article.

(b) Refunds. – The refunds allowed in ~~G.S. 105-164.14~~Article 5 of this Chapter do not apply to the taxes imposed by this Article. A person who buys at least 50 new white goods of any kind in the same sale or purchase may obtain a refund equal to sixty percent (60%) of the amount of tax imposed by this Article on the white goods when all of the white goods purchased are to be placed in new or remodeled dwelling units that are located in this State and do not contain the kind of white goods purchased. To obtain a refund, a person must file an application for a refund with the Secretary. The application must contain the information required by the Secretary, be signed by the purchaser of the white goods, and be submitted by the date set by the Secretary."

SECTION 3.6. G.S. 105-187.33 reads as rewritten:

"**§ 105-187.33. Exemptions and refunds.**

Except for the exemption for sales a state cannot constitutionally tax, the exemptions and refunds allowed in ~~G.S. 105-164.13~~Article 5 of this Chapter do not apply to the taxes imposed by this Article. ~~The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article.~~"

SECTION 3.7. G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(6a) To furnish the county or city official designated under ~~G.S. 105-164.14(f)~~G.S. 105-164.29B a list of claimants that have received a refund of the county sales or use tax to the extent authorized in ~~G.S. 105-164.14(f).~~that statute.

...

~~(31) To verify with a related entity or strategic partner information relating to that entity provided by a taxpayer claiming a credit under Article 3G of this Chapter.~~

...

~~(35) To furnish to a taxpayer claiming a credit under Article 3G of this Chapter information from a related entity or strategic partner to the extent that information was used by the Secretary to adjust the amount of tax credit claimed by the taxpayer.~~

...

(37) To furnish the Department of Commerce with the information needed to complete the ~~studies~~ study required under ~~G.S. 105-129.2A and~~ G.S. 105-129.82.

..."

SECTION 3.8. G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year. Refunds applied for more than three years after the due date are barred."

PART IV: EFFECTIVE DATE

SECTION 4. This act becomes effective July 1, 2010. The first economic incentives report required by G.S. 105-256, as amended by this act, is due by May 1, 2011. The first claim for refund by a taxpayer whose sales tax refund period is changed by this act is due within six months after July 1, 2010, and applies to purchases during the time period not covered by the taxpayer's last claim for refund.

2009-MCxz-234: Economic Incentives Alignment and Changes

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	April 21, 2010
Introduced by:		**Prepared by:**	Dan Ettefagh Committee counsel
Analysis of:	2009-MCxz-234		

SUMMARY: ***This bill would (1) harmonize sunset and reporting features and requirements across the State's various economic incentives, (2) create a single, unified economic incentives report that contains the information currently reported in separate reports for each economic incentive, and (2) delete obsolete credits under Articles 3C and 3G.***

CURRENT LAW: Under current law, many of the economic incentives enacted as the Article 3 credits, the income tax credits, and the sales and use tax benefits have some combination of reporting requirements and sunset provisions; however, those requirements are not uniformly set out in each incentive. Where reporting requirements are set out, there are inconsistencies with respect to itemization by taxpayer, the reporting entity, and other miscellaneous differences.

Under current law, there are two economic incentives that are not utilized. The first is the credit in Article 3C for large recycling facilities. This credit was intended for Wisconsin Tissue; however that company never located in North Carolina. The second credit is the credit for major computer manufacturing facilities in Article 3G. With Dell closing the facility for which the credit was enacted, no other taxpayer utilizes that credit.

BILL ANALYSIS: Part I of the bill requires each separate report for the State's economic incentives to be reported in an economic incentives report and establishes sunsets for various economic incentives, as provided in the chart below. Part II of the bill eliminates obsolete economic incentives. Part III of the bill makes conforming changes to various statutory provisions.

Section Number(s)	Effect
1.2	Adds requirement of itemization by taxpayer and by credit to the Art. 3B (business and energy tax credits) report
1.5 & 1.7	Adds requirement of itemization by taxpayer to Arts. 3D (historic structure rehab) and 3E (low-income housing) report, respectively
1.9	Creates reporting requirement for Art. 3H (mill property rehab)
1.14	Transfers reporting requirement for G.S. 105-130.46 (credit for exporting cigarettes and increasing employment) from the corporation claiming the credit to DOR and harmonizes reporting requirements
1.18, 1.19, & 1.20	Separates and categorizes the current sales and use tax refunds, all of which are currently found in G.S. 105-164.14, into three types of refunds: (1) refunds that were enacted for non-industrial facilities for economic incentives purposes (found in the newly created G.S. 105-164.14A), (2) refunds that were enacted for industrial facilities for economic incentives purposes (found in the newly created G.S. 105-164.14B), and (3) refunds that were not enacted for economic

	incentives purposes (remaining in G.S. 105-164.14)
1.22	Creates the economic incentives report
1.1, 1.2, 1.3, 1.5, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 1.17, 1.18, & 1.21	Makes conforming and technical changes to the reporting requirement necessary to transfer the current, separate reports into a new, unified annual report.
1.4, 1.6, 1.19, & 1.20	Proposes sunsets for Art. 3C recycling facilities (2018), Art. 3D historic structure rehab (2014), and for the sales and use tax refund for major recycling facilities (2018), low-tier machinery (aligns sunset to Art. 3J), motorsports racing vehicle parts (2014), analytical services supplies (2013), and railroad intermodal facilities (2038).
2.1	Eliminates credit for large recycling facilities
2.2	Repeals Art. 3G (computer manufacturing)
Part III	Conforming changes

EFFECTIVE DATE: This act would become effective July 1, 2010, and includes effective language that would ensure that sales and use tax refund eligibility would not be affected.

LEGISLATIVE PROPOSAL #4

REINSTATE STAMPS ON CIGARETTES

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-RBz-52 [v.3] (04/26)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/4/2010 5:37:08 PM

Short Title: Reinstate Cigarette Tax Stamps. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE ENFORCEMENT OF THE CIGARETTE EXCISE TAX AND TO DETER THE UNLAWFUL SALE OF NONTAXPAID CIGARETTES BY REINSTATING THE REQUIREMENT THAT CIGARETTES BEAR A STAMP INDICATING PAYMENT OF THE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 2A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-113.8A. Stamps required on packages of cigarettes.**

(a) Requirement. – A package of cigarettes for sale or use in this State must be marked by a heat transfer stamp that indicates whether the package of cigarettes is taxable or nontaxable under this Article. A package of cigarettes that is subject to tax must be marked by a tax-paid stamp and a package of cigarettes that is not subject to tax must be marked by a tax-exempt stamp.

(b) Responsibility of Distributor. – It is unlawful for a person who is not a licensed distributor to receive or possess a package of unstamped cigarettes or to place a stamp on a package of cigarettes. A licensed distributor that receives a package of unstamped cigarettes must place a stamp on the package within 48 hours of its receipt, exclusive of Saturdays, Sundays, and legal holidays. A licensed distributor may obtain a cigarette stamp from the Secretary or, with the approval of the Secretary, from the producer of the stamps. A licensed distributor must place a stamp on a package of cigarettes in a manner that ensures the stamp will be torn or mutilated if a person tries to remove the stamp from the package.

(c) Responsibility of Secretary. – The Secretary must prescribe the design, denominations, and other details of a cigarette stamp and must provide for the production of the stamp. A stamp must display a unique serial number that is visible at the point of sale or use. The Secretary must collect the amount due for a tax-paid stamp when the Secretary transfers, or authorizes the transfer of, the stamp to a licensed distributor. The charge for a tax-paid stamp is the amount of tax payable under this Article on the package of cigarettes on which the stamp will be placed. No charge applies to a tax-exempt stamp. The Secretary must keep a record of the tax-paid and tax-exempt stamps transferred to a licensed distributor."

SECTION 2. G.S. 105-113.9 reads as rewritten:

"**§ 105-113.9. Out-of-state shipments.**

~~Any~~ A licensed distributor engaged in interstate business ~~shall be permitted to~~ may, with the approval of the Secretary, set aside ~~part of the stock as necessary~~ packages of cigarettes needed to conduct interstate business without ~~paying the tax~~ stamping the packages as otherwise required by ~~this Part, but only if the distributor complies with the requirements prescribed by the Secretary concerning keeping of records, making of reports, posting of bond, and other matters for administration of this~~ Part.

"Interstate business" as used in this section ~~means:~~means any of the following:

(1) The sale to a nonresident of packages of cigarettes ~~to a nonresident where the cigarettes are delivered by~~ the distributor delivers to the business location of the nonresident purchaser in another ~~state; and~~state.

(2) The sale to a nonresident of packages of cigarettes ~~to a nonresident wholesaler or retailer registered through the Secretary who has no place of business in North Carolina and who purchases the cigarettes for the purposes of resale not within this State and where the cigarettes are delivered to the purchaser at the business location in North Carolina of the distributor who is also licensed as a distributor under the laws of the state of the nonresident purchaser.~~the distributor delivers to another licensed distributor for subsequent sale outside the State."

SECTION 3. G.S. 105-113.10 reads as rewritten:

"**§ 105-113.10. ~~Manufacturers shipping to distributors exempt.~~In-state shipments of manufacturers and other distributors.**

~~Any manufacturer shipping cigarettes to other distributors who are licensed under G.S. 105-113.12 may, upon application to the Secretary and upon compliance with requirements prescribed by the Secretary, be relieved of paying the taxes levied in this Part. No manufacturer may be relieved of the requirement to be licensed as a distributor in order to make shipments, including drop shipments, to a retail dealer or ultimate user.~~It is unlawful for a person that is not a licensed distributor to ship an unstamped package of cigarettes into this State or between locations in this State. A licensed distributor may ship a package of unstamped cigarettes in the following circumstances but may not otherwise ship a package of unstamped cigarettes:

(1) To a facility the distributor owns.

(2) To another licensed distributor.

(3) To a person in a transaction that is not subject to the federal excise tax on cigarettes.

(4) To an agency or an instrumentality of the United States."

SECTION 4. G.S. 105-113.18 reads as rewritten:

"**§ 105-113.18. Payment of tax; reports.**

~~The taxes levied in this Part are payable when a report is required to be filed. The~~ The tax levied in this Part on the sale or possession of a package of cigarettes by a distributor is payable by means of the tax-paid stamp the distributor is required to obtain and place on the package of cigarettes. The tax levied in this Part on the sale or possession of a package of cigarettes by a person who is not a distributor is payable when the person is required to file a report.

The following reports are required to be filed with the ~~Secretary:~~Secretary. A report must be in the form required by the Secretary and contain the information required by the Secretary.

(1) Distributor's Report. – A distributor ~~shall~~ must file a monthly report ~~in the form prescribed by the Secretary. The report~~ that covers sales and other activities occurring in a calendar ~~month and~~ month. The report is due within 20 days after the end of the month covered by the report. The report ~~shall state the amount of tax due and shall identify any transactions to which the tax does not apply.~~must include the following information:

a. The number of cigarettes on hand on the first and last days of the month.

b. The number of tax-paid and tax-exempt cigarette stamps obtained during the month.

c. The number of tax-paid and tax-exempt cigarette stamps placed on packages of cigarettes during the month.

d. The number of packages of cigarettes the distributor transferred without charge after placing a tax-paid stamp on the packages.

~~(1a) Report of Free Cigarettes. A manufacturer who distributes cigarettes without charge shall file a monthly report in the form prescribed by the Secretary. The report covers cigarettes distributed without charge in a calendar month and is due within 20 days after the end of the month covered by the report. The report shall state the number of cigarettes distributed without charge and the amount of tax due.~~

(2) Use Tax Report. ~~Every other person who has acquired non-tax-paid~~ A person that is not a distributor and that acquires a package of unstamped cigarettes for sale, use, or consumption subject to the tax imposed by this Part ~~shall,~~ must file a report within 96 hours after ~~receipt of the cigarettes, file a report in the form prescribed by the Secretary showing the amount of cigarettes so received and any other information required by the Secretary. The report shall be accompanied by payment of the full amount of the tax.~~ receiving the package of cigarettes. The report must state the number of cigarettes acquired and the amount of tax due.

(3) Shipping Report. ~~Any person, except a licensed distributor, who~~ A person that is not a licensed distributor and that transports cigarettes upon the public highways, roads, or streets of this ~~State,~~ State must, upon notice from the Secretary, ~~shall~~ file a report ~~in the form prescribed by the Secretary and~~ containing the information required by the Secretary.

(4) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1209, s. 1."

SECTION 5. G.S. 105-113.21 reads as rewritten:

"**§ 105-113.21. Discount; refund.**

(a) Repealed by Session Laws 2003-284, s. 45A.1(a), effective for reporting periods beginning on or after August 1, 2003.

(a1) Discount. – A distributor is allowed ~~who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report~~ a discount of two percent ~~(2%).~~(2%) of the charge for a tax-paid stamp when the distributor purchases the stamp. This discount covers the distributor's expenses ~~incurred~~ in placing stamps on packages of cigarettes, preparing the ~~records and~~ reports required by this Part, maintaining the records required by this Part, and ~~the expense of~~ furnishing a bond.

(b) ~~Refund.~~ Refund for Stale Product. – A distributor in possession of packages of stale or otherwise unsalable cigarettes upon which ~~the tax has been paid~~ a tax-paid stamp has been placed may return the cigarettes to the manufacturer and apply to the Secretary for a refund of the tax. The application ~~shall~~ must be in the form prescribed by the Secretary and ~~shall~~ be accompanied by an affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer by the applicant. The Secretary ~~shall~~ must refund the tax paid, less the discount allowed, on the unsalable cigarettes.

(c) Refund for Stamps. – A distributor that purchases a tax-paid stamp is allowed a refund of the amount paid for the stamp, less the discount allowed, in the circumstances listed in this subsection. To obtain a refund, a distributor must apply to the Secretary for the refund. The circumstances are:

(1) When the distributor purchases a tax-paid stamp that it does not place on a package of cigarettes.

(2) When the distributor purchases a tax-paid stamp that is torn or otherwise unusable and cannot be placed on a package of cigarettes."

SECTION 6. G.S. 105-113.27 reads as rewritten:

"**§ 105-113.27. ~~Non-tax-paid~~ Restrictions and presumption concerning cigarettes.**

(a) Restrictions. – Except as otherwise provided in this Article, licensed distributors shall not sell, borrow, loan, or exchange ~~non-tax-paid~~ unstamped cigarettes to, from, or with other licensed distributors.

~~(b) No person shall sell or offer for sale non-tax-paid cigarettes.~~

(c) Presumption. – The possession of more than six hundred cigarettes on which tax has been paid to another state or country, by any person other than a licensed distributor, is prima facie evidence that the cigarettes are possessed in violation of this Part."

SECTION 7. G.S. 105-113.33 reads as rewritten:

"**§ 105-113.33. Criminal penalties.**

Any person who violates ~~any of the provisions~~ a provision of this Article for which no other punishment is specifically prescribed ~~shall be~~ is guilty of a Class 1 misdemeanor. A person who forges a stamp required under this Article or who knowingly places a forged stamp on a package of cigarettes is guilty of a Class H felony."

SECTION 8. A distributor who has unstamped cigarettes on hand on the effective date of this act must stamp the cigarettes as required by this act within 48 hours of the effective date.

SECTION 9. This act becomes effective January 1, 2011.

Bill Draft 2009-RBz-52: Reinstate Cigarette Tax Stamps.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	May 4, 2010
Introduced by:		**Prepared by:**	Heather Fennell Committee Counsel
Analysis of:	2009-RBz-52		

SUMMARY: ***Bill Draft 2009-RBz-52 would require a tax stamp be attached to packages of cigarettes sold in North Carolina as evidence of payment of the tax on cigarettes and would create a criminal penalty for counterfeiting stamps or stamp impression devices.***

CURRENT LAW: North Carolina first began taxing cigarettes in 1969. Tax stamps were required to be attached to packages of cigarettes as evidence of payment of the tax. In 1993, the tax stamp requirement was repealed and the payment of the cigarette tax was recorded by reports submitted by cigarette distributors.

Currently, every state but North Carolina, North Dakota, and South Carolina requires cigarette tax stamps.[1] At the time North Carolina repealed its tax stamp requirement in 1993; four other states did not require tax stamps. Of those four states, three of those states have begun to require cigarette tax stamps: Alaska, Hawaii, and Michigan.

At the time of the original enactment, a discount of 7/24¢ per stamp was given for the expenses associated with the stamps. This discount amount equated to approximately 5¢ per carton. When the tax stamp was eliminated, the General Assembly changed the discount amount to 4% of the tax due and provided that the purpose of the discount is to cover a distributor's expenses associated with preparing the required tax reports. The General Assembly repealed the discount in 2003; then reinstated it in 2004 at its current rate of 2% of the tax due. With the recent increases in the cigarette tax rate, the 2% discount equates to approximately 18¢ per carton.

BILL ANALYSIS: Bill Draft 2009-RBz-52 would reinstate cigarette tax stamps by requiring that a package of cigarettes for sale or use in this State must be marked by a tax-paid stamp. A person who forges a stamp or who knowingly places a forged stamp on a package of cigarettes is guilty of a Class H felony.

The draft requires the Department of Revenue to arrange for the manufacture and sale of the stamps. Each stamp has a unique serial number. The Department may sell stamps directly to licensed distributors, or it may allow the manufacturer of the stamps to sell stamps directly to distributors. Full payment of the tax by the distributor is required before the distributor may receive the stamps. A distributor must affix the stamp to the package of cigarettes within 48 hours of its receipt, excluding Saturdays, Sundays, and State holidays. The stamps must be affixed to the package of cigarettes in a manner that ensures the stamp cannot be removed without being mutilated or destroyed.

[1] South Carolina repealed its tax stamp requirement in 1997.

The draft amends the monthly report distributors must file with the Department to require the following additional information:

- The quantity of cigarettes on hand on the first and last days of the preceding calendar month.
- The amount of stamps purchased, used, and on hand during the reporting period.
- Any other information the Department requires.

The draft retains the current 2% discount, and specifies that the discount covers the distributor's expenses in placing the stamps on the packages of cigarettes and maintaining the records required by the Department. Lastly, the draft provides that the Department must offer refunds of unused or mutilated stamps. Refunds are also available for cigarettes sold out of State, or sold to an entity that is not subject to tax.

EFFECTIVE DATE: This bill would be effective January 1, 2011.

2009-RBz-52-SMTD-152 v1

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 5, 2010

TO: Revenue Laws Committee

FROM: Sandra Johnson and Claire Hester
Fiscal Research Division

RE: Cigarette Stamps

FISCAL IMPACT ($ in Millions)

Yes (X) No ( ) No Estimate Available ( )

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
REVENUES:	* Potential revenue loss of $5.4 million annually*				
EXPENDITURES:		1.1	0.9	0.9	0.9
GENERAL FUND (Loss):	*The Department of Revenue also requested 14 additional positions in response to the proposal at a cost of roughly $ 1.0 million annually*				
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: January 1, 2011

BILL SUMMARY: Bill Draft 2009TD-22 would reinstate cigarette stamps. Under this legislation, the tax required in G.S. 105-113.5 (Tax on cigarettes) must be evidenced by a stamp placed on the package of cigarettes. The Department of Revenue (Department) must make arrangements for the manufacture and sale of the stamps. The Department may sell stamps directly to distributors, or may allow the manufacturer of the stamps to sell stamps directly to distributors. Full payment is required before stamps are given to distributors.

Effective January 1, 1994, North Carolina discontinued the cigarette stamp program by passing SB 1025 during the 1993-94 session. Prior to 1994, North Carolina law required all manufacturers to affix stamps to each package of cigarettes sold in the state indicating that the cigarette excise tax had been paid. North Carolina switched from the stamp program to a monthly reporting mechanism, eliminating the stamps and requiring manufacturers to report monthly sales. Coinciding with the elimination of the cigarette stamp program, the legislature also increased cigarette taxes by 3-cents per pack, raising the total tax to 5-cents per pack. Despite a three-cent per pack tax increase in 1994 removing the stamps resulted in an increase in cigarette sales. The volume of cigarettes sold increased by 18 percent between the 1993-94 and 1994-95 fiscal years from 721.8 million packs to 850.6 million packs generating an additional $64.4 million in tax revenue.

The national cigarette tax landscape in 1994 looked much like the scene North Carolina faces today. In 1994, the average cigarette per pack state excise tax for all 50 states equaled 30.5-cents, five times greater than North Carolina's cigarette tax of five cents per pack.[1] One of North Carolina's three neighboring states exhibited a lower per pack cigarette tax, South Carolina at seven cents per pack, Virginia at 2.5-cents per pack, and Tennessee at 13-cents per pack. The sales increase that coincided with the stamp removal suggests that out-of state purchases played a significant role in North Carolina cigarette sales. Historical tax rate information suggests that the increase in sales between the 1994 and 1995 fiscal years was influenced more by long distance smuggling than cross-border sales.

Today, seven states in U.S., three of which are in the Southeast, exhibit lower cigarette taxes than North Carolina's 45-cents per pack rate. Furthermore, North Carolina is one of three states that do not require cigarette stamps.

ASSUMPTIONS AND METHODOLOGY:

Tax Revenue

Fiscal Research estimates that an additional $5.4 million in tax revenue will be lost due per fiscal year to a decline in both cross border sales (in-state residents purchasing cigarettes out-of-state) and long distance smuggling (out-of -state residents purchasing cigarettes from in-state vendors). This estimate assumes the worst fiscal scenario—that all cross-border sales and smuggling will decrease to zero. Fiscal leaned heavily on the Mackinac Center's 2008 study, "Cigarette Taxes and Smuggling," estimates the lost tax revenue from cigarette smuggling for the contiguous United States. Mackinac researchers were unable to generate a figure for lost tax revenue in North Carolina because "the state plays a central role in the model as a major source of illicitly trafficked

[1] The Tax Burden on Tobacco. Historical Compilation, Volume 37, 2002. Table 13B-1994 Cigarette Taxes as a Percentage of Retail Price Generic Brands Included in Average Calculation. Page 130.

cigarettes."[2] The estimate is also based on research from a 2003 RTI study, *The Impact of Cigarette Excise Tax Increases in Low-Tax Southern States on Cigarette Sales, Cigarette Excise Tax Revenue, Tax Evasion, and Economic Activity.*

North Carolina gains excise tax revenue from sales associated with smuggling. RTI researchers estimated that North Carolina, in 2003 with a 5-cent per pack cigarette tax, gained roughly 60 million packs in cigarette sales per fiscal year due to long distance smuggling. North Carolina, given recent cigarette tax increases, is estimated to gain roughly $8.1 million in tax revenue from the 18 million packs of cigarettes smuggled out of North Carolina per fiscal year beginning FY 09-10.

The State loses revenue from cross-border sales with purchasers in North Carolina seeking lower-tax cigarette options in South Carolina and Virginia. The original RTI report estimated that 16 million packs per fiscal year were purchased by North Carolina residents seeking lower priced options in neighboring states. Fiscal Research estimates that roughly 10.5 million in cigarette packs are currently purchased each fiscal year through cross border sales.

The net effect of a decline in smuggling and the gain in revenue from decreased cross border sales would equal a net loss of 7.8 million packs in sales per fiscal year. The reduction in cigarette sales equals a loss of $5.4 million in revenue (45-cents per pack in lost tax revenue *7.8 million packs+ lost sales tax revenue).

Personnel and Administrative Costs

The Department of Revenue (DOR) estimates that reinstatement of the cigarette tax stamp program would require the addition of 17 new positions in DOR. According to DOR, two Processing Assistant V positions in the Cigarette Excise Tax Unit would be needed to process stamp orders, and a Revenue Administrative Officer II would handle administration of the program. Ten Revenue Officer I positions would perform retail inspections, and four Revenue Tax Auditors would be needed to conduct due diligence audits for enforcement purposes.

Based on the number of inspections, audits, and enforcement that would be required by implementation of this program, as well as comparable staffing levels of tobacco tax programs in other states, Fiscal Research generally concurs with DOR's estimate. However, the current supervisor and assistant supervisor of the Cigarette Excise Tax Unit should be able to absorb any additional supervisory duties and thus an additional Revenue Administrative Officer II position would not be required. Furthermore, as DOR currently has three field auditors who conduct due diligence audits, only two additional auditors would be needed to conduct due diligence audits required by this program. Fiscal Research estimates that implementation of this program would require 14 additional positions, rather than 17.

The estimated recurring costs of the salaries and benefits of these 14 positions are shown below:

[2] Lafaive, M., Fleenor, P., and Nesbitt, T. "A New Estimate of Interstate Cigarette Smuggling Rates." Published December 3, 2008. Available at: http://www.mackinac.org/10021.

Position Title	Grade	Salary	Soc Sec	Ret	Health	FTEs	Total
Processing Assistant V	61	$34,732	$2,657	$3,650	$4,929	2	$91,937
Revenue Officer I	71	$52,040	$3,981	$5,469	$4,929	10	$664,195
Revenue Tax Auditors	Journey	$55,202	$4,223	$5,802	$4,929	2	$140,311
					TOTAL	*14*	***$896,443***

Additionally, the following recurring and non-recurring administrative expenses would be needed to support the 10 positions listed above during the next biennium:

ACCOUNT TITLE	FY 2001-11	FY 2011-12	
Maintenance Agreement - PC & Printer	$ 3,346		*NR*
Maintenance Agreement - PC Software	$ 1,610	$ 1,610	*R*
PC & Printer Purchases	$ 14,000		*NR*
PC Software Purchases	$ 8,400		*NR*
Travel - Ground In-State	$ 36,000	$ 36,000	*R*
Telephone Service	$ 4,900	$ 4,900	*R*
General Office Supplies	$ 7,000	$ 7,000	*R*
Furniture - Office	$ 63,000		*NR*
Office Equipment (calculator)	$ 1,400		*NR*
TOTAL	***$ 139,656***	***$ 49,510***	

Currently, DOR is in the preliminary stages of developing and implementing the State's new Tax Information Management System (TIMS). Over the next 36 months, TIMS will replace the State's integrated tax system as well as a host of other miscellaneous tax systems. In order to process the activities of a cigarette tax stamp program, DOR would need to initiate a change order with the TIMS project's contractor. Based on the contractor's estimated hours needed to make these changes to the TIMS application, the additional nonrecurring costs for FY 2010-11 would be $16,000.

The total estimated impact of personnel costs, associated administrative costs, and technology costs needed to implement a cigarette tax stamp program in DOR would be $1,052,099 in FY 2010-11 and $945,953 in subsequent years.

SOURCES OF DATA:
North Carolina Department of Revenue

California Bureau of State Audits

Farrelly, Matthew C. "State Cigarette Excise Taxes: Implications for Revenue and Tax Evasion." RTI International. Published May 2003.

The Tax Burden on Tobacco. Historical Compilation, Volume 37, 2002. Table 13B-1994 Cigarette Taxes as a Percentage of Retail Price Generic Brands Included in Average Calculation. Page 130.

TECHNICAL CONSIDERATIONS: None

NORTH CAROLINA GENERAL ASSEMBLY
Legislative Services Office

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Marilyn Chism, Director

MEMORANDUM

To: Revenue Laws Committee

From: Sandra Johnson
Fiscal Analyst
Fiscal Research Division

Date: March 31, 2010

Subject: Wholesaler Cost of Stamping

For large wholesaler/distributors, the two percent wholesale discount provides an adequate amount of resources needed to cover the additional costs of stamping. Smaller wholesale distributors, however, will incur additional costs that might exceed the wholesaler discount. Per the February 2010 Revenue Laws discussion, this memo addresses the business costs associated with stamping cigarettes. Specifically, the memo reviews the machinery and personnel costs, and the business cash flow concerns associated with stamping. The memo also reviews the wholesaler discount offered in other states and whether North Carolina's discount is an adequate representation of the incurred distributor costs.

I. Wholesale Distributor Costs Associated with Stamping

One-hundred fifty two wholesale cigarette distributors are currently registered as active distributors with the North Carolina Department of Revenue. Of those 152 companies, 55 wholesalers also distribute cigarettes in states that require stamping. The remaining 97 wholesalers distribute cigarettes solely in North Carolina or other states that do not require stamping. Table 1 below displays, the administrative and the machinery costs of the two types of companies—distributors that currently stamp, and distributors that do not stamp.

Table 1: Wholesale Distributor Costs Associated with Stamping

Does the Distributor Currently Stamp?	Number of Licensed & Active Distributors	Total Wholesaler Discount	Average Wholesaler Discount	Machinery and Personnel Costs*	Net after Stamping (Wholesaler Discount Less Expenses)
Total	152	$ 4,620,801	$ 30,400		
Yes	55	3,797,805	69,051	$ 48,596	$ 20,454.99
No	97	822,996	8,484	48,596	(40,111.51)
*Additional details on machinery and personnel costs provided in Table 2.					

North Carolina-based distributors selling cigarettes in states requiring stamping (stamping distributors) represent a smaller number of all North Carolina registered wholesale distributors. Stamping distributors, however, distribute the majority of cigarettes sold within the state. A third of all wholesalers currently stamp cigarettes for sale in other states and distribute 82% of the cigarettes sold in North Carolina. Each stamping distributor receives on average $69,051 in North Carolina cigarette excise tax discounts. The $69,051 in wholesaler discounts exceeds the $48,596 in machinery and personnel costs incurred if the General Assembly

decides to institute stamping. These distributors could administrate the North Carolina cigarette stamping efforts while operating at a surplus on average of $20,000 per year.

For non-stamping distributors, the 97 registered distributors that do not currently stamp, the cost of stamping may exceed the revenue received from the two percent wholesale discount. Non-stamping distributors on average receive $8,484 in annual excise tax discounts. The cost of adding an additional employee and purchasing a stamping machine, a cost of $48,596 per year would exceed the $8,484 received in excise tax discounts. Table 1 highlights the $40,000 in losses that non-stamping distributors would incur annually.

There are several things to note when estimating the distributor's stamping costs. Table 2 provides more detail on the types of machinery and personnel needed to institute stamping. The table, divided into two sections, describes the necessary equipment to begin stamping in North Carolina and additional/optional equipment needs of distributors that a) do not currently stamp or b) must acquire additional equipment above their current capacity. Should stamping be instituted, most distributors will be required to:

- Purchase one stamping machine equaling $465 to $13,546 in annual leasing and maintenance costs.
- Hire one additional employee at a cost of $35,000 per year to operate the newly acquired machinery.

Table 2. Essential and Optional Machinery and Personnel Costs Associated with Stamping Cigarettes

Number and Type of Machines	Start-up Cost if Purchased (Optional)	Annual Leasing Costs	Number of New Employees	Salary and Wages	Total Costs Incurred (Leasing plus Personnel Costs)
Essential Equipment and Personnel					
1 VL-10 Heat Stamp Machine	$ 62,050	$ 13,596	1	$ 35,000	$ 48,596
Optional/Additional Equipment					
MTS 110 (manual stamping machine)	5,500		1	35,000	40,500
Hot Hand (hand-held stamping for very small operations)	465		1	35,000	35,465
Cigarette Case Packing Unit	34,000	8,880	1	35,000	43,880
Case Cutter	70,000	20,292	1	35,000	75,292

Source: Meyercord Tax Stamping Equipment

II. Wholesaler Discounts Offered in Other States

North Carolina awards a $0.09 per carton discount to cover the costs of stamping cigarettes. According to information provided by Altria, North Carolina's two percent wholesale distributor discount falls within the median of state discount rates. The average wholesale discount rate for the nation is 2.65% of excise taxes. North Carolina's retailers receive a lower wholesale discount tax per carton because the state excise tax rate on cigarettes is below the national average tax rate of $1.29 per pack. Table 3 provides more detail on how North Carolina's cigarette excise tax rate and wholesaler discount compares.

Table 3. State Wholesale Distributor Discount Comparison				
Rank	State	Tax Rate Per Pack as of February 2009*	Stamping Allowance as of 2007	Allowance Per Carton
1	Oregon	$1.18	FLAT RATE	$0.04
2	Washington	$2.03	FLAT RATE	$0.06
3	Massachusetts	$2.51	FLAT RATE	$0.03
4	Minnesota	$1.23	NO DISCOUNT	$0.00
5	New Hampshire	$1.78	NO DISCOUNT	$0.00
6	Hawaii	$2.60	0.40%	$0.10
7	New York	$2.75	0.40%	$0.11
8	Nevada	$0.80	0.50%	$0.04
9	Kansas	$0.79	0.80%	$0.06
10	Maryland	$2.00	0.82%	$0.16
11	California	$0.87	0.85%	$0.07
12	Montana	$1.70	0.90%	$0.15
13	Colorado	$0.84	0.95%	$0.08
14	Pennsylvania	$1.60	0.98%	$0.16
15	New Mexico	$0.91	1.00%	$0.09
16	Connecticut	$3.00	1.00%	$0.30
17	Maine	$2.00	1.15%	$0.23
18	Indiana	$1.00	1.20%	$0.12
19	Rhode Island	$3.46	1.25%	$0.43
20	North Dakota	$0.44	1.50%	$0.07
21	Michigan	$2.00	1.50%	$0.30
22	Vermont	$2.24	1.50%	$0.34
23	Wisconsin	$2.52	1.60%	$0.40
24	Illinois	$0.98	1.75%	$0.17
25	Ohio	$1.25	1.80%	$0.23
26	New Jersey	$2.70	1.80%	$0.49
27	Nebraska	$0.64	1.85%	$0.12
28	**North Carolina**	**$0.45**	**2.00%**	**$0.09**
29	Florida	$1.34	2.00%	$0.27
30	Iowa	$1.36	2.00%	$0.27
31	South Dakota	$1.53	2.00%	$0.31
32	Delaware	$1.60	2.00%	$0.32
33	Washington D.C.	$2.50	2.00%	$0.50
34	Tennessee	$0.62	2.75%	$0.17
35	Missouri	$0.17	3.00%	$0.05
36	Georgia	$0.37	3.00%	$0.11
37	Texas	$1.41	3.00%	$0.42
38	Alaska	$2.00	3.00%	$0.60
39	Idaho	$0.57	3.30%	$0.19
40	South Carolina	$0.07	3.50%	$0.02
41	Arkansas	$1.15	3.80%	$0.44
42	West Virginia	$0.55	4.00%	$0.22
43	Utah	$0.70	4.00%	$0.28
44	Oklahoma	$1.03	4.00%	$0.41
45	Arizona	$2.00	4.00%	$0.80
46	Kentucky	$0.60	5.00%	$0.30
47	Louisiana	$0.36	6.00%	$0.22
48	Wyoming	$0.60	6.00%	$0.36
49	Alabama	$0.43	7.50%	$0.32
50	Mississippi	$0.68	8.00%	$0.54
51	Virginia	$0.30	10.00%	$0.30
	AVERAGE	**$ 1.29**	**2.60%**	**$ 0.26**

*Some state tax rates have been updated. Source: Provided by Altria Client Services Inc. on behalf of Philip Morris USA

III. Purchasing Stamps and Wholesaler Cash-Flow

Under the current system, distributors are allowed to remit cigarette excise taxes 20 days after the end of the month. If North Carolina decides to institute stamping, wholesalers would be required to remit taxes in advance of the sell of their product—providing time to acquire an adequate amount of stamps, affix them to the packaging, and then ship the cigarettes to the necessary location.

According to the N.C. Wholesalers Association, pre-payment of cigarette excise taxes will create a problem for most distributors. The period between selling the product and remitting the excise tax under the current system provides wholesalers with enough time to collect the tax from customers without using cash or credit to pay for stamps. The Association further notes that pre-payment will result in a significant drain on cash positions or considerable borrowings. For every $10,000 in excise taxes that a wholesaler collects, the Association estimates that at least $15,000 would have to be borrowed or removed from cash positions to pre-pay for stamps.

LEGISLATIVE PROPOSAL #5

MODERNIZE ADMISSIONS TAX & RESTORE AMENITIES EXCLUSION

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-SVxz-17A [v.7] (03/22)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/3/2010 2:56:28 PM

Short Title:	Modernize Adm. Tax/Restore Amen. Exclusion.	(Public)
Sponsors:	Unknown.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE AND EQUALIZE THE ADMISSIONS TAX BY EXTENDING IT TO INTERNET TICKET RESELLERS, TO APPLY THE TAX ONLY TO THE CHARGE FOR ADMISSION TO AN EVENT AND NOT TO EXTRA AMENITIES, AND TO REQUIRE THE SECRETARY OF REVENUE TO PROVIDE ADVANCE NOTICE OF CERTAIN REVISED INTERPRETATIONS OF THE DEPARTMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. ~~Dances, athletic events, shows, exhibitions, and other entertainments.~~Live entertainment and ticket resales.**

(a) Scope. – A privilege tax is imposed on the ~~gross receipts of a person who is engaged in any of the~~ following:

(1) ~~Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.~~The gross admissions receipts of a person who is engaged in providing admission to live entertainment of any kind. Gross admissions receipts under this subdivision do not include charges for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

(2) ~~Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.~~The gross admissions receipts of a person who is engaged in the business of reselling on the Internet under G.S. 14-344.1 an admission ticket that is taxable under subdivision (1) of this subsection. If the price of an admission ticket is printed on the face of the ticket, gross receipts under this subdivision exclude the face price. If the price of an admission ticket is not printed on the face of the ticket, the tax under this subdivision applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

(3) ~~Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.~~

(b) Rate and Payment. – The rate of the privilege tax imposed by this section is three percent ~~(3%) of the gross receipts from the activities described in subsection (a) of this section.~~(3%). The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. – A person who owns or controls a ~~performance, show, or exhibition~~ live entertainment performance subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the ~~performance, show, or exhibition.~~ performance. The statement must be filed no less than five days before the first ~~performance, show, or exhibition~~ performance in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) ~~or (a)(2)~~ of this section; however, the tax may not exceed twenty-five dollars ~~($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars~~ ($25.00) for each day or part of a day the ~~performance, show, or exhibition~~ live entertainment is ~~given~~ performed at each location. Cities may not levy a license tax on a person taxed under subdivision (a)(2) of this section.

Counties may not levy a license tax on a person taxed under ~~subdivision (a)(1) or (a)(2) of~~ this section. ~~Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.~~"

SECTION 2. G.S. 14-344.1(e) is repealed.

SECTION 3. If any provision of this act is declared by a court to violate the Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found to be invalid, then G.S. 14-344.1 is repealed.

SECTION 4. G.S. 105-264(c) reads as rewritten:

"(c) Revised Interpretations. – This section does not prevent the Secretary from changing an ~~interpretation~~ interpretation, and it does not prevent a change in an interpretation from applying on and after the effective date of the change. An interpretation that revises a prior interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due may not become effective sooner than the following:

(1) For a tax that is payable on a monthly or quarterly basis, the first day of a month that is at least 90 days after the date the revised interpretation is issued.

(2) For a tax that is payable on an annual basis, the first day of a tax year that begins after the date the revised interpretation is issued."

SECTION 5. G.S. 105-37.1(a)(2), as amended by Section 1 of this act, becomes effective January 1, 2011, and applies to admission tickets sold on or after that date. The remainder of Section 1 of this act and Section 2 of this act become effective August 1, 2010. G.S. 105-37.1(a)(1), as amended by Section 1 of this act, applies to charges for admission received on or after August 1, 2010. The remainder of this act is effective when it becomes law.

Bill Draft 2009-SVxz-17A: Modernize Adm. Tax/Restore Amen. Exclusion.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	May 4, 2010
Introduced by:		**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	2009-SVxz-17A		

SUMMARY: This proposal does three things:

- ***It restores the Department of Revenue's pre-2009 interpretation of the admissions tax statute to exclude from tax charges for amenities that are bundled with a ticket purchase. This provision would become effective for charges for admission received on or after August 1, 2010.***
- ***It extends the admissions tax to the Internet resale of tickets by a person engaged in the business of reselling. The tax would apply to the difference between the face value of the ticket and the price for which the reseller sells the ticket. This provision would become effective January 1, 2011, and apply to admission tickets sold on or after that date.***
- ***It requires the Department of Revenue to provide ample notice to taxpayers when it issues an interpretation that revises a prior interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due. This provision would be effective when it becomes law.***

CURRENT LAW & BILL ANALYSIS:

ADMISSIONS TAX

North Carolina imposes a 3% privilege tax on the gross receipts of a person who offers or manages any of the following taxable amusements:

- A dance or athletic contest for which admission fee in excess of 50¢ is charged.
- Amusement or entertainment for which an admission is charged.
- A performance, show, or exhibition, such as a circus or dog show.

RESTORE AMENITIES EXCLUSION

CURRENT LAW: Entertainment venues frequently offer its patrons certain amenities in conjunction with the sale of admission tickets to performances of live entertainment. Those amenities may include parking privileges, preferential or more luxurious seating, access to special concession stands, access to luxury viewing suites, and access to concierge staff. In some cases, the venue will separately state the "seat price" on the face of a ticket with charges over and above that price reflecting the cost of the amenities. In other cases, a purchaser may buy a package or contract for the lease of a suite where the price includes a seat for an event as well as amenities, but the charges are not separately stated.

The admissions tax statute does not specifically address how these amenities are to be taxed. In 1994, a taxpayer requested a written opinion from the Department of Revenue as to whether the admissions tax applied to amenities, and the Department responded that amenities were excludable from the tax. This interpretation was in place for over 15 years, and in that time, the statute did not change in any substantive way. However, on January 30, 2009, the Department issued a directive, effective the following day, stating that amenities are subject to the admissions tax. Specifically, the directive reads:

> *"Gross receipts are taxes computed on the admission price of the amusement. An admission price is the price paid to enter an event. Effective for tickets for admission sold on or after February 1, 2009, the gross receipts tax is due on the price paid by the*

customer for admission into an event regardless of whether that price just covers the seat price or also includes amenities."

BILL ANALYSIS: The Revenue Laws Study Committee reviewed this matter because it is a matter of tax policy on which the statute is silent, and because the Department has issued two opposite interpretations despite the fact that the statute has remained the same.

Section 1 of the proposal would restore the Department's pre-2009 interpretation of the admissions tax statute by excluding amenities from the tax. If the charges for the amenities are not separately stated on the face of the ticket, then the charge for admission would be equal to the charge for a ticket to the same event that does not include amenities and that is for a seat located directly in front of or closest to a seat that includes amenities.

EFFECTIVE DATE: This provision would become effective for charges for admission received on or after August 1, 2010.

EXTEND ADMISSIONS TAX TO INTERNET TICKET RESALES

CURRENT LAW:

Ticket scalping – G.S. 14-344 limits the total amount a seller or reseller of an admission ticket may charge to "...the combined face value of the ticket, tax and the authorized service fee." The service fee may not exceed $3.00 unless the promoter of the event and the ticket sales agency agree in writing to a different amount and that amount is made known to the public in writing. A violation of this section is punishable as a Class 2 misdemeanor.

Internet ticket resales – In 2008, as part of Senate Bill 1407, the General Assembly enacted G.S. 14-344.1. This statute authorizes a person to resell an admission ticket on the Internet with no cap on price unless the resale is prohibited by the venue. A person who resells an admission ticket under this statute is required to provide a ticket guarantee that must be conspicuously displayed on the person's Website and to direct a prospective purchaser to the ticket guarantee before completion of the resale transaction. The guarantee must provide that a purchaser will be given a full refund if any of the following occurs:

- The event is cancelled.
- The purchaser is denied admission other than due to an act or omission by the purchaser.
- The ticket is not delivered as promised resulting in purchaser's inability to attend event.

Ticket resales are not subject to the admissions tax because the secondary seller is not "giving, offering, managing, or exhibiting" the amusement. The reseller does not fall within the scope of the statute.

Reporting requirement – Internet ticket resellers must report their gross receipts for North Carolina events to the Department of Revenue on monthly basis. Since August 2008, there have been 65 reports, reflecting 17 reporting entities.

BILL ANALYSIS: This proposal would do the following:

- Extend the 3% admissions tax to the gross receipts of a person who is engaged in the business of reselling tickets under G.S. 14-344.1. The gross receipts would exclude the price printed on the face of the ticket. Thus, the tax would be imposed on the difference between the price sold and the face value of the ticket. If the price is not printed on the ticket, the tax would apply to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket. This same tax provision passed the Senate when Senate Bill 1407 was being considered during the 2008 Regular Session, but it was removed when the bill was considered in the House Finance

Committee. This provision would modernize the admissions tax by recognizing the current business model for the sale and resale of tickets, which did not exist at the time the admissions tax was originally enacted in the 1930s. It would also equalize the admissions tax by treating the markup in a resale transaction the same as the face value price in the first sale.

- Prohibit cities or counties from imposing a privilege license tax on Internet ticket resellers.
- Repeal the reporting requirement. The reporting requirement was added to Senate Bill 1407 when the tax provision was removed. The act originally included a sunset, which required the General Assembly to revisit the legislation. At the time, the rationale for the reporting requirement was to provide the General Assembly with data for when it reconsidered the legislation. By taxing these transactions, there is no need for a reporting requirement.
- Provide for the repeal of G.S. 14-344.1 if a court finds that the privilege tax violates the Internet Tax Freedom Act (ITFA) or is otherwise invalid. ITFA temporarily prohibits states from imposing multiple or discriminatory taxes on electronic commerce. A discriminatory tax is one that is not generally imposed and legally collectible on transactions involving similar property, goods, services or information accomplished through other means. Arguments have been raised as to whether this legislation might violate ITFA because it taxes only those ticket resales that occur on the Internet. However, face-to-face ticket resales for greater than face value are generally illegal in North Carolina. As such, an argument can be made that Internet ticket resales are, in fact, given preferential treatment to the extent they are authorized, with no cap, whereas face-to-face ticket resales are essentially prohibited. A similar transaction cannot be conducted by a means other than the Internet. However, since the issue has been raised, the proposal provides that if a court finds that the privilege tax violates ITFA, then the authority to resell tickets on the Internet is repealed.

EFFECTIVE DATE: This provision would become effective January 1, 2011, and would apply to admission tickets sold on or after that date.

REQUIRE AMPLE NOTICE OF REVISED INTERPRETATIONS

CURRENT LAW: G.S. 105-264 provides that it is the duty of the Secretary of Revenue to interpret all laws administered by the Department. When the Secretary interprets a law by adopting a rule or publishing a bulletin or directive, the interpretation is a protection to the officers and taxpayers affected by the interpretation, and taxpayers are entitled to rely upon the interpretation. If the Secretary changes an interpretation, a taxpayer who relied on it before it was changed is not liable for any penalty or additional assessment on any tax that accrued before the interpretation was changed and was not paid by reason of reliance upon the interpretation.

The Secretary is permitted to change an interpretation, and that change may apply on and after the effective date of the change, but there is no statutory requirement that the Department provide a certain amount of notice to taxpayers prior to applying a revised interpretation.

BILL ANALYSIS: Section 4 of the proposal would require the Department to provide a certain amount of notice to taxpayers if it revises a prior interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due. Under the proposal, a revised interpretation would not become effective until the sooner of the following:

- For a tax that is payable on a monthly or quarterly basis, the first day of a month that is at least 90 days after the date the revised interpretation is issued.
- For a tax that is payable on an annual basis, the first day of a tax year that begins after the date the revised interpretation is issued.

EFFECTIVE DATE: This provision would become effective when the act becomes law.

2009-SVxz-17A-SMSV-112 v1

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 3, 2010

TO: Revenue Laws Study Committee

FROM: Rodney Bizzell and Brian Slivka
Fiscal Research Division

RE: 2009-SVxz-17

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
REVENUES:					
General Fund	*** Annual revenue loss of approximately $700,000 ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue

EFFECTIVE DATE: Becomes effective when law.

BILL SUMMARY: The bill would exclude from taxation any amenities, such as food or parking, that are included with the admission ticket for an event subject to the 3% privilege tax on amusements. It imposes a 3% privilege tax on the gross receipts of a person who is engaged in the business of reselling tickets on the Internet. The bill would repeal G.S. 14-344.1(e), which calls for a monthly report on receipts from Internet ticket resellers to be submitted to the Department of Revenue.

ASSUMPTIONS AND METHODOLOGY:
The NC Department of Revenue issued a ruling in February of 2009 stating that the 3% tax on amusements applies to the entire price of tickets that include extra amenities, such as food or parking. The proposed bill would clarify that the cost of additional amenities are not subject to the tax. To determine the impact of this change, the Department compiled monthly amounts of the amusement tax collected in the year prior to the ruling and the year after. The year following the ruling, collections were $689,474 higher.

Several factors can affect the amount of tax paid from one year to the next, including ticket prices and the number of tickets sold, however those variables are not expected to be significantly different for the two years in question. Therefore, the change in revenue is assumed to be primarily attributable to the Department's ruling and the impact of the bill is expected to be a reduction in admissions tax revenue of approximately $700,000.

The 3% gross receipts privilege tax on ticket resellers would be imposed on the difference between the price of the ticket sold and the face price on the ticket. From August 1, 2008 through April 28, 2009, the North Carolina Department of Revenue received 16 reports from 8 ticket resellers. They reported the original cost of the resold tickets as $429,198, with a resold price of $722,613, and gross receipts of $293,415.

Assuming the same rate of filings, grown by the Moody's Economy.com leisure and hospitality portion of North Carolina's gross state product, a 3% privilege tax would yield approximately $12,000 annually.

SOURCES OF DATA: NC Department of Revenue, Moody's Economy.com

TECHNICAL CONSIDERATIONS: None

LEGISLATIVE PROPOSAL #6

MODERNIZE SALES TAX ON ACCOMMODATIONS

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-SVxz-19 [v.4] (05/03)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/4/2010 5:49:50 PM

Short Title:	Modernize Sales Tax on Accommodations.	(Public)
Sponsors:	Unknown.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE APPLICATION OF THE SALES TAX ON ACCOMMODATIONS BY RECOGNIZING THAT THE SALES PRICE IS THE PRICE PAID BY THE CONSUMER REGARDLESS OF WHETHER IT IS PAID TO THE ACCOMMODATIONS PROVIDER OR A THIRD PARTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.4(a)(3) reads as rewritten:

"**§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is five and three-quarters percent (5.75%).

...

(3) ~~Operators of hotels, motels, tourist homes, tourist camps, and similar type businesses and persons who rent private residences and cottages to transients are considered retailers under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from the rental of any rooms, lodgings, or accommodations furnished to transients for a consideration. This tax does not apply to any private residence or cottage that is rented for less than 15 days in a calendar year or to any room, lodging, or accommodation supplied to the same person for a period of 90 or more continuous days.~~

~~As used in this subdivision, the term "persons who rent to transients" means (i) owners of private residences and cottages who rent to transients and (ii) rental agents, including "real estate brokers" as defined in G.S. 93A-2, who rent private residences and cottages to transients on behalf of the owners. If a rental agent is liable for the tax imposed by this subdivision, the owner is not liable.~~ A tax at the general rate applies to the sales price of the rental of an accommodation to a transient and to other gross receipts derived from the rental of an accommodation to a transient. The sales price of the rental of an accommodation to a transient is determined as if the rental were a service. An "accommodation" is a hotel room, a motel room, a residence, a cottage, or a similar space for occupancy by an individual. The tax does not apply to a residence or a cottage that is rented for less than 15

days in a calendar year or to an accommodation provided to the same person for a period of 90 or more continuous days.

A person who provides an accommodation to a transient is considered a retailer under this Article. A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2.

A person who, by written contract, is not the rental agent of the provider of an accommodation but is authorized by the provider to facilitate the rental of the accommodation and to charge a transient for the rental is considered a retailer under this Article for the purpose of determining the sales price of the accommodation. Accordingly, charges designated as facilitation fees or similar fees are considered charges necessary to complete the rental of the accommodation and are included in the sales price. A person who enters into a contract with the provider of an accommodation to a transient to facilitate the rental of an accommodation must report the sales price to the provider of the accommodation. The provider must remit tax on the sales price reported by the facilitator. A facilitator is not liable for tax due on the sales price reported to the provider. A facilitator that does not report the sales price to the provider or that understates the sales price reported to the provider is liable for tax due on the unreported or underreported sales price."

SECTION 2. G.S. 105-164.4B is amended by adding a new subsection to read:

"(e) Accommodations. – The rental of a transient accommodation is sourced to the location of the accommodation."

SECTION 3. G.S. 153A-155(c) reads as rewritten:

"(c) Collection. ~~Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation.~~ A person who is required to remit to the Department of Revenue the State sales tax on accommodations imposed by G.S. 105-164.4(a)(3) is required to remit a room occupancy tax to the taxing county on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a person who facilitates the rental of an accommodation has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the ~~operator~~ person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the ~~operator's~~person's business records kept in the ordinary course of business and ~~collect~~ calculate tax on the allocated price of the taxable accommodation.

~~The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business.~~ The provider of an accommodation must separately state the room occupancy tax. Room occupancy taxes paid to a provider of an accommodation are paid to the provider as trustee for and on account of the taxing county. ~~The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business.~~

The taxing county shall ~~design, print,~~ design and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. ~~An operator of a business~~ A provider of accommodations who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the ~~operator~~ provider for State sales and use tax."

SECTION 4. G.S. 153A-155(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this ~~This~~ section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to Surry County District S, to Watauga County District U, to Yadkin County District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

SECTION 5. G.S. 160A-215(c) reads as rewritten:

"(c) Collection. ~~Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation.~~ A person who is required to remit to the Department of Revenue the State sales tax on accommodations imposed by G.S. 105-164.4(a)(3) is required to remit a room occupancy tax to the taxing city on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a person who facilitates the rental of an accommodation has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the ~~operator~~ person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the ~~operator's~~person's business records kept in the ordinary course of business and ~~collect~~ calculate tax on the allocated price of the taxable accommodation.

~~The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business.~~ The provider of an accommodation must separately state the room occupancy tax. Room occupancy taxes paid to a provider of an accommodation are paid to the provider as trustee for and on account of the taxing city. ~~The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business.~~

The taxing city shall ~~design, print,~~ design and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the ~~operator~~ provider for State sales and use tax."

SECTION 6. G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this ~~This~~ section applies only to

Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cramerton, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mooresville, Murfreesboro, North Topsail Beach, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

SECTION 7. This act becomes effective January 1, 2011, and applies to gross receipts derived from accommodations provided on or after that date.

Bill Draft 2009-SVxz-19: Modernize Sales Tax on Accommodations.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	May 4, 2010
Introduced by:		**Prepared by:**	Trina Griffin
Analysis of:	2009-SVxz-19		Committee Counsel

SUMMARY: ***This proposal would require online travel companies to report to providers of accommodations with whom they contract the final sales price charged to a customer for the rental of accommodations for purposes of determining the amount of State and local sales tax and local occupancy tax due. The proposal is not, however, limited only to online companies. Any person who is authorized by the provider of an accommodation to facilitate the rental of and to collect payment for an accommodation would be considered a "retailer" for purposes of determining the sales price. Under the proposal, a facilitator would be required to report the sales price to the provider and would only become liable for the tax due if it understates or fails to report the sales price to the provider. The proposal also clarifies that the rental of a transient accommodation, whether through the provider or a facilitator, is sourced to the location of the accommodation.***

CURRENT LAW: Gross receipts derived from the rental of transient accommodations are subject to State and local sales tax at the general rate, which is currently 7.75% in most counties. Many counties (over 70) and cities (over 85) also levy an occupancy tax on accommodations, with rates ranging from 1% to 6%. The tax does not apply to any private residence or cottage rented for less than 15 days in a calendar year or to any lodging supplied to the same person for 90 or more continuous days.

Deemed "retailers" under the Sales Tax Article, operators of hotels, motels, tourist homes, tourist camps, and similar type businesses and persons who rent private residences and cottages to transients are required to collect and remit the tax due. This includes rental agents or real estate brokers who rent private residences or cottages to transients on behalf of the owners. However, under the plain language of the statute, online intermediaries that list available rooms and collect payment for the rental of those rooms are not retailers required to collect State sales tax on accommodations because they are not "operators" of those accommodations. This interpretation was the holding in the Fourth Circuit case of *Pitt County v. Hotels.com*.

Generally speaking, a person who wishes to make a reservation for accommodations may contact the accommodation directly, use the services of a commissioned travel agent, or make reservations through an online "intermediary," such as Expedia or Travelocity. Intermediaries contract with accommodation providers for the right to facilitate the reservation of that provider's rooms on their website. The intermediaries have no ownership interest or legal right to the rooms, nor do they bear any risk of loss if rooms are not booked through their site. Under the contract, an intermediary agrees to pay the provider a discounted room rate and then adds a "facilitation fee" or other similarly-named charge to the discounted room rate and also collects an amount that reflects anticipated taxes plus a nominal service or processing fee. Generally speaking, the facilitation fee is not disclosed to the customer or to the provider, and the amount collected for "taxes and fees" is not itemized.

With regard to payment, a consumer who books with the provider directly or uses a travel agent typically provides the hotel or agent with a credit card number to guarantee the reservation and then pays the hotel directly at the time of check-out. A consumer who books through an intermediary pays up front and prior to occupancy. This business model is known as the "merchant model" or the "prepaid model." Under this model, once the customer occupies the room, the provider bills the intermediary for

the discounted room rate plus State and local sales tax and occupancy tax, if applicable, based on that rate. Since the provider does not know the final room rate paid by the customer, it cannot collect sales and occupancy tax based on that amount.

For the most part, intermediaries agree that they must pay the providers sales tax and occupancy tax based on the discounted room rate they have negotiated. The source of debate is to what extent intermediaries may be required to collect sales tax and occupancy tax based on the marked-up rate that they ultimately charge consumers for the rental of an accommodation, which includes their service fees.

BILL ANALYSIS: This proposal does the following:

- It provides that the State sales tax on accommodations applies to the *sales price* of the rental and to other gross receipts derived from that rental. "Sales price" is currently defined as the total amount or consideration for which tangible personal property, digital property, or services are sold, leased, or rented and it essentially includes the retailer's costs as well as charges for any services necessary to complete the sale. For purposes of the sales tax on accommodations, the proposal provides that the sales price will be determined as if the rental of the accommodation is a service.
- It provides that a person, other than a rental agent, who, by written contract, is authorized to facilitate the rental of and collect payment for the rental of accommodations is considered a retailer for purposes of determining the sales price of the accommodation. The rationale for incorporating the term "sales price" and deeming a facilitator to be a retailer for purposes of calculating the sales price is to capture the total cost paid by the consumer for an accommodation regardless of whether it is paid to a hotel directly or to a third party that charges facilitation or other service fees in addition to the room rate.
- It requires a person who enters into a contract with the provider of an accommodation to facilitate the rental of accommodations to report the sales price to the provider of the accommodation. The provider is required to remit tax on the sales price reported by the facilitator. The facilitator is not liable for the tax due unless it underreports or fails to report the tax due.
- It codifies the current practice with regard to sourcing transactions for the rental of transient accommodations by stating that they are sourced to the location of the accommodation.
- It makes conforming changes to the statute that sets out the uniform provisions for occupancy taxes. In doing so, it imposes the same responsibility and liability on a person who facilitates the rental of an accommodation with regard to occupancy tax as that person would have for State sales tax on accommodations. It also makes clear that the room occupancy tax applies to the same gross receipts and is calculated in the same manner as the State sales tax on accommodations.

EFFECTIVE DATE: This act would become effective January 1, 2011, and apply to gross receipts derived from accommodations provided on or after that date.

2009-SVxz-19-SMSV-111 v3

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 5, 2010

TO: Revenue Laws

FROM: Sandra Johnson
Fiscal Research Division

RE: Online Travel Agency

FISCAL IMPACT ($ In Millions)

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
REVENUES:					
Sales Tax (State)	$ 4.30	$ 4.90	$ 4.13	$ 4.21	$ 4.30
Sales Tax (Local)	1.87	1.78	1.81	1.85	1.89
Occupancy Tax (Local)	3.98	3.78	3.86	3.94	4.02
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
North Carolina Department of Revenue

EFFECTIVE DATE: July 1, 2010

BILL SUMMARY: Online travel agencies (OTAs) traditionally sell hotel rooms at a rate higher than the price paid to the hoteliers. While consumers pay the price presented by the OTA and hoteliers remit sales and occupancy taxes based on the OTA compensation rate, OTAs do not remit sales and use tax or occupancy taxes for the share of the hotel room price that they retain. This bill clarifies that OTAs must also collect and remit occupancy and sales and use tax. The tax would be equivalent to the sales and occupancy tax due based on compensation that the OTA receives—the price that the consumer pays for the cost of the room less the amount paid to the hotelier.

ASSUMPTIONS AND METHODOLOGY: This proposal would generate roughly $4.3 million in State sales taxes and $5.0 million in county sales and occupancy taxes. The estimate quantifies the fiscal impact of requiring online travel agencies to remit sales and occupancy taxes based on their gain in revenues associated with bookings. Fiscal Research estimated the amount of uncollected taxes in two steps:

- **Step One:** Calculating the annual gross receipts of hoteliers in the State.
- **Step Two:** Quantifying forgone tax revenue associated with OTA hotel bookings.

Step One: Calculating the annual gross receipts of hoteliers in the State
Seventy-five counties during the 2007-08 fiscal year collected $139.2 million in occupancy taxes. To calculate the gross receipts generated by hotels in these 75 counties, Fiscal Research divided the occupancy tax collections by each county's respective occupancy tax rate, an amount equaling $2.7 billion.

For the remaining 25 counties without occupancy tax collections, an implicit hotel gross receipts value was calculated. The implied hotel receipts were based county sales and use tax collections. Eighty-eight percent of all State sales tax collections occur within the 75 counties with occupancy tax rates. Fiscal assumed that the $2.7 billion in hotel receipts represented 88% of all hotel collections. Using this assumption, Fiscal calculated that an additional $0.36 billion in hotel receipts were collected in counties without an occupancy tax, for a total of $3.1 billion in statewide hotel gross receipts.

Step Two: Quantifying forgone tax revenue associated with OTA hotel bookings
According to HeBS, 51.1% of hotels stays are booked online with 26% of those online bookings occurring through third-party or online travel agencies. In sum, 13.3% (51.1 * 26.0%) of all hotel stays are booked through OTAs. HeBS also estimates that OTA mark-up/commissions represent roughly 25% to 30% of the purchase price of a hotel stay.

In North Carolina, the amount of occupancy tax revenue uncollected by OTA's during the 2007-08 fiscal year equaled $3.98 million ($139.2 million in collected occupancy taxes*13.3% the percent of hotel rooms booked through OTAs*1.25 the online hotel markup rate (less) $139.2 million in colleted occupancy taxes *13.3% the percent of hotel rooms book through OTAs). The amount of uncollected State sales tax equaled $4.30 million (the 2007-08 State sales tax rate of 4.25%* 13% the percent of hotel rooms booked through OTAs*($3.1 billion in hotel gross receipts*1.25 the online hotel markup rate (less) $3.1 billion in hotel gross receipts)).

The estimates of uncollected occupancy and sales and use tax were then adjusted using projected changes in the economy and the resulting increases and declines in tax collections. The State sales and use tax collections also account for past and forthcoming rate changes.

SOURCES OF DATA:
The estimate utilizes information from the NC Department of Revenue, Florida Legislature's analysis of HB 579 and SB 1970 published by the Revenue Estimating Conference, and Hospitality eBusiness Strategies (HeBS).

TECHNICAL CONSIDERATIONS: None

LEGISLATIVE PROPOSAL #7

IMPROVE TAX & DEBT COLLECTION PROCESS

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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BILL DRAFT 2009-LAz-23 [v.25] (03/23)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/4/2010 10:01:53 AM

Short Title: Improve Tax & Debt Collection Process. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE COLLECTION OF TAX DEBTS AND OTHER DEBTS OWED THE STATE.

The General Assembly of North Carolina enacts:

PART I. CHANGES TO DEBT SETOFF PROGRAMS

SECTION 1.1. G.S. 147-86.20(1) reads as rewritten:

"**§ 147-86.20. Definitions.**

The following definitions apply in this Article:

(1) Account ~~Receivable.~~receivable. – An asset of the State reflecting a debt that is owed to the State and has not been received by the State agency servicing the debt. The term includes claims, damages, fees, fines, forfeitures, loans, overpayments, taxes, and tuition as well as penalties, interest, and other costs authorized by law. The term does not include court costs or fees assessed in actions before the General Court of Justice or counsel fees and other expenses of representing indigents under Article 36 of Chapter 7A of the General Statutes.

..."

SECTION 1.2. G.S. 147-86.22 reads as rewritten:

"**§ 147-86.22. Statewide accounts receivable program.**

(a) Program. – The State Controller shall implement a statewide accounts receivable program. As part of this program, the State Controller shall do all of the following:

(1) Monitor the State's accounts receivable collection efforts.

(2) Coordinate information, systems, and procedures between State agencies to maximize the collection of past-due accounts receivable.

(3) Adopt policies and procedures for the management and collection of accounts receivable by State agencies.

(4) Establish procedures for writing off accounts ~~receivable and for determining when to end efforts to collect accounts receivable after they have been written off.~~receivable.

(b) Electronic Payment. – Notwithstanding the provisions of G.S. 147-86.20 and G.S. 147-86.21, this subsection applies to debts owed a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, and the Administrative Office of the Courts, and to debts payable to or through the

office of a clerk of superior court or a magistrate, as well as to debts owed to other State agencies as defined in G.S. 147-86.20.

The State Controller shall establish policies that allow accounts receivable to be payable under certain conditions by electronic payment. These policies shall be established with the concurrence of the State Treasurer. In addition, any policies that apply to debts payable to or through the office of a clerk of superior court or a magistrate shall be established with the concurrence of the Administrative Officer of the Courts. The Administrative Officer of the Courts may also establish policies otherwise authorized by law that apply to these debts as long as those policies are not inconsistent with the Controller's policies.

A condition of payment by electronic payment is receipt by the appropriate State agency of the full amount of the account receivable owed to the State agency. A debtor who pays by electronic payment may be required to pay any fee or charge associated with the use of electronic payment. Fees associated with processing electronic payments may be paid out of the General Fund and Highway Fund if the payment of the fee by the State is economically beneficial to the State and the payment of the fee by the State has been approved by the State Controller and State Treasurer.

The State Controller and State Treasurer shall consult with the Joint Legislative Commission on Governmental Operations before establishing policies that allow accounts receivable to be payable by electronic payment and before authorizing fees associated with electronic payment to be paid out of the General Fund and Highway Fund. A State agency must also consult with the Joint Legislative Commission on Governmental Operations before implementing any program to accept payment under the policies established pursuant to this subsection.

A payment of an account receivable that is made by electronic payment and is not honored by the issuer of the card or the financial institution offering electronic funds transfer does not relieve the debtor of the obligation to pay the account receivable.

(c) Collection Techniques. – The State Controller, in conjunction with the Office of the Attorney General, shall establish policies and procedures to govern techniques for collection of accounts receivable. These techniques may include use of credit reporting bureaus, judicial remedies authorized by law, and administrative setoff by a reduction of ~~an individual's~~a tax refund pursuant to the Setoff Debt Collection Act, Chapter 105A of the General Statutes, or a reduction of another payment, other than payroll, due from the State to a person to reduce or eliminate an account receivable that the person owes the State.

~~No later than January 1, 1999, the~~The State Controller shall negotiate a contract with a third party to perform an audit and collection process of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors. The third party shall be compensated only from funds recovered as a result of the audit. Savings realized in excess of costs shall be transferred from the agency to the Office of State Budget and Management and placed in a special reserve account for future direction by the General Assembly. Any disputed savings shall be settled by the State Controller. This paragraph does not apply to the purchase of medical services by State agencies or payments used to reimburse or otherwise pay for health care services."

SECTION 1.3. G.S. 147-86.25 reads as rewritten:

"**§ 147-86.25. Setoff debt collection.**

The State Controller shall implement a statewide setoff debt collection program to provide for collection of ~~accounts receivable that have been written off. The statewide program shall supplement the Setoff Debt Collection Act, Chapter 105A of the General Statutes, and shall provide for written off~~ the following accounts receivable ~~to be set off~~by setoff against payments the State owes to debtors, other than payments of ~~individual income~~ tax refunds and ~~payroll.~~payroll:

(1) Accounts receivable submitted to the Department of Revenue by a claimant agency under the Setoff Debt Collection Act, Chapter 105A of the General Statutes.

(2) An overdue tax debt, as defined in G.S. 105-243.1.

~~A program shall provide that, before final setoff can occur, the State agency servicing the debt must notify the debtor of the proposed setoff and of the debtor's right to contest the setoff through an administrative hearing and judicial review. A proposed setoff by a State agency that is a "claimant agency" under Chapter 105A of the General Statutes shall be conducted in accordance with the procedures the State agency must follow under that Chapter. A proposed setoff by a State agency that is not a "claimant agency" under Chapter 105A of the General Statutes shall be conducted under Articles 3 and 4 of Chapter 150B of the General Statutes.~~"

SECTION 1.4. G.S. 105A-2 reads as rewritten:

"**§ 105A-2. Definitions.**

The following definitions apply in this Chapter:

...

(3) Debtor. – ~~An individual~~ A person who owes a debt.

...

(8) Refund. – ~~An individual's North Carolina income~~ A debtor's North Carolina tax refund.

(9) State agency. – Any of the following:

a. A unit of the executive, legislative, or judicial branch of State government.

b. A local agency, to the extent it administers a program supervised by the Department of Health and Human Services or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act.

c. A community college."

SECTION 1.5. G.S. 105A-3(c) reads as rewritten:

"(c) Identifying Information. – All claimant agencies shall whenever possible obtain the full name, social security ~~number,~~ number or federal identification number, address, and any other identifying information required by the Department from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under this Chapter."

SECTION 1.6. G.S. 105A-14(a) reads as rewritten:

"(a) Simultaneously with the transmittal of the net proceeds collected to a claimant agency, the Department must provide the agency with an accounting of the setoffs for which payment is being made. The accounting must whenever ~~possible,~~possible include the full names of the debtors, the debtors' social security ~~numbers,~~numbers or federal identification numbers, the gross proceeds collected per setoff, the net proceeds collected per setoff, and the collection assistance fee added to the debt and collected per setoff."

SECTION 1.7. G.S. 105-259(b)(18) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(18) To furnish to the Office of the State Controller ~~the name, address, and account and identification numbers of a taxpayer upon request to enable~~information needed by the State Controller to implement the setoff

debt collection program established under G.S. 147-86.25, verify statewide vendor ~~files~~ files, or track debtors of the State.

..."

PART II. CHANGES TO ATTACHMENT AND GARNISHMENT PROCESS

SECTION 2.1. G.S. 105-242(b) reads as rewritten:

"(b) ~~Garnishment and Attachment.~~Attachment and Garnishment. – Intangible property that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a tax that is due from the taxpayer and is collectible under G.S. 105-241.22. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery. G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.~~A~~

A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by any amount the taxpayer owes the garnishee. ~~G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.~~

The Secretary may submit to a financial institution, as defined in G.S. 53B-2, information that identifies a taxpayer who owes a tax debt that is collectible under G.S. 105-241.22 and the amount of the debt. The Secretary may submit the information on a quarterly basis or, with the agreement of the financial institution, on a more frequent basis. A financial institution that receives the information must determine the amount, if any, of intangible property it holds that belongs to the taxpayer and is subject to attachment and garnishment and must inform the Secretary of its determination. The Secretary must reimburse a financial institution for its costs in providing the information, not to exceed the amount payable to the financial institution under G.S. 110-139 for providing information for use in locating a noncustodial parent.

No more than ten percent (10%) of a taxpayer's wages or salary is subject to attachment and garnishment. The wages or salary of an employee of the United States, the State, or a political subdivision of the State are subject to attachment and garnishment."

SECTION 2.2. G.S. 105-242.1 reads as rewritten:

"**§ 105-242.1. Procedure for attachment and garnishment.**

(a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and garnishment. Before the Department attaches and garnishes intangible property in payment of a tax, the Department must send the garnishee a notice of garnishment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20 ~~or by registered or certified mail.~~or, with the agreement of the garnishee, by electronic means. The notice must contain all of the following ~~information:~~information, unless the notice is an electronic notice subject to subsection (a1) of this section:

(1) The taxpayer's ~~name, address, and social security number or federal identification number.~~name.

(2) The ~~type of tax the taxpayer owes and the tax periods for which the tax is owed.~~taxpayer's social security number or federal identification number.

(3) The amount of tax, interest, and penalties the taxpayer owes.

(4) An explanation of the liability of a garnishee for tax owed by a taxpayer.

(5) An explanation of the garnishee's responsibility concerning the notice.

(a1) Electronic Notice. - Before the Department sends an electronic notice of garnishment to a garnishee, the Department and the garnishee must have an agreement that establishes the protocol for transmitting the notice and provides the information required under subdivisions (4) and (5) of subsection (a) of this section. An electronic notice must contain the information required under subdivisions (1), (2), and (3) of subsection (a) of this section.

(b) Action. – ~~Within 30 days after receiving a notice of garnishment, a~~ A garnishee must comply with ~~the~~ a notice of garnishment or file a written response to the ~~notice.~~notice within the time set in this subsection. A garnishee that is a financial institution must comply or file a response within 20 days after receiving a notice of garnishment. All other garnishees must comply or file a response within 30 days after receiving a notice of garnishment. A written response must explain why the garnishee is not subject to garnishment and attachment. ~~Upon~~

Upon receipt of ~~the~~ a written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

(c) Release. – ~~When the Department releases a garnishee from liability, the Department must send the garnishee a letter of release. The letter must identify the taxpayer to whom the release applies and contain the identifying information about the taxpayer that is required under subsection (a) on a notice of garnishment.~~ A notice of garnishment sent to a financial institution is released when the financial institution complies with the notice. A notice of garnishment sent to all other garnishees is released when the Department sends the garnishee a notice of release. A notice of release must state the name and social security number or federal identification number of the taxpayer to whom the release applies.

(d) Financial institution. – As used in this section, the term 'financial institution' has the same meaning as in G.S. 53B-2."

SECTION 2.3. G.S. 53B-4(2) reads as rewritten:

"**§ 53B-4. Access to financial records.**

Notwithstanding any other provision of law, no government authority may have access to a customer's financial record held by a financial institution unless the financial record is described with reasonable specificity and access is sought pursuant to any of the following:

...

(2) Authorization under ~~G.S. 105-251~~G.S. 105-242 or G.S. 105-258."

PART III. EFFECTIVE DATE

SECTION 3.1. Section 2.1 of this act becomes effective January 1, 2011. The remainder of this act is effective when it becomes law.

Bill Draft 2009-LAz-23: Improve Tax & Debt Collection Process.

2009-2010 General Assembly

Committee:	Revenue laws Study Committee	**Date:**	May 4, 2010
Introduced by:		**Prepared by:**	Martha Walston Committee Counsel
Analysis of:	2009-LAz-23		

SUMMARY: ***This proposal, recommended by the Department of Revenue and developed in collaboration with the Office of State Controller and the North Carolina Bankers Association, would improve the tax and debt collection process of the Department of Revenue by:***

- ***Expanding the use of the Setoff Debt Collection Act as follows: allow debts owed by a business to be set off against a tax refund due the business, allow a setoff against any type of tax refund, and allow a community college to submit for setoff debts owed the college.***
- ***Authorizing the use of electronic process for sending notice of garnishment.***
- ***Providing for a data match between the Department of Revenue and financial institutions holding accounts of delinquent taxpayers.***
- ***Expanding the Statewide Accounts Receivable Program to allow for collection of the following accounts receivable by setoff against payments the State owes to individuals and businesses: accounts receivable that are submitted to the Department of Revenue under the Setoff Debt Collection Act and overdue tax debts.***

BILL ANALYSIS:

Expansion of Setoff Debt Collection Act

The Setoff Debt Collection Act, enacted in 1997, authorizes the Department of Revenue to set off an individual's income tax refund against a debt the individual owes a State agency or local agency.[1] Under the Act, a claimant agency sends the Department notice of the debt and the Department immediately sets off the debt against the tax refund and notifies the taxpayer and the claimant agency.

The proposal in Sections 1.4 through 1.7 would expand the Setoff Debt Collection Act to allow community colleges to collect debts owed to them through setoff of tax refunds and to allow debts that a business owes a claimant agency to be set off against the entity's tax refund. Currently, the Act only allows debts owed to claimant agencies by individuals to be set off against the individual's income tax refund. The proposal also expands the Act to apply to any type of tax refund, not just income tax refunds.

Notice of Garnishment by Electronic Process

The Department of Revenue is authorized by statute to attach and garnish intangible property in payment of taxes owed to the Department. The kinds of property that are subject to attachment and garnishment are wages and salaries, rents, bank deposits, the proceeds of property subject to levy, and property in the Escheat Fund. When the property sought to be attached is the taxpayer's checking account, the garnishee is the bank. When the property is wages, the taxpayer's employer is the garnishee. No more than 10% of a taxpayer's wages or salary per month is subject to attachment and garnishment. Current law requires that the notice of garnishment must be delivered in person or by mail.

[1] State agency includes a unit of the executive, legislative, or judicial branch of State government and a local agency to the extent it administers a program supervised by DHHS. A local agency includes a county, municipality, water and sewer authority, regional joint agency created by interlocal agreement, public health authority, metropolitan sewerage district, or sanitary district.

The proposal in Section 2.2 would authorize electronic notice, if the garnishee agrees to this method and the Department and garnishee have an agreement that establishes the protocol for electronic notice.

The proposal would also streamline the process if the garnishee is a financial institution by reducing the time period for filing a response to the notice of garnishment from 30 days to 20 days and by releasing the notice of garnishment when the institution complies with the notice. All other garnishees will continue to receive a notice of release. Streamlining would be consistent with the current garnishment practice with banks wherein the Department faxes notice of garnishment to a bank and the bank then sends money in the account to the Department within 10 to 15 days.

A "financial institution" is defined as a banking corporation, trust company, savings and loan association, credit union, or other entity principally engaged in the business of lending money or receiving or soliciting money on deposit. (G.S. 53B-2).

Data Match between Financial Institutions and the Department of Revenue

The proposal in Section 2.1 further streamlines the attachment and garnishment process with financial institutions. The Department would be authorized to submit information to a financial institution on a quarterly basis, or with the agreement of the financial institution, more frequently. The information would identify any delinquent taxpayer to a financial institution and require the financial institution to notify the Department of the amount the institution may hold that belongs to the taxpayer. The Department will reimburse the financial institution for the cost of providing the information. The cost may not exceed the amount that the Department of Health and Human Services currently pays to financial institutions for conducting a data match in order to attach and garnish the account of an absent noncustodial parent.[2]

The federal government has recently issued a proposed rule to implement statutory restrictions on the garnishment of federal benefit payments. These payments are protected under federal law from garnishment and include Social Security benefits, Supplemental Security Income benefits, and VA benefits. The rule sets forth uniform procedures for financial institutions to follow in order to minimize the hardships encountered by federal benefit payment recipients whose accounts are frozen pursuant to a garnishment order. The rule also assists financial institutions to determine whether exempt funds were directly deposited to the account.

Expansion of Statewide Accounts Receivable

The Statewide Accounts Receivable Program, enacted in 1993, requires the State Controller to monitor accounts receivable owed to State agencies, to adopt procedures for the management and collection of accounts receivable, and to establish procedures for writing off accounts receivable.[3] The Program also provides for written-off accounts receivable to be set off against payments the State owes to debtors. A written-off accounts receivable is one that has been removed from a State agency's accounts receivable records.

The proposal in Sections 1.1 through 1.3 would expand the Statewide Accounts Receivable Program as follows:

- Expand the definition of "accounts receivable" to include taxes.

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[2] The DHHS and financial institutions have developed a data match system that requires a financial institution to provide DHHS the following information on a quarterly basis in order to secure child support: name, SSN, address, telephone number, account numbers, and other identifying data for any person who maintains an account at the financial institution.

[3] An account receivable is an asset of the State reflecting a debt owed to the State. The term includes claims, damages, fees, fines, forfeitures, loans, overpayments, and tuition as well as penalties, interest and other costs authorized by law. The term does not include court costs or fees.

- Allow debts that have been submitted to the Department of Revenue under the Setoff Debt Collection Act to be set off against payments the State owes to these debtors. The following is an example of how this proposal would work. The Department of Revenue will give the State Controller a list of debtors under the Setoff Debt Collection Act. The State Controller will then check to see if any of these debtors are vendors that are owed money by the State for services or goods received by the State. The State Controller will then deduct the amount of the debt from the amount owed by the State. The State Controller will send this amount to the claimant agency owed the debt.

EFFECTIVE DATE: Section 2.1 of the act becomes effective January 1, 2011. This section streamlines the attachment and garnishment process by providing for a data match between financial institutions and the Department of Revenue. The remainder of the act is effective when it becomes law.

2009-LAz-23-SMLA-89 v10

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 3, 2010

TO: Revenue Laws Study Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: 2009-LAz-23

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
REVENUES:					
General Fund	***Approximately $3 million annually in additional collections - see assumptions and methodology***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue; NC Office of State Controller; NC Community Colleges

EFFECTIVE DATE: January 1, 2011

BILL SUMMARY:
The proposal is a recommendation of the Department of Revenue and was developed in collaboration with the Office of State Controller and the North Carolina Bankers Association. It would improve the Department's tax and debt collection process by:

- Expanding the use of the Setoff Debt Collection Act as follows: allow debts owed by a business to be set off against a tax refund due the business, allow a setoff against any type of tax refund, and allow a community college to submit for setoff debts owed the college.

- Authorizing the use of electronic process for sending notice of garnishment.

- Providing for a data match between the Department of Revenue and financial institutions holding accounts of delinquent taxpayers.

- Expanding the Statewide Accounts Receivable Program to allow for collection of the following accounts receivable by setoff against payments the State owes to individuals and businesses: accounts receivable that are submitted to the Department of Revenue under the Setoff Debt Collection Act and overdue tax debts.

ASSUMPTIONS AND METHODOLOGY:
The proposal would enable the Department of Revenue to increase debt and tax collections by allowing for businesses debts to be setoff against tax refunds, and by allowing for debt setoffs against any type of tax refund. The proposal also creates a number of efficiencies to streamline the attachment and garnishment process, including identifying bank accounts of delinquent taxpayers through data matching between the Department and financial institutions. In addition, the proposal would allow for collection of delinquent taxes and debts by setoff against payments the State owes to these debtors.

The Department of Revenue anticipates that the proposal would result in additional collections of approximately $750,000 per quarter, or $3 million annually. Because of the January 1st effective date, the first year of collections would be half of the full-year amount, or $1.5 million.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

LEGISLATIVE PROPOSAL #8

EXPAND EXCEPTION TO PUV OWNERSHIP REQUIREMENTS

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-LAz-24 [v.6] (04/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/20/2010 11:09:49 AM

Short Title:	Expand PUV.	(Public)
Sponsors:	Unknown.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE EXCEPTIONS TO OWNERSHIP REQUIREMENTS FOR AGRICULTURAL LAND UNDER THE PROPERTY TAX PRESENT-USE VALUE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.3(b2) reads as rewritten:

"**§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.**

...

(b2) **(Effective for taxes imposed for taxable years beginning on or after July 1, 2008)** Exceptions to Ownership Requirements. – Notwithstanding the provisions of subsections (b) and (b1) of this section, land may qualify for classification in the hands of the new owner if ~~all of the conditions listed in~~ either subdivision of this subsection ~~are~~ is met, even if the new owner does not meet all of the ownership requirements of subsections (b) and (b1) of this section with respect to the land.

(1) Continued use. – If the land qualifies for classification in the hands of the new owner under the provisions of this subdivision, then any deferred taxes remain a lien on the land under G.S. 105-277.4(c), the new owner becomes liable for the deferred taxes, and the deferred taxes become payable if the land fails to meet any other condition or requirement for classification. Land qualifies for classification in the hands of the new owner if all of the following conditions are met:

a. The land was appraised at its present use value at the time title to the land passed to the new owner.

b. The new owner acquires the land and continues to use the land for the purpose for which it was classified under subsection (a) of this section while under previous ownership.

c. The new owner has timely filed an application as required by G.S. 105-277.4(a) and has certified that the new owner accepts liability for any deferred taxes and intends to continue the present use of the land.

(2) Expansion of existing unit. – Land qualifies for classification in the hands of the new owner ~~if, at~~if one of the following conditions listed in this

subdivision is met. The new owner must timely file an application as required by G.S. 105-277.4(a). The conditions are:

a. At the time title passed to the new owner, the land was not appraised at its present-use value but was being used for the same purpose and was eligible for appraisal at its present-use value as other land already owned by the new owner and classified under subsection (a) of this section.

b. At the time title passed to the new owner, the land was not eligible for appraisal at present-use value, but the new owner owns other land that is classified as agricultural land under subsection (a) of this section and acquires the new land for agricultural use. The recently acquired land loses its present-use value eligibility, if the new owner does not begin using the land as agricultural land within one year from the date of acquisition."

SECTION 2. This act becomes effective for taxes imposed for taxable years beginning on or after July 1, 2011, and applies to property acquired on or after January 1, 2010.

Bill Draft 2009-LAz-24: Expand PUV.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	April 15, 2010
Introduced by:		**Prepared by:**	Martha Walston Committee Counsel
Analysis of:	2009-LAz-24		

SUMMARY: ***This proposal expands the exception to ownership requirements in the Present-Use Value (PUV) program for property tax purposes. The exception applies to newly acquired land that is not being used for a farm purpose. The owner, however, must already own land that is in the PUV program and used for agricultural purposes, and the owner must begin using the recently acquired land for agricultural purposes within one year of its acquisition.***

CURRENT LAW: In order to be classified as agricultural land, horticultural land, or forestland under the Present-Use Value (PUV) program and to receive a lower PUV appraised value in lieu of a fair market value appraisal, the land must meet certain ownership, use, and size requirements. The ownership requirements are as follows:

Individual ownership

Land owned by an individual must meet one of the following ownership requirements: (1) be the owner's place of residence as of January 1, (2) be owned by the current owners or a relative for four full years preceding January 1 of the year for which application is made, or (3) if transferring from a business entity or trust to an individual, the property must have been receiving present-use value at the time of transfer, and the individual must have been a member of the entity or a beneficiary of the trust.

Business entity or trust ownership

Land owned by a business entity or trust must have been owned by the business entity or by one or more of the members of the business entity or by the trust or one or more of the creators of the trust for the four years preceding January 1 of the year for which application is made.

Exceptions to ownership requirements

There are two exceptions to the ownership requirements: (1) where PUV land is transferred and the new owner continues to use the land for its present use, and (2) where an existing tract of PUV land is expanded by acquiring land that is eligible to be in the PUV program.

1. Land immediately qualifies for the PUV program if all of the following conditions are met:

   - The land was appraised at its PUV at the time title passed to the new owner.
   - The new owner will continue to use the land for the same PUV purpose it was classified for under the previous ownership.
   - The land will continue to meet the applicable size requirement. If the new owner already has a qualifying tract of the same PUV classification, the transferred land can be less than the minimum initial required acreage if the land can properly be considered an additional tract of the existing farm unit.[1]
   - The new owner must file an application for PUV within 60 days of the date of transfer.
   - The new owner certifies that he or she accepts liability for any deferred taxes that exists.

[1] A farm unit is defined as one or more tracts of agricultural land, horticultural land, or forestland. Multiple tracts must be under the same ownership and be of the same type of classification. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under the PUV program. (G.S. 105-277.2(7))

2. Land qualifies for the PUV program for the next year if all of the following conditions are met:
    - At the time of transfer, the new owner owned other land already in PUV.
    - The newly acquired land was not appraised at PUV, but at the time of transfer it was being used for the same purpose as the PUV land already owned by the new owner.
    - At the time of transfer, the land being transferred met the production and sound management requirements.
    - The new owner timely files a new application during the next listing period, typically the month of January.[2]

BILL ANALYSIS: The proposal would allow a third exception to the ownership requirements under the PUV program if all of the following requirements are met:

- The owner acquires land that is not eligible for the PUV program at the time of transfer.
- The owner already owns land classified as agricultural land in the PUV program.
- The new owner begins using the newly acquired land as agricultural land within one year of the date of its acquisition.
- A timely application is filed.

EFFECTIVE DATE: This act becomes effective for taxes imposed for taxable years beginning on or after July 1, 2011, and applies to property acquired on or after January 1, 2010.

2009-LAz-24-SMLA-88 v4

[2] Since land attempting to qualify under this exception is not in PUV at the time of transfer, the land will need to qualify under an initial application. An initial application for PUV should be filed during the regular listing period of the next tax year.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

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DATE: May 4, 2010

TO: Revenue Laws Study Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: 2009-LAz-24

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
REVENUES:					
Local Governments	***Insignificant Revenue Loss for Local Governments***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Local Governments, NC Department of Revenue

EFFECTIVE DATE: Taxable Years beginning on or after July 1, 2011.

BILL SUMMARY:
This proposal expands the exception to ownership requirements in the Present-Use Value (PUV) program for property tax purposes. The exception applies to newly acquired land that is not being used for a farm purpose. The owner, however, must already own land that is in the PUV program and used for agricultural purposes, and the owner must begin using the recently acquired land for agricultural purposes within one year of its acquisition.

Source: Committee Counsel Bill Summary

ASSUMPTIONS AND METHODOLOGY:
The Present Use Value (PUV) program provides for land that is being used for agriculture, horticulture or forestland to be taxed based on the value of its current use rather than the market value. The present use value is generally much lower than market value since it does not reflect the potential use of the property for other purposes.

The proposal would allow an owner who already owns agricultural land in the PUV program to acquire land and enroll it in the PUV program. The recently acquired land does not have to be eligible for the PUV program, but the owner must use the land for an agricultural purpose within one year of acquiring it and meet the other eligibility requirements of the program. Based on discussions with the Department of Revenue, the impact of this change is expected to be limited and the fiscal impact on property tax revenues is likely to be insignificant.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

LEGISLATIVE PROPOSAL #9

REVENUE LAWS TECHNICAL, ADMINISTRATIVE, & CLARIFYING CHANGES

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-TDxz-34 [v.4] (02/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/5/2010 8:24:04 AM

Short Title: Rev. Laws Technical & Admin. Changes. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. The introductory language to G.S. 105-113.40A reads as rewritten:

"The Secretary must credit the net proceeds of the tax collected under this ~~Article~~ Part as follows:"

SECTION 2. G.S. 105-129.16D(b1) reads as rewritten:

"(b1) Alternative Production Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that constructs and places in service in this State three or more commercial facilities for processing renewable fuel and that invests a total amount of at least four hundred million dollars ($400,000,000) in the facilities is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities. In order to claim the credit, the taxpayer must obtain a written determination from the Secretary of Commerce that the taxpayer is expected to invest within a five-year period a total amount of at least four hundred million dollars ($400,000,000) in three or more facilities. The credit must be taken in seven equal annual installments beginning with the taxable year in which the first facility is placed in service. If, in one of the years in which the installment of credit accrues, a facility with respect to which the credit was claimed is disposed of or taken out of service and the investment requirements of this subsection are no longer satisfied, the credit expires and the taxpayer may take any remaining installment of the credit only to the extent allowed under subsection (b) of this section. The taxpayer may, however, take the portion of an installment under this subsection that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. Notwithstanding the provisions of G.S. 105-129.17, a taxpayer may carry forward unused portions of the credit allowed under this subsection for the succeeding 10 years.

If a taxpayer that claimed a credit under this subsection fails to meet the requirements of this subsection but meets the requirements of subsection (b) of this section, the taxpayer forfeits the difference between the alternative credit claimed under this subsection and the credit allowed under subsection (b) of this section. A taxpayer that forfeits part of the alternative credit under this subsection is liable for the additional taxes avoided plus interest at the rate established under ~~G.S. 105-241.1(i),~~ G.S. 105-241.21, computed from the date the additional taxes would have been due if the credit had not been allowed. The additional taxes and interest

are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the additional taxes and interest by the due date is subject to penalties provided in G.S. 105-236."

SECTION 3. G.S. 105-159.1(a) reads as rewritten:

"(a) Every individual whose income tax liability for the taxable year is three dollars ($3.00) or more may designate on his or her income tax return that three dollars ($3.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund for the use of the political party designated by the taxpayer. In the case of a married couple filing a joint return whose income tax liability for the taxable year is six dollars ($6.00) or more, each spouse may designate on the income tax return that three dollars ($3.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund for the use of the political party designated by the taxpayer. Amounts credited to the Fund shall be allocated among the political parties according to the designation of the taxpayer. Where any taxpayer elects to designate but does not specify a particular political party, those funds shall be distributed among the political parties on a pro rata basis according to their respective party voter registrations as determined by the most recent certification of the State Board of Elections. As used in this section, the term "political party" has the same meaning as defined in G.S. 163-96.~~means one of the following that has at least one percent (1%) of the total number of registered voters in the State~~:

~~(1) A political party that at the last preceding general State election received at least ten percent (10%) of the entire vote cast in the State for Governor or for presidential electors.~~

~~(2) A group of voters who by July 1 of the preceding calendar year, by virtue of a petition as a new political party, had duly qualified as a new political party within the meaning of Chapter 163 of the General Statutes.~~"

SECTION 4.(a) G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(23) A public library created pursuant to an act of the General Assembly."

SECTION 4.(b) This section is effective July 1, 2008 and applies to purchases made on or after that date.

SECTION 5. G.S. 105-187.3 reads as rewritten:

"...

(b) Retail Value. – The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle, including all accessories attached to the vehicle when it is delivered to the purchaser, less the amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. ~~The~~

The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a seller who is not a retailer is the market value of the vehicle, less the amount of any allowance given by the seller for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. A transaction in which two parties exchange motor vehicles is considered a sale regardless of whether either party gives additional consideration as part of the transaction. ~~The~~

The retail value of a motor vehicle for which a certificate of title is issued because of a reason other than the sale of the motor vehicle is the market value of the vehicle. The market value of a vehicle is presumed to be the value of the vehicle set in a schedule of values adopted by the Commissioner.

~~(b1) Retail Value of Transferred Department of Defense Vehicles.~~ The retail value of a vehicle for which a certificate of title is issued because of a transfer by a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad is the sales price paid by the State agency, unit of local government, volunteer fire department, or volunteer rescue squad.

..."

SECTION 6. G.S. 105-187.6(a) is amended by adding a new subdivision to read:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

...

"(11) To a revocable trust from an owner who is the sole beneficiary of the trust."

SECTION 7.(a) G.S. 105-241.9(c) reads as rewritten:

"(c) Notice. – The Secretary must give a taxpayer written notice of a proposed assessment. The notice of a proposed assessment must contain the following information:

(1) The basis for the proposed assessment. The statement of the basis for the proposed assessment does not limit the Department from changing the basis.

(2) The amount of tax, interest, and penalties included in the proposed assessment. The amount for each of these must be stated separately.

(2a) The date a failure to pay penalty will apply to the proposed assessment if the proposed assessment is not paid by that date and the amount of the penalty. If the proposed assessment is not paid by the specified date, the failure to pay penalty is considered to be assessed and applies to the proposed assessment without further notice.

(3) The circumstances under which the proposed assessment will become final and collectible."

SECTION 7.(b) G.S. 105-241.11 is amended by adding a new subsection to read:

"(c) FTP Penalty. – A request for a Departmental review of a proposed assessment is considered a request for a Departmental review of a failure to pay penalty that is based on the assessment. A taxpayer who does not request a Departmental review of a proposed assessment may not request a Departmental review of a failure to pay penalty that is based on the assessment."

SECTION 8. G.S. 105-241.16 reads as rewritten:

"**§ 105-241.16. Judicial review of decision after contested case hearing.**

A taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings may seek judicial review of the decision in accordance with Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition for judicial review must be filed in the Superior Court of Wake County and in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). ~~A taxpayer who files~~ Before filing a petition for judicial ~~review~~ review, a taxpayer must pay the amount of tax, penalties, and interest the final decision states is due. A taxpayer may appeal a decision of the Business Court to the appellate division in accordance with G.S. 150B-52."

SECTION 9.(a) G.S. 105-263 reads as rewritten:

"**§ 105-263. ~~Extensions of time for filing a report or return.~~Timely filing of mailed documents and requests for extensions.**

(a) Mailed Document. – Section 7502 of the Code governs when a return, report, payment, or any other document that is mailed to the Department is timely filed.

(b) Extension. – The Secretary may extend the time in which a person must file a report or return with the Secretary. To obtain an extension of time for filing a report or return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing a report or any return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a report or return extends the time for paying the tax expected to be due with the report or return, interest, at the rate established pursuant to

G.S. 105-241.21, accrues on the tax due from the original due date of the report or return to the date the tax is paid."

SECTION 9.(b) G.S. 105-241.11(b) reads as rewritten:

"(b) Filing. – A request for a Departmental review of a proposed denial of a refund or a proposed assessment is considered filed on the following dates:

(1) For a request that is delivered in person, the date it is delivered.

(2) For a request that is mailed, the date determined in accordance with G.S. 105-263.

(3) For a request ~~not delivered in person,~~ delivered by another method, the date the Department receives it."

SECTION 10. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(40) To furnish a nonparticipating manufacturer, as defined in G.S. 66-292, the amount of the manufacturer's tobacco products that a taxpayer sells in this State and that the Secretary reports to the Attorney General under G.S. 105-113.4C."

SECTION 11. G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of ~~the month of either January or July,~~ a calendar quarter, as set by the board of county commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least ~~90~~60 days advance notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax or tax rate change."

PROPERTY TAX CHANGES

SECTION 12. G.S. 105-275(29a) reads as rewritten:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

...

(29a) Land that is within an historic district and is held by a nonprofit corporation organized for historic preservation purposes for use as a future site for an historic structure that is to be moved to the site from another location. Property may be classified under this subdivision for no more than five years. The taxes that would otherwise be due on land classified under this subdivision shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when an historic structure is not moved to the property within five years from the first day of the fiscal year the property was classified under this

subdivision. In addition to the provisions in G.S. 105-277.1F, all liens arising under this subdivision are extinguished upon the location of an historic structure on the site within the time period allowed under this subdivision."

SECTION 13. G.S. 105-277.1C(b)(1) reads as rewritten:

(b) Definitions. – The following definitions apply in this section:

(1) Disabled veteran. – A veteran of any branch of the Armed Forces of the United States whose character of service at separation was honorable or under honorable conditions and who satisfies one of the following requirements:

a. As of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, the veteran had received benefits under 38 U.S.C. § 2101.

b. The veteran has received a certification by the United States Department of Veterans Affairs or another federal agency indicating that, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, he or she has a service-connected, permanent, and total disability.

c. ~~If the veteran is deceased, the certificate must indicate that he or she had the disability prior to the date of death or that the death was~~ The veteran is deceased and the United States Department of Veterans Affairs or another federal agency has certified that, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, the veteran's death was the result of a service-connected condition.

(2) Repealed by Session Laws 2009-445, s. 22(c), effective for taxes imposed for taxable years beginning on or after July 1, 2009.

(3) Permanent residence. – Defined in G.S. 105-277.1.

(4) Property tax relief. – Defined in G.S. 105-277.1.

(4a) Qualifying owner. – An owner, as defined in G.S. 105-277.1, who is a North Carolina resident and one of the following:

a. A disabled veteran.

b. The surviving spouse of a disabled veteran who has not remarried.

(5), (6) Repealed by Session Laws 2009-445, s. 22(c), effective for taxes imposed for taxable years beginning on or after July 1, 2009.

(7) Service-connected. – Defined in 38 U.S.C. § 101"

SECTION 14. G.S. 105-277.8 reads as rewritten:

"**§ 105-277.8. Taxation of property of nonprofit homeowners' association.**

(a) The value of real and personal property owned by a nonprofit homeowners' association shall be included in the appraisals of property owned by members of the association and shall not be assessed against the association ~~if:~~if the following requirements are met:

(1) All property owned by the association is held for the use, benefit, and enjoyment of all members of the association ~~equally;~~equally.

(2) Each member of the association has an irrevocable right to use and enjoy, on an equal basis, all property owned by the association, subject to any restrictions imposed by the instruments conveying the right or the rules, regulations, or bylaws of the ~~association; and~~association.

(3) Each irrevocable right to use and enjoy all property owned by the association is appurtenant to taxable real property owned by a member of the association.

(4) All property owned by the association and all taxable property owned by the members of the association to which it is appurtenant are subject to the same taxing jurisdictions.

The assessor may allocate the value of the association's property among the property of the association's members on any fair and reasonable basis.

(b) As used in this section, "nonprofit homeowners' association" means a homeowners' association as defined in § 528(c) of the Internal Revenue Code."

SECTION 15. G.S. 105-278(b) reads as rewritten:

"(b) The difference between the taxes due on the basis of fifty percent (50%) of the true value of the property and the taxes that would have been payable in the absence of the classification provided for in subsection (a) shall be a lien on the property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses the benefit of this classification as a result of a disqualifying event. A disqualifying event occurs when there is a change in an ordinance designating a historic property or a change in the property, other than by fire or other natural disaster, that causes the property's historical significance to be lost or substantially impaired. In addition to the provisions in G.S. 105-277.1F, no deferred taxes are due and all liens arising under this subsection are extinguished when the property's historical significance is lost or substantially impaired due to fire or other natural disaster."

SECTION 16. G.S. 105-278.6(e) reads as rewritten:

"(e) Real property held by an organization described in subdivision (a)(8) for a charitable purpose under this section as a future site for housing for individuals or families with low or moderate incomes may be classified under this section for no more than five years. The taxes that would otherwise be due on real property exempt under this subsection shall be a lien on the property as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the organization fails to construct low- or moderate-income housing on the site within five years from the first day of the fiscal year the property was classified under this subsection. In addition to the provisions in G.S. 105-277.1F, all liens arising under this subdivision are extinguished when the property is used for low- or moderate-income housing within the time period allowed under this subsection."

SECTION 17. G.S. 105-333(14) reads as rewritten:

"(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, or a motor freight carrier company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, ~~a radio common carrier company as defined in G.S. 62-119(3),~~ a cable television company, or a radio or television broadcasting company."

SECTION 18. G.S. 105-333 is amended by adding a new definition to read:

"(21) Terminal. – A motor freight carrier facility that includes buildings for the handling and temporary storage of freight pending transfer between locations. The term also includes a facility that handles truckloads only and

typically consists of a wide, open space where rolling stock is parked, and a building for offices and maintenance of rolling stock."

SECTION 19. Section 4 of S.L. 2009-308 reads as rewritten:

"**SECTION 4.** This act is effective for taxes imposed for taxable years beginning on or after July 1, 2010. This act is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2013. ~~Residences receiving the property tax benefit provided by this act are not affected by the repeal of this act until the occurrence of a disqualifying event.~~Notwithstanding the repeal of this act, residences that are receiving the property tax benefit provided by this act in the year immediately prior to the repeal are not affected by the repeal of this act and remain eligible for approval of this benefit for subsequent taxable years until the occurrence of a disqualifying event."

SECTION 20.(a) Section 22.(d) of S.L. 2007-527, reads as rewritten:

"**SECTION 22.(d)** Subsection (c) of this section becomes effective ~~January 1, 2010.~~July 1, 2010. The remainder of this section is effective when it becomes law."

SECTION 20.(b) Section 22(d) of S.L. 2007-527,. as amended by Section 66 of S.L. 2008-134 reads as rewritten:

"**SECTION 22.(d)** Subsection (c) of this section becomes effective ~~January 1, 2011,~~July 1, 2013, or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law."

SECTION 20.(c) Section 24.(c) of S.L. 2009-445 reads as rewritten:

"**SECTION 24.(c)** G.S. 105-330.9 and G.S. 105-330.11, as amended in subsection (a) of this section, are effective when this act becomes law. Subsection (b) of this section and the remainder of subsection (a) of this section become effective ~~July 1, 2011,~~July 1, 2013, and apply to combined tax and registration notices issued on or after that date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system or registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law."

SECTION 20.(d) Section 8 of S.L. 2007-471. as amended by Section 25.(a) of S.L. 2009-445 reads as rewritten:

"**SECTION 8.** Unless otherwise stated, this act becomes effective ~~July 1, 2011,~~July 1, 2013, and applies to combined tax and registration notices issued on or after that date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first."

SECTION 20.(e) Section 79 of S.L. 2008-134, as amended by Section 25.(b) of S.L. 2009-445 reads as rewritten:

"**SECTION 79.** Sections 16 through 60 of this act become effective January 1, 2009. Except as otherwise provided, the remainder of this act is effective when it becomes law. Section 63 of this act is repealed ~~July 1, 201.~~July 1, 2013."

MOTOR FUEL TAX CHANGES

SECTION 21. G.S. 105-241(b)(2a) reads as rewritten:

"(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required as provided in this subsection.

...

(2a) Motor fuel taxes. – A taxpayer that is required to file an electronic return under ~~Article 36C or Article 36D~~ Subchapter V of this Chapter or Article 3 of Chapter 119 of the General Statutes must pay the tax by electronic funds transfer.

SECTION 22.(a) G.S. 105-449.39 reads as rewritten:

"**§ 105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly ~~report~~ return for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter covered by the ~~report.~~ return. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the excess is refundable in accordance with G.S. 105-241.7."

SECTION 22.(b) G.S. 105-449.40(a) reads as rewritten:

"(a) Authority. – The Secretary may require a motor carrier to furnish a bond when any of the following occurs:

(1) The motor carrier fails to file a ~~report~~ return within the time required by this Article.

(2) The motor carrier fails to pay a tax when due under this Article.

(3) After auditing the motor carrier's records, the Secretary determines that a bond is needed to protect the State from loss in collecting the tax due under this Article."

SECTION 22.(c) G.S. 105-449.42 reads as rewritten:

"**§ 105-449.42. Payment of tax.**

The tax levied by this Article is due when a motor carrier files a quarterly ~~report~~ return under G.S. 105-449.45. The amount of tax due is calculated on the amount of motor fuel or alternative fuel used by the motor carrier in its operations within this State during the quarter covered by the ~~report.~~return."

SECTION 22.(d) G.S. 105-449.42A reads as rewritten:

"**§ 105-449.42A. Leased motor vehicles.**

(a) Lessor in Leasing Business. – A lessor who is regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation is the motor carrier for a leased or rented motor vehicle unless the lessee of the leased or rented motor vehicle gives the Secretary written notice, by filing a ~~report~~ return or otherwise, that the lessee is the motor carrier. In that circumstance, the lessee is the motor carrier for the leased or rented motor vehicle.

Before a lessee gives the Secretary written notice under this subsection that the lessee is the motor carrier, the lessee and lessor must make a written agreement for the lessee to be the motor carrier. Upon request of the Secretary, the lessee must give the Secretary a copy of the agreement.

(b) Independent Contractor. – The lessee of a motor vehicle that is leased from an independent contractor is the motor carrier for the leased motor vehicle unless ~~either of the following applies:~~one of the circumstances listed in this subdivision applies. If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.

(1) The motor vehicle is leased for fewer than 30 days.

(2) The motor vehicle is leased for at least 30 days and the lessor gives the Secretary written notice, by filing a ~~report~~ return or otherwise, that the lessor is the motor carrier. Before a lessor gives the Secretary written notice that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.

~~If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.~~

~~Before a lessor gives the Secretary written notice under subdivision (2) that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.~~

(c) Liability. – An independent contractor who leases a motor vehicle to another for fewer than 30 days is liable for compliance with this Article and the person to whom the motor vehicle is leased is not liable. Otherwise, both the lessor and lessee of a motor vehicle are jointly and severally liable for compliance with this Article."

SECTION 22.(e) G.S. 105-449.44(b) reads as rewritten:

"(b) Presumption. – The Secretary must check ~~reports~~ returns filed under this Article against the weigh station records and other records of the Division of Motor Vehicles of the Department of Transportation and the State Highway Patrol of the Department of Crime Control and Public Safety concerning motor carriers to determine if motor carriers that are operating in this State are filing the ~~reports~~ returns required by this Article. If the records indicate that a motor carrier operated in this State in a quarter and either did not file a ~~report~~ return for that quarter or understated its mileage in this State on a ~~report~~ return filed for that quarter by at least twenty-five percent (25%), the Secretary may assess the motor carrier for an amount based on the motor carrier's presumed operations. The motor carrier is presumed to have mileage in this State equal to 10 trips of 450 miles each for each of the motor carrier's qualified motor vehicles and to have fuel usage of four miles per gallon."

SECTION 22.(f) G.S. 105-449.45 reads as rewritten:

"**§ 105-449.45. ~~Reports~~ Returns of carriers.**

(a) ~~Report.~~ Return. – A motor carrier must report its operations to the Secretary on a quarterly basis unless subsection (b) of this section exempts the motor carrier from this requirement. A quarterly ~~report~~ return covers a calendar quarter and is due by the last day in April, July, October, and January. A ~~report~~ return must be filed in the form required by the Secretary.

(b) Exemptions. – A motor carrier is not required to file a quarterly ~~report~~ return if any of the following applies:

(1) All the motor carrier's operations during the quarter were made under a temporary permit issued under G.S. 105-449.49.

(2) The motor carrier is an intrastate motor carrier, as indicated on the motor carrier's application for registration with the Secretary.

(c) ~~Other Reports.~~ Informational Returns. – A motor carrier must file with the Secretary ~~other reports~~ any informational returns concerning its operations that the Secretary requires.

(d) Penalties. – A motor carrier that fails to file a ~~report~~ return under this section by the required date is subject to a penalty of fifty dollars ($50.00)."

SECTION 23. G.S. 105-449.37(a)(1) reads as rewritten:

"(a) Definitions. – The following definitions apply in this Article:

(1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the International Fuel Tax Association, Inc., as amended as of ~~June 1, 2008.~~ June 1, 2010.

...".

SECTION 24. G.S. 105-449.47A reads as rewritten:

"**§ 105-449.47A. Reasons why the Secretary can deny an application for a registration and decals.**

The Secretary may refuse to register and issue a decal to an applicant that does not meet the requirements set out in G.S. 105-449.69(b) or that has done any of the following:

(1) Had a registration issued under Chapter 105 or Chapter 119 of the General Statutes cancelled by the Secretary for cause.

(2) Had a registration issued by another jurisdiction, pursuant to the International Fuel Tax Agreement, cancelled for cause.
(3) Been convicted of fraud or misrepresentation.
(4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if registered and issued a decal.
(5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.
(6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes."

SECTION 25.(a) G.S. 105-449.105A reads as rewritten:

"**§ 105-449.105A. Monthly refunds for kerosene.**

(a) ~~Refund. – A distributor who sells kerosene to any of the following may obtain a monthly refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under G.S. 105-449.93:~~

~~(1) The end-user of the kerosene, if the distributor dispenses the kerosene into a storage facility of the end-user that contains fuel used only for one of the following purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable:~~

~~a. Heating.~~
~~b. Drying crops.~~
~~c. A manufacturing process.~~

~~(2) A retailer of kerosene, if the distributor dispenses the kerosene into a storage facility that meets both of the following conditions:~~

~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~
~~b. It either has a dispensing device that is not suitable for use in fueling a highway vehicle or is kept locked by the retailer and must be unlocked by the retailer for each sale of kerosene.~~

~~(3) An airport, if the distributor dispenses the kerosene into a storage facility that contains fuel used only for fueling airplanes and that meets at least one of the following conditions:~~

~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~
~~b. It has a dispensing device that is not suitable for use in fueling a highway vehicle.~~

Refund for Undyed Kerosene Sold to an End-User for Non-Highway Use. -- A distributor who sells kerosene to an end-user for one of the purposes listed in this subsection may obtain a monthly refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under G.S. 105-449.93, if the distributor dispenses the kerosene into a storage facility of the end-user that contains fuel used only for one of those purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable.

(1) Heating.
(2) Drying crops.
(3) A manufacturing process.

(b) Liability. – If the Secretary determines that the Department overpaid a distributor by refunding more tax to the distributor than is due under this section, the distributor is liable for

the amount of the overpayment. ~~This liability applies regardless of whether the actions of a retailer of kerosene contributed to the overpayment.~~"

SECTION 25.(b) This section becomes effective January 1, 2011, and applies to sales of kerosene made by a distributor on or after that date.

SECTION 26. G.S. 105-449.105B reads as rewritten:

"**§ 105-449.105B. Monthly hold harmless refunds for licensed distributors and some licensed importers.**

~~quarter~~

If a licensed distributor or licensed importer purchases motor fuel from a licensed supplier during a month and the discount the distributor or importer receives under G.S. 105-449.93(b) on the motor fuel is less than the amount the distributor or importer would have received during that month if the distributor or importer had been allowed a discount on taxable gasoline purchased by the distributor or importer from a supplier under the following schedule, the distributor or importer is allowed a monthly refund of the difference:

Amount of Gasoline Purchased Each Month	Percentage Discount
First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%.

In determining the amount of discounts a distributor or importer received under G.S. 105-449.93(b) for motor fuel purchased in a month, a distributor or importer is considered to have received the amount of any discounts the distributor or importer could have received under that subsection but did not receive because the distributor or importer failed to pay the tax due to the supplier by the date the supplier had to pay the tax to the State."

SECTION 27.(a) G.S. 105-449.106(b) reads as rewritten:

"(b) Taxi. – A person who purchases and uses motor fuel in a ~~taxicab, as defined in G.S. 20-87(1),~~ taxicab while the taxicab is engaged in transporting passengers for hire, or in a bus operated as part of a city transit system that is exempt from regulation by the North Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. For purposes of this subsection, the term "taxicab" means a motor vehicle that seats no more than nine passengers, transports passengers for hire, operates on call or demand, and accepts and solicits passengers indiscriminately. An application for a refund must be made in accordance with this Part."

SECTION 27.(b) G.S. 105-449.106(c) reads as rewritten:

(c) Special Mobile Equipment. – A person who purchases and uses motor fuel ~~to operate special mobile equipment off highway~~ for the off-highway operation of special mobile equipment registered under Chapter 20 of the General Statutes may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax or privilege tax due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

SECTION 27.(c) Subsection (b) of this section becomes effective October 1, 2010, and applies to motor fuel purchased on or after that date. The remainder of this section is effective when it becomes law.

SECTION 28. G.S. 105-449.108(b) reads as rewritten:

"(b) Requirements. – An application for ~~an annual~~ a refund allowed under this Part must be filed with the Secretary and be in the form required by the Secretary. The application ~~must state whether or not the applicant has filed a North Carolina income tax return for the preceding~~

~~taxable year. An application for a refund allowed under this Part~~ must state that the applicant has paid for the fuel for which a refund is claimed or that payment for the fuel has been secured to the seller's satisfaction. An application for an annual refund must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year."

..."

OTHER CHANGES

SECTION 29.(a) G.S. 143B-437.012(j) reads as rewritten:

"(j) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for a grant under this section, the Department shall enter into an agreement to provide a grant or grants for a project recommended by the Committee. Each grant agreement is binding and constitutes a continuing contractual obligation of the State and the business. The grant agreement shall include the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department.

Each grant agreement ~~for a business that is a major employer under subdivision (1) of subsection (d) of this section~~ shall contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved. Each grant agreement for a business that is a major employer under subdivision (a) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level at the project that is the subject of the agreement that is the lesser of the level it had at the time it applied for a grant under this section or that it had at the time that the investment required under subsection (d) of this section began. For the purposes of this subsection, the employment level includes full-time employees and equivalent full-time contract employees. The agreement shall further specify that the amount of a grant shall be reduced in proportion to the extent the business fails to maintain employment at this level and that the business shall not be eligible for a grant in any year in which its employment level is less than eighty percent (80%) of that required.

Each grant agreement for a business that is a large manufacturing employer under subdivision (2) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level required under that subdivision at the project that is the subject of the grant. The agreement shall further specify that the business is not eligible for a grant in any year in which the business fails to maintain the employment level.

A grant agreement may obligate the State to make a series of grant payments over a period of up to 10 years. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Attorney General's office in preparing the documentation for the grant agreement. The Attorney General shall review the terms of all proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section shall be signed personally by the Attorney General."

SECTION 29.(b) This section becomes effective July 1, 2010.

SECTION 30.(a) G.S. 143B-437.012(l)(4) reads as rewritten:

"(4) Ninety-five percent (95%) of the sales and use taxes paid on ~~electricity,~~electricity and the excise tax paid on piped natural ~~gas, and the privilege tax paid on other fuel for electricity, piped natural gas, and other fuel consumed at the project that is the subject of the agreement.~~gas."

SECTION 30.(b) This section is effective July 1, 2010.

SECTION 31. G.S. 159-107(e) reads as rewritten:

"(e) ~~Increment Agreements.~~ —Effect of Annexation on District Established by a County. – If a city annexes land in a development financing district established by a county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property within the district shall be paid to the city unless the city enters into an agreement with the county pursuant to this subsection, and the annexed land in the county's district that subsequently becomes a part of the city does not count against the city's five-percent (5%) limit under G.S. 158-7.3 or G.S. 160A-515.1 unless the city and the county enter into an agreement pursuant to this section. The city and the county may enter into an increment agreement under which the city agrees that city taxes on part or all of the incremental valuation in the district shall be paid into the revenue increment fund for the district. An increment agreement may be entered into when the district is established or at any time after the district is established. The increment agreement may extend for the duration of the district or for a shorter time agreed to by the parties."

SECTION 32. G.S. 160A-239.4(b) reads as rewritten:

(b) Assessments Pledged. – An assessment imposed under this Article may be pledged to secure revenue bonds under ~~G.S. 153A-210.6~~G.S. 160A-239.6 or as additional security for a project development financing debt instrument under G.S. 159-111. If an assessment imposed under this Article is pledged to secure financing, the city council must covenant to enforce the payment of the assessments."

SECTION 33. G.S. 160A-613(b) is repealed.

SECTION 34. Section 27A.3(c) of S.L. 2005-451 is repealed.

EFFECTIVE DATE

SECTION 35. Except as otherwise provided, this act is effective when it becomes law.

Bill Draft 2009-TDxz-34: Rev. Laws Technical & Admin. Changes.

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	May 4, 2010
Introduced by:		**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	2009-TDxz-34		

SUMMARY: ***Bill draft 2009-TDxz-34 makes technical, clarifying, and administrative changes to various tax statutes and related laws.***

BILL ANALYSIS: Except as otherwise specified, this proposal would become effective when it becomes law.

Section	Explanation
VARIOUS TAX LAW CHANGES	
1	Corrects a reference.
2	Corrects a statutory cite.
3	Conforms the definition of "political party" in Chapter 105 with the definition in Chapter 163. When the General Assembly enabled taxpayers to designate part of their tax refund to a political party, the definition of 'political party' in the tax statute conformed to the definition of 'political party' in Chapter 163. The General Assembly changed the definition of 'political party' in Chapter 163 in 2006, but failed to make a conforming change in Chapter 105. The two different definitions have led to confusion because the definition under Chapter 163 recognizes three political parties while the definition in the tax statutes recognizes only two political parties.
4	Allows a public library created by an act of the General Assembly a sales and use tax refund. Unlike other public libraries that are part of a city or county government, the Public Library of Charlotte and Mecklenburg County is a creature of law. The General Assembly chartered the library in 1903 as a body corporate. Other public libraries are allowed an annual sales and use tax refund as part of a unit of local government. This section adds public libraries created pursuant to an act of the General Assembly to the list of governmental entities allowed an annual refund. Prior to 2008, the Public Library applied for semi-annual sales and use tax refunds as a charitable entity under G.S. 105-164.14(b). The General Assembly clarified the charitable refund provision in 2008 as applying to 501(c)(3) organizations to limit the expansion of the provision by a Court of Appeals decision in *The Lynnwood Foundation v. N.C. Department of Revenue.* (S.L. 2008-107). The Public Library of Charlotte and Mecklenburg County is not organized as a 501(c)(3) entity. The section is effective July 1, 2008, and applies to purchases made on or after that date. The retroactive effective date refers to the date that the 2008 clarifying legislation became effective.
5	Consolidates two subsections into one because both subsections define the retail value of a motor vehicle for purposes of the highway use tax.
6	Provides that a certificate of title issued as the result of a transfer to a revocable trust from an owner who is the sole beneficiary of the trust is exempt from the

	highway use tax. This transfer is essentially a transfer to the same owner. The current law currently exempts transfers to the same owner to reflect a name change.
7	Clarifies that the federal mailbox rule governs when a document that is mailed to the Department of Revenue is timely filed. Under the federal mailbox rule, documents submitted by mail to the IRS are considered to be filed on the date shown on the postmark stamped by the USPS. Under current NC law, a notice of appeal submitted to the Property Tax Commission by mail is considered to be filed on the date shown on the postmark stamped by the USPS. However, in regards to other documents submitted to the Department, the issue is unclear. The statutes typically provide that a return or payment must be filed by a certain date or is due by a certain date. The Department has traditionally abided by the mailbox rule. As part of the Tax Appeals changes in 2007, G.S. 105-241.11 provides that requests for review of a denial of a refund or a proposed assessment are considered timely filed on the date the Department receives it. The Department believes the law is now unclear with regards to other filings. This section clarifies the law with respect to documents submitted by mail to the Department and it makes a conforming change to the Tax Appeals statute to remove any ambiguity.
8	Clarifies a disputed tax amount must be paid before seeking judicial review.
9	Consolidates two separate notices concerning taxes owed into one notice. The two notices are a notice of a proposed assessment of tax and a notice of a failure to pay penalty if the proposed assessment of tax is not paid within 45 days. Section 3(a) requires a notice of a proposed assessment of tax to inform the taxpayer that a failure to pay penalty will apply to the assessed tax if the assessment is not paid or protested within 45 days. This change streamlines the assessment process and eliminates the mailing costs for the current, separate notice of the failure to pay penalty. Section 3(b) clarifies that the protest of a proposed assessment applies to any failure to pay penalty imposed on the underlying assessment.
10	Enables nonparticipating manufacturers to have access to the information that is used to determine their escrow payments. Currently, when there is dispute about the volume of sales in this State, the nonparticipating manufacturers have no way to verify the sales.
11	Provides that a local sales tax rate may be changed on the first day of any calendar quarter so long as the county gives the Department of Revenue at least 60 days notice. The current law requires 90 days notice and provides that a tax rate change may only be made on the first day of either January or July. The General Assembly enacted the current provision in July 2000 as part of the Streamlined Sales Tax Agreement changes. The Agreement, subsequently enacted in January 2001, provided for the quarterly dates and 60 days notice. This change will conform the local statutes to the SSTA.
PROPERTY TAX CHANGES	
12	Clarifies that liens are extinguished when property is used for low or moderate income housing within allowed statutory time period.
13	Amends the definition of "disabled veteran" to include a veteran whose death was the result of a service-connected condition.

14	Amends G.S. 105-277.8 to add an additional requirement that must be met before property owned by a nonprofit HOA is included in the appraisal of property owned by members of the HOA instead of property owned by the HOA. This additional requirement is that all property owned by the HOA is contained within the same taxing jurisdiction as the taxable property owned by the members of the HOA to which it is appurtenant. This language was in HB 1625, which is currently in House Finance.
15	Clarifies that no deferred taxes are due and all liens are extinguished on historic properties when the historical significance of the property is lost or impaired due to fire or other natural causes.
16	Clarifies that liens are also extinguished when an historic structure is located on the sited within allowed statutory time period.
17	Removes the obsolete term "radio common carrier" from the definition of "public service company" in G.S. 105-333.
18	Adds a definition for "terminal facility" to G.S. 105-333.
19	Clarifies that the repeal of the builder's inventory property tax deferral does not affect the eligibility of certain property receiving the benefit.
20	Corrects an incorrect effective date for the combined motor vehicle system.
MOTOR FUEL TAX CHANGES	
21	Requires taxpayers who must file a return electronically to pay the tax by electronic funds transfer. Current law already requires electronic funds transfer of taxes due by corporations that must pay federal estimated tax by EFT, sales tax prepayments, utilities franchise tax payments, and taxpayers of motor fuel taxes and alternative fuel taxes. This section would expand the requirement to motor carriers and to kerosene suppliers under Article 3 of Chapter 119.
22	Changes the word "report" to "return" to more accurately reflect the type of document described.
23	Updates the reference to the International Fuel Tax Agreement.
24	Provides that a motor carrier who wants to register in North Carolina as its base state under IFTA must be incorporated in this State or authorized to transact business in this State.
25	Repeals some of the purposes for which a distributor may obtain a monthly refund for the motor fuel tax the distributor paid on kerosene used for a non-highway purpose. The end-user of the fuel may apply for an annual refund of the motor fuel tax paid on the kerosene under G.S. 105-449.197 if the end-user uses the kerosene for a non-highway purpose. In 1994, the federal government began requiring motor fuel to be dyed if it was non-tax-paid fuel. The dyed fuel indicates that the fuel is used for a nontaxable purpose under federal law and for a non-highway use in North Carolina. Dyed fuel is not subject to either the federal or State excise tax on motor fuel. Effective July 1, 1998, the federal government began requiring diesel fuel to be dyed. Kerosene is defined as diesel fuel. By requiring kerosene to be dyed, the federal government provided a way to purchase kerosene for non-highway uses, such as heating, without having to pay the motor fuel excise tax on the fuel. However, at the time,

	the public feared that dyed kerosene could not safely be used in kerosene heaters. When North Carolina conformed to the federal law in 1998, it enacted this refund provision.[1] The fear that dyed kerosene would be unsafe for heaters has not materialized and the refund provision at the distributor level is no longer necessary since retailers who wish to sell kerosene for non-highway uses may purchase and sell dyed kerosene. Specifically, this section repeals the refund provided to a distributor who sells kerosene to a retailer and dispenses the kerosene into a dispensing device that is kept locked by the retailer and must be unlocked by the retailer for each sale of kerosene. The distributor is liable for any overpayment of the refund, even if the overpayment is attributable to an act of the retailer. It also repeals the refund provided to a distributor who sells kerosene to an airport to be used only for fueling airplanes because no tax has been refunded for this purpose for at least the past four years. This section becomes effective January 1, 2011, and applies to sales of kerosene made by a distributor on or after that date.
26	Removes a miscellaneous word created by a redlining error.
27(a)	Provides a definition of taxicab that is substantially the same as the one that existed in G.S. 20-87(1), prior to repeal.
27(b)	Clarifies that the quarterly refund of motor fuel tax paid on fuel used to operate special mobile equipment is for the *non-highway* operation of the equipment and for equipment that is registered as SME under Chapter 20. This section becomes effective October 1, 2010, and applies to motor fuel purchased on or after that date.
28	Provides that applications for refunds must be filed in the form required by the Secretary. This change will allow for the electronic filing of refund applications.
OTHER RELATED LAW CHANGES	
29	Corrects a drafting error in S.L. 2009-520. This section becomes effective July 1, 2010; the same date S.L. 2009-520 becomes effective.
30	Clarifies reference to tax imposed on manufacturing fuel.
31	Removes a duplicate subsection header.
32	Corrects an incorrect statutory reference.
33	Repeals a redundant statute. S.L. 2009-527 adjusted the local vehicle registration fee that may be imposed by a transit authority. The subsection being repealed not only conflicted with the 2009 law change but also became unnecessary in light of the 2009 law change.
34	S.L. 2009-451 repealed the repeal of a statute inadvertently reviving the provision. Clarifies the repeal of the original provision.
EFFECTIVE DATE	

[1] S.L. 1994-726 and S.L. 1998-146.

35	Except as otherwise noted, this act is effective when it becomes law.

2009-TDxz-34-SMRB-58 v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

BILL DRAFT 2009-TD-33 [v.1] (05/03)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/3/2010 6:02:34 PM

Short Title:	No Nonvoted Local Debt For Competing System.	(Public)
Sponsors:	Senator Hoyle.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT A LOCAL GOVERNMENT THAT COMPETES WITH PRIVATE COMPANIES IN PROVIDING COMMUNICATION SERVICES HAS THE SUPPORT OF ITS CITIZENS IN FINANCING THOSE SERVICES AND TO CONTINUE THE REVENUE LAWS STUDY COMMITTEE'S REVIEW OF THE TAX AND ECONOMIC DEVELOPMENT IMPACTS OF LOCAL GOVERNMENT OWNED AND OPERATED COMMUNICATION SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-20 is amended by adding a new subsection to read:

"(e2) Communication System. – This section does not apply to an external communication system. A unit of local government may not enter into a contract under this section to purchase, or finance or refinance the purchase of, property for use in an external communication system or to finance or refinance the construction or repair of fixtures or improvements for use in an external communication system. A communication system is a system that provides broadband service or other internet access service, cable service, telecommunications service, video programming service, or a combination of these services. The terms "cable service," "telecommunications service," and "video programming service" have the same meanings as in G.S. 105-164.3. A communication system is external if it provides services to a person who is not a unit of local government or a part of that unit."

SECTION 2. Sections 7.1 and 7.2 of Chapter 574 of the 2009 Session Laws authorize the Revenue Laws Study Committee to study local government owned and operated communication services and to report its findings to the 2010 Session of the 2009 General Assembly. The Revenue Laws Study Committee may continue the study authorized by those sections and may report its findings and any recommended legislation to the 2011 General Assembly.

SECTION 3. This act is effective when it becomes law. This act does not affect contracts entered into under G.S. 160A-20 before the effective date of this act.

2009-TD-33: No Nonvoted Debt Local Debt For Competing System

2009-2010 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	May 5, 2010
Introduced by:		**Prepared by:**	Heather Fennell
Analysis of:	2009-TD-33		Committee counsel

SUMMARY: This bill would (1) restrict the issuance by a local government of nonvoted debt in the form of certificates of participation for the purpose of financing a communication system, such as a cable system or a system that provides internet access service; and (2) authorize the Revenue Laws Study Committee to continue to study local government owned and operated communication services.

CURRENT LAW: Under G.S. 160A-311, cities are authorized to operate a number of public enterprises and to finance these enterprises. One of the authorized public enterprises is a cable television system. A North Carolina Court of Appeals case, *BellSouth Telecommunications, Inc. v. City of Laurinburg, 168 N.C. App. 75, 606 S.E. 2d 721 (2005),* interprets the statutory authorization to operate a cable television system to include operation of a fiber optic network. Morganton (CoMPAS Cable TV), Wilson (Greenlight), and Mooresville and Davidson (MiConnection) currently offer cable and internet service as a public enterprise. Salisbury is currently constructing a system to provide these services.

All of the cities that currently operate a cable and internet system financed the system through the installment purchase contract method authorized by G.S. 160A-20. This financing mechanism, commonly known as certificates of participation, was not authorized when cities were given the authority to operate a cable system as a public enterprise. Under this financing method, a city enters into an installment contract secured by a security interest in the system that is constructed. Unlike the issuance of general obligation bonds, installment purchase financing is not subject to a vote of the people. A certificate of participation is a document setting out the share of the city's debt that is owed to the holder of the certificate. In practice, the holder receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit. The Local Government Commission must approve a local unit's use of certificates of participation and the unit must give notice and hold a public hearing before it can enter into certificates of participation.

All of the cities that currently operate a cable and internet system had an operating loss in their system in fiscal year 2007-08 and 2008-09 ranging from $128,000 to $2.6 million. Two of the cities, Morganton and Wilson, have transferred funds from their electric utility public enterprise operations to provide funds to their cable and internet systems. Salisbury has issued $35.9 million in certificates of participation to finance its system and is in the process of constructing the system.

BILL ANALYSIS: Section 1 of the bill excludes an external communication system from the activities a city can finance with nonvoted certificates of participation. The authority to finance these systems through the issuance of general obligation bonds is not affected. By limiting the exclusion to an external system, the bill preserves the authority of cities to provide a system for its internal governmental purposes, such as police, fire, and rescue. The exclusion does not affect debt that has already been issued.

The purpose of the restriction is to ensure that a city's financing for a communication system is supported by the people. This support would be manifest in a vote on a general obligation bonds.

Section 2 of the bill authorizes the Revenue Laws Study Committee to continue its study of local government owned and operated communication services and to report its findings on this topic to the 2011 General Assembly.

EFFECTIVE DATE: This act would become when it becomes law.

CITY OF MONROE

P.O. BOX 69 • MONROE, NORTH CAROLINA 28111-0069
PHONE 704-282-4511 • FAX 704- 283-9098

April 27, 2010

Ms. DeAnne Mangum
Committee Assistant, Room 329, LOB
Raleigh, NC 27603

SUBJECT: Municipal Broadband Issue

Dear Ms. Mangum:

The General Assembly Revenue Laws Committee met Wednesday, April 21, to discuss the Municipal Broadband issue. This issue revolves around the right of cities to provide high-speed broadband/fiber networks to our communities. Thus far, private sector providers have been unwilling or unable to expand into these communities when asked, leaving some cities with a significant business recruitment, educational, and public safety disadvantage.

Access to affordable, high capacity broadband service is essential not only for our state to compete economically and provide jobs in the knowledge-based global economy, but also to provide our citizens access to advanced applications in medicine, public safety, energy management and education essential to their quality of life.

Unfortunately, over the last five years, the United States has dropped from 8th in the world to 15th in broadband subscriptions per capita. North Carolina itself has dropped from 35th to 41st in the United States. To secure our state's educational and economic future, North Carolina must take steps now to reverse this trend by encouraging investment in the delivery of fiber-to-the-premise networks deployed by both private and public service providers.

Here in Monroe, we have decided it is in the best economic interest of their citizens and businesses to explore, as municipal infrastructure, robust broadband systems. We view broadband as infrastructure no less essential than water, wastewater, road and electric systems.

We do not want a moratorium on municipal broadband nor any walls built that would prevent us from providing high-speed broadband/fiber networks to our community. It is the next utility of our cities.

Sincerely,

Lynn Keziah
City Council Member
Chair of the City Energy and Technology Service Committee

04271001

A RESOLUTION OF THE TOWN OF LITTLETON URGING THE STATE TO OPPOSE ANY LEGISLATION WHICH WOULD PLACE A MORATORIUM ON, OR LIMIT, LOCAL GOVERNMENT PROVISIONING OF BROADBAND SERVICE AND TO RECOGNIZE THE ROLE OF MUNICIPALITIES IN THE DEPLOYMENT OF BROADBAND SERVICES FOR THE ECONOMIC DEVELOPMENT OF NORTH CAROLINA

(R-10-007)

Whereas, access to high capacity, high-speed, state-of-the-art broadband networks is essential for our state to compete in the global economy, is of vital importance to future economic development and community growth in North Carolina to replace lost textile, tobacco, furniture and manufacturing jobs and to provide citizens access to advanced applications in medicine, public safety, energy management and education; and

Whereas, U.S. broadband capability has fallen behind the United Kingdom, Korea, France, Japan and Canada, and even Estonia, all who have access to ultra high-speed fiber broadband systems; and

Whereas, to ensure the U.S. keeps pace, the Obama administration has made broadband access a national priority and Congress approved $7.2 billion in taxpayer funds to expand high-speed networks by both public and private providers.

Whereas, North Carolina has recently become a leader in deploying ultra-high-speed broadband infrastructure, not only through the efforts of Wilson and Salisbury to deploy fiber to the premise systems, but through MCNC's efforts to build a multi-million dollar middle mile network across the state after receiving one of the first NTIA American Recovery and Reinvestment Act broadband grants, serving as a model for the rest of the country, and providing to North Carolina in 2010, the type of ultra-high-speed infrastructure the FCC National Broadband Plan envisions for the country within ten years; and

Whereas, in April 2010, the Revenue Laws Study Committee notified the public of its plans to vote for a moratorium on all future municipal broadband deployments in North Carolina, based on unproven allegations of the state's incumbent communications providers that municipal deployments bring harm to the private sector and could lead to reduced state tax revenues; and

Whereas, such legislation would prohibit municipalities from deploying essential infrastructure necessary to bring advanced high-speed broadband to underserved and unserved areas of North Carolina, stifle the state's future economic and private sector development, job growth and associated state tax revenues, and reduce the ability of our residents to access advancements in health care, educational, environmental and public safety services; and

Whereas, if enacted the proposed moratorium would also deny local governments the availability of federal grants under the American Recovery and Reinvestment Act to

assist in providing affordable access to high capacity broadband service in unserved and underserved areas; and

Whereas, North Carolina's incumbent providers have recently stated their belief that they provide North Carolina residents sufficient broadband service and that the state's broadband needs are being met; and

Whereas in March 2010 more than forty (40) communities throughout North Carolina (including Raleigh, Cary, Greensboro, Asheville, Chapel Hill and Wilmington) demonstrated their need for higher broadband capacity by requesting Google to partner with them in deploying fiber to the home networks in their communities;

Whereas, private providers have not been willing or able to provide high-speed broadband services to all, and local governments have stepped in to serve the public and promote economic development in their respective areas;

Whereas, North Carolina law has long permitted local governments to engage in public enterprises and where there is no justification for treating communications enterprises any differently from other public enterprises;

Whereas, the General Assembly has already established the 1) rules for Public Enterprise (NCGS § 160A Article 16), 2) regulations through the Budget and Fiscal Control Act (NCGS §159 Article 3), and oversight by the Local Government Commission (NCGS §Article 2) in which a local government must abide in order to undertake providing an enterprise service to its community;

Whereas, any municipal broadband moratorium is counter to the Local Development Act of 1925 as established NCGS §158 that allows local governments to aid and encourage economic development in communities throughout North Carolina;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF LITTLETON THAT:

1. The State of North Carolina adopt policies to encourage the development of high-speed broadband, including advanced, next-generation fiber-to-the-premise networks, in order to fully serve the citizens and advance education and economic development throughout the state.

2. The General Assembly provide incentives for both public and private development of high capacity connections in order to handle rapidly growing data needs.

3. The General Assembly promote competition by curtailing predatory pricing practices that are used to push new providers and public broadband services out of the market.

4. The General Assembly reject any municipal broadband moratorium or legislation similar to the Level Playing Field bills that would have a chilling effect on local economies and would impede or remove local governments' ability to provide

broadband services to enhance economic development and improve the quality of life for their citizens.

5. A copy of this Resolution be given to each member of the Revenue Laws Study Committee and the House Select Committee on Urban and Rural Broadband, the House and Senate leadership and the Governor.

This the 3rd day of May, 2010.

Betty B. Willis
Betty B. Willis, Mayor
Town of Littleton

ATTEST

Sheila R. Taylor
Clerk

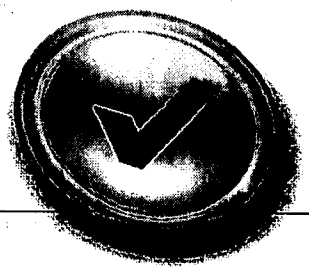
The Video Programming Act
SL 2006-151

Revenue Laws Study Committee
May 5, 2010

Cindy Avrette and Heather Fennell, Research Division
Rodney Bizzell and Sandra Johnson – Fiscal Research

Goals of SL 2006-151

- Equal taxation of the same service
- Tax system that is easy to administer
- Preserve local government revenue stream



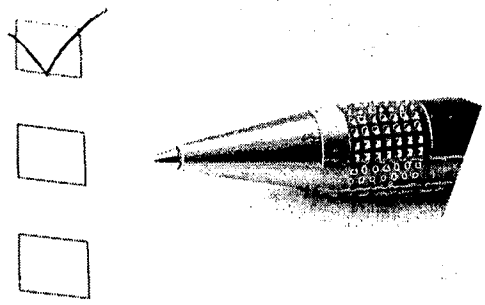
- Promote competition in marketplace
- Promote deployment of broadband as a basic communication tool
- Financial support and viability of PEG channels

Reporting Requirement

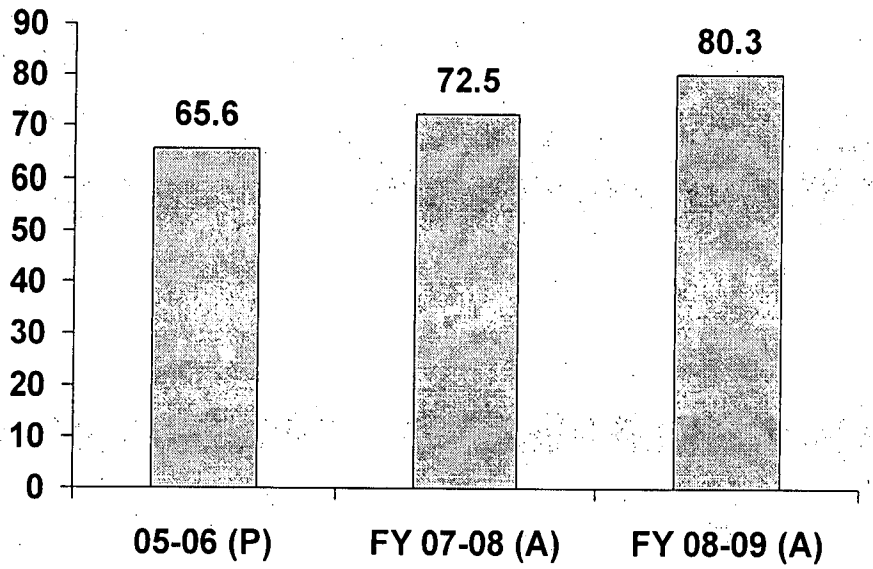
- Revenues
- Competition in Video Programming & Deployment of Broadband
  - S.L. 2006-151, section 21
  - Revenue Laws Study Committee
- Video Programming Customer Services
  - S.L. 2006-151, section 18
  - CPD of the AG's Office

Reporting Requirement

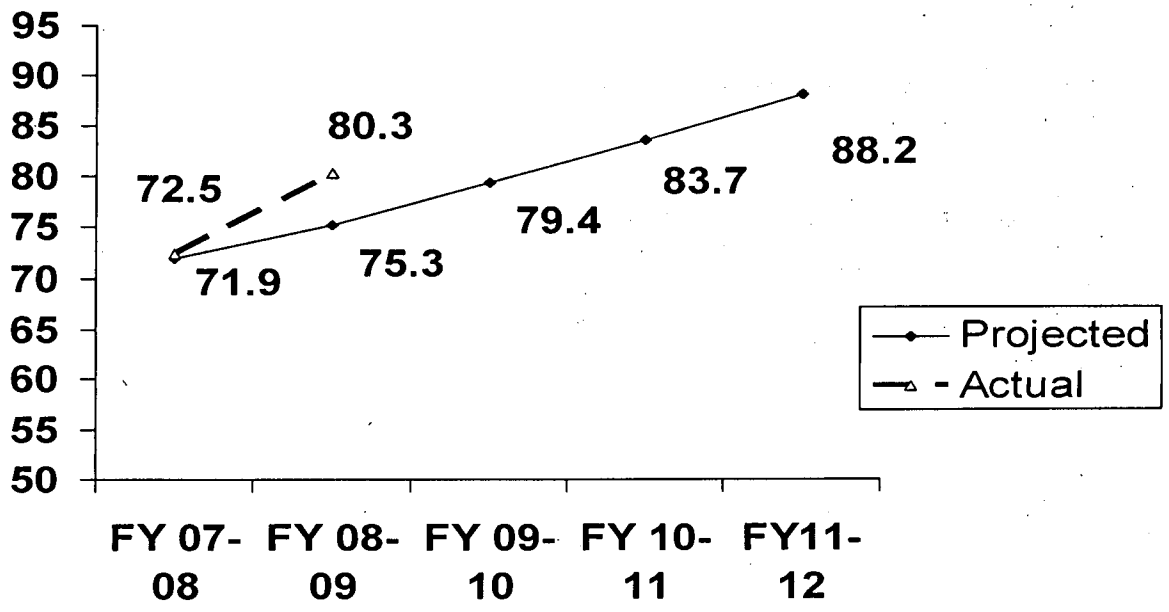
- Revenues
- Competition in Video Programming & Deployment of Broadband
- Video Programming Customer Services



Local Distribution, Projected 05-06 Actual FY 07-08, FY 08-09 ($ In Millions)

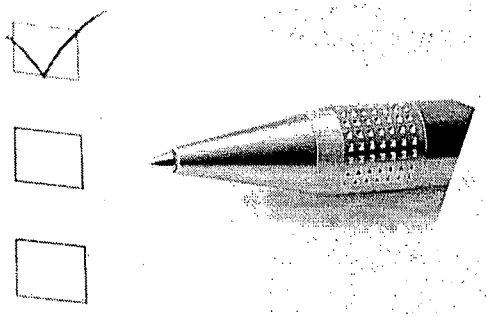


Local Video Programming Tax Revenue, FY07-08 thru FY11-12



Reporting Requirement

- Revenues
- Competition in Video Programming & Deployment of Broadband
- Video Programming Customer Services



State Issued Franchises

- 118 State Franchises approved between January 2007 and April 2008
- 221 State Franchises approved since April 2008
- State franchises generally represent the same service areas covered under old franchise agreements

Reports from Providers

- AT&T
- North State Communications
- NC Telephone Cooperative Coalition, Inc.
- NC Cable Telecommunications Association

- Streamlined process eliminated time & expense
- Deploy service faster
- Infrastructure deployment
- Dramatically increased data speeds

Reports from Interested Parties

- League of Municipalities
- Southeast Association of Telecommunications Officers & Advisors (SEATOA)
- e-NC

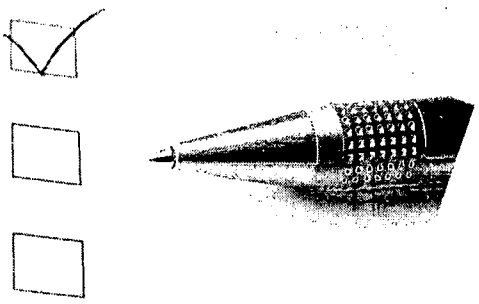
- Many areas served by only one provider
- Prices?
- e-NC will report in May or June on the current state of broadband deployment in NC

FCC 06-180

- Build-out Requirements
  - Locally negotiated
  - FCC "record shows that build-out issues are one of the most contentious…"
  - FCC 06-180 limits LFAs' ability to impose certain build-out requirements
- PEG Services and Equipment
  - S.L. 2006-151 provided PEG support
  - FCC "proper treatment of LFA-mandated contributions in support of PEG services and equipment"
  - FCC 06-180 limits LFAs' authority

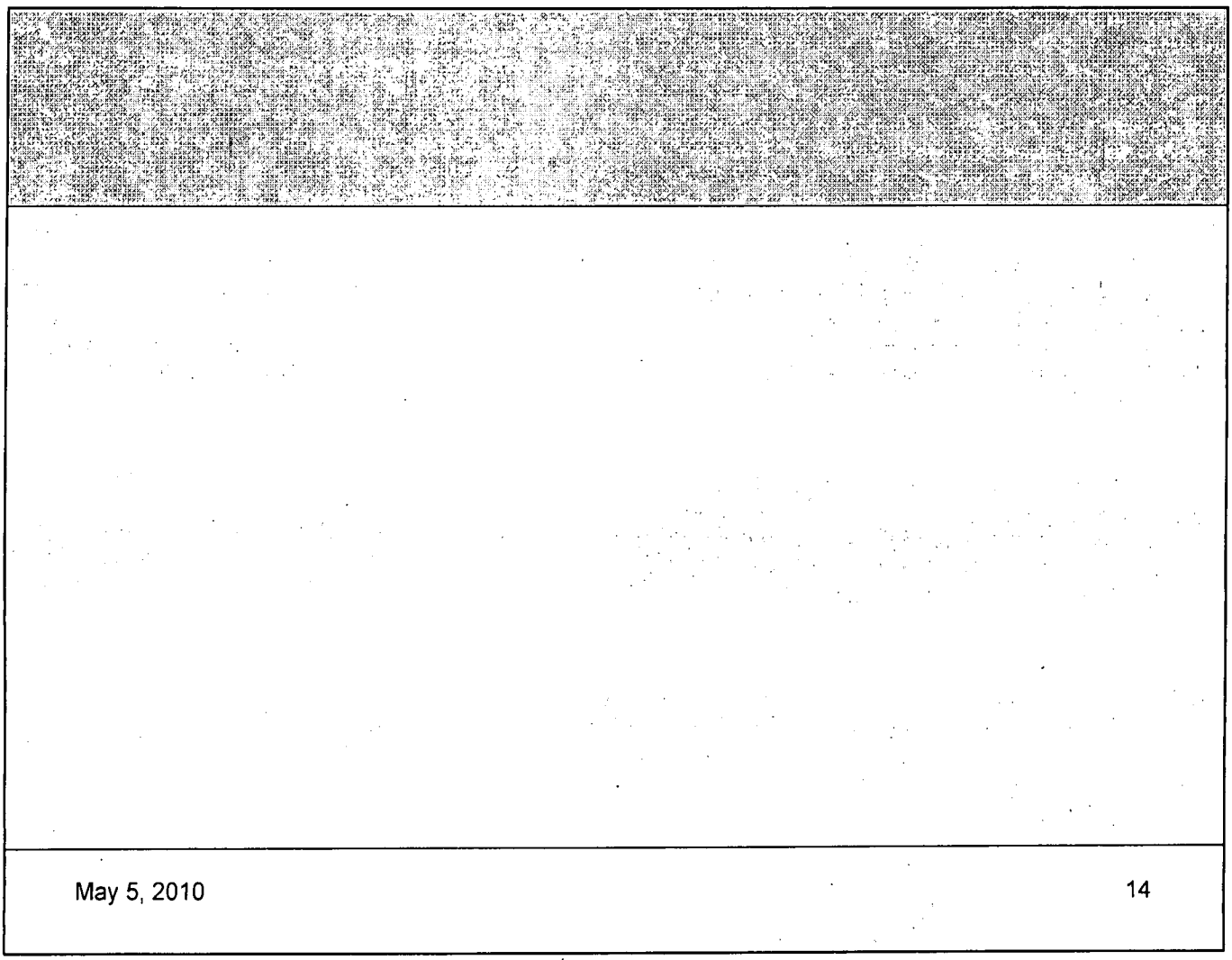
Reporting Requirement

- Revenues
- Competition in Video Programming & Deployment of Broadband
- Video Programming Customer Services



CPD of AG's Office

- March 2009 – March 2010
  - 282 written complaints
  - 50% increase
- Majority of Complaints
  - 103 alleged billing errors
  - 94 alleged unsatisfactory service or repair
- Mediate Resolutions; Track Responses
  - Consumer satisfaction
  - Pattern of behavior that warrants investigation



Video Services Competition Act
2010 Biennial Report
AT&T North Carolina
April 28, 2010

Attached are some PowerPoint slides which provide information about AT&T's deployment of its U-verse video service in North Carolina following the passage of the Video Service Competition Act. The passage of this legislation created a regulatory and business environment in North Carolina which made it more conducive for AT&T to begin its deployment of U-verse. Consequently, North Carolina was the third state in the former BellSouth nine-state region where AT&T began offering its U-verse service. Similarly, with a statewide franchise, AT&T was able to deploy U-verse much faster in a significantly larger number of cities and municipalities than it would have been able to by negotiating individual franchises.

The slides contain the following:

Slide 2	Deployment Dates
Slide 3	Internet Protocol technology used for video deployment (IPTV)
Slide 4	Map of Charlotte Area Service Territory
Slide 5	Map of Raleigh Area Service Territory
Slide 6	Map of Asheville Area Service Territory
Slide 7	Commencement of Service (selling service) in Counties
Slide 8	Commencement of Service (selling service) in Cities, Municipalities and Communities
Slide 9	Subscribers as of December, 2009
Slide 10	Broadband Impact

From a competitive standpoint, AT&T now offers many customers two options for advanced video services: Direct TV satellite video and U-verse IPTV video. AT&T has a marketing arrangement with Direct TV which allows most all of its customers the ability to realize savings when they bundle their Direct TV subscription with other AT&T services. Similarly, customers can realize significant savings when they bundle their U-Verse video services with other AT&T services. These are two different video technology options with different capabilities, different technologies, different pricing arrangements, different product and packaging offerings, etc. that are significantly different from the traditional cable offerings. While we have included a sampling of the U-verse service offerings, there are a myriad of bundles and packages with different prices, features, etc. which change frequently in this highly competitive arena.

Since the introduction of U-verse in November, 2009, AT&T has attracted over 13,300 subscribers. We continue to deploy U-verse in the Charlotte, Raleigh, and Asheville regions, and will continue to deploy U-verse in additional areas of North Carolina. This deployment has not only given North Carolina citizens another video option, it has created a tremendous economic development benefit to North Carolina through the additional investment required for the infrastructure deployment as well as the jobs it has created to design, construct, sell, install, and maintain the services.

The Internet Protocol video service technology has created an exciting new array of video capabilities that far surpasses the traditional cable offerings. From offering more HD channels than any cable provider to the Total Home DVR, the picture in picture that works on any TV, multiview four-screen TV, games, information bars, and a host of other new features, this is a truly different choice for consumers. And, since this video service is IP based, there is more interactivity and functionality available between the customer's internet, wireless, and video services than has ever been possible.

Finally, U-verse has not only made high speed Internet services available to more customers, it has dramatically increased the speeds and options available to U-verse customers. Approximately 94% of AT&T customers in North Carolina have access to high speed Internet access. Before U-verse was introduced, AT&T's maximum offering for high speed Internet access was 6 mbps download. Today, only one year after the initial deployment of U-verse, U-verse customers can now select up to 12 mbps, 18 mbps, or 24 mbps download speeds with up to 3 mbps upload speeds. Additionally, business customers continue to have access to many other technologies and connection speeds such as T-1, T-3, Frame Relay, etc.



at&t

Biennial Report on Video Competition in North Carolina to the Revenue Laws Study Committee

April 2010

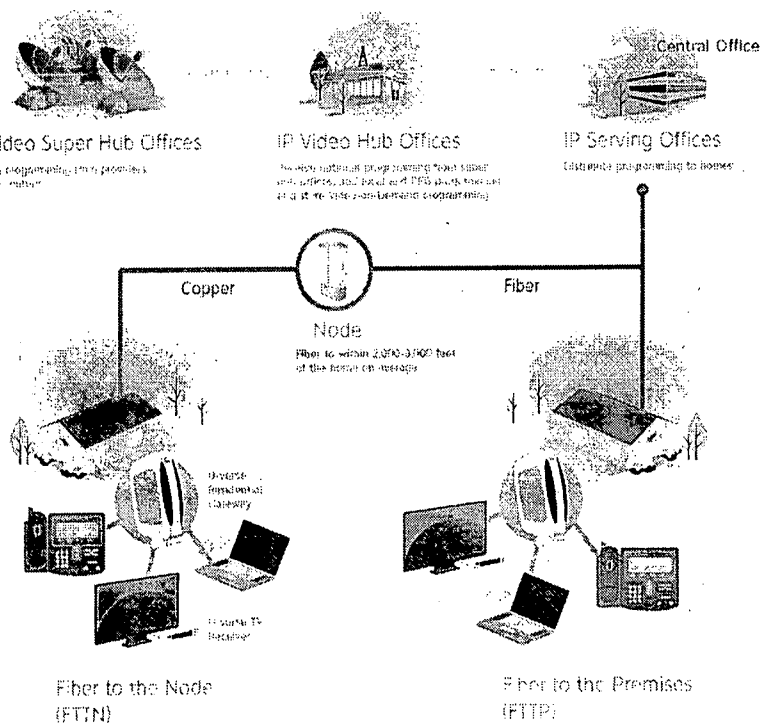
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Background

- AT&T announces plans for **multi-million-dollar investment** in fiber network upgrades, further broadband deployment and internet-based technologies to bring new services, including cutting-edge television, to North Carolina. *(July 2007)*
- AT&T launches AT&T U-verse TV in the **Charlotte** region. *(November 2008)*
- AT&T launches AT&T U-verse TV in the **Raleigh** region. *(December 2008)*
- AT&T launches AT&T U-verse TV in the **Asheville** region. *(August 2009)*
- AT&T U-verse has received industry acclaim for service excellence and innovation, which echoes the positive feedback from customers.
- AT&T U-verse TV ranked **"Highest in Residential Television Service Satisfaction in the South and West Regions Two Years in a Row,"** according to the J.D. Power and Associates 2008 and 2009 Residential Television Service Provider Satisfaction Studies[SM].

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Technology



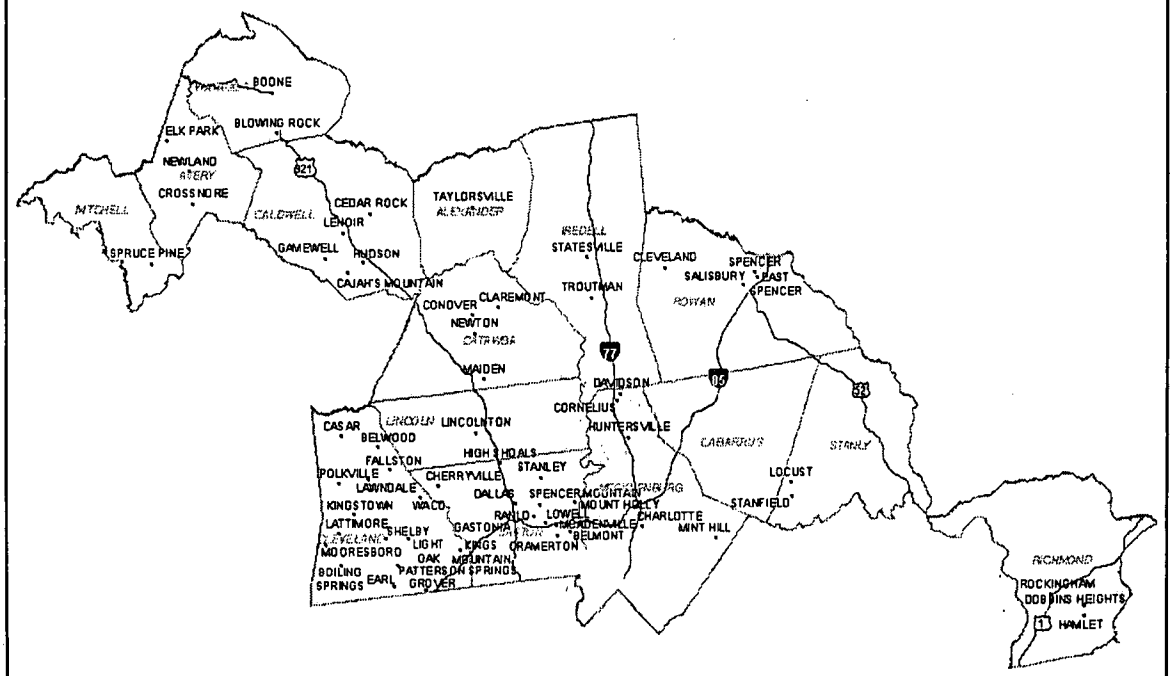
How AT&T U-verse TV is Delivered

AT&T's Internet Protocol (IP) network and video backbone delivers high-quality video, advanced

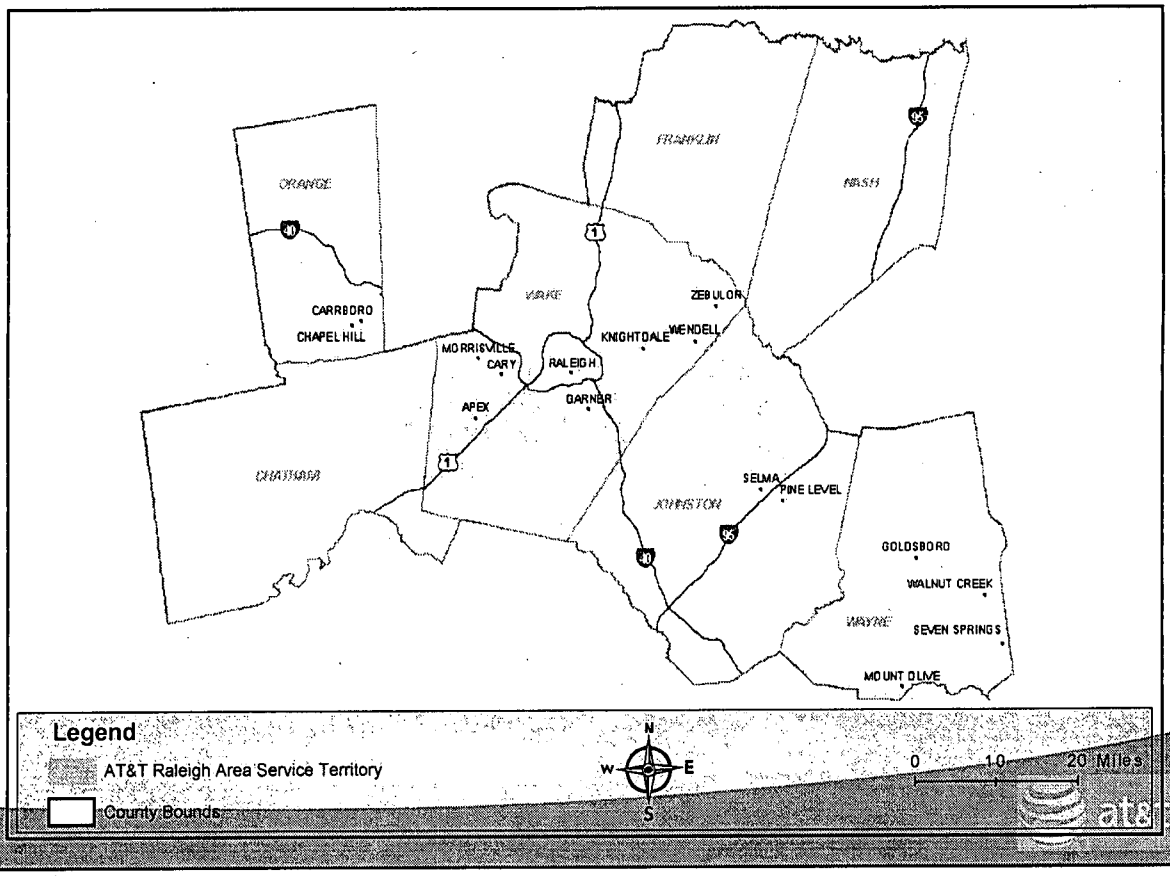
functionality, and other applications. Video content travels AT&T's managed, two-way IP network

and arrives at the customer's home via fiber-to-the-premises or fiber-to-the-node technology.

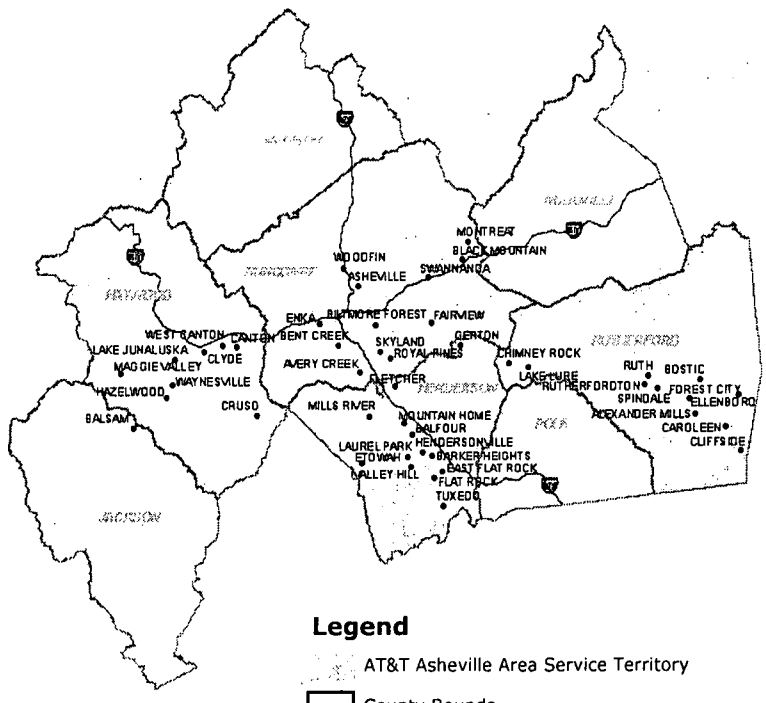
AT&T North Carolina Notice of Franchise for Charlotte Area Service Territory



AT&T North Carolina Notice of Franchise for Raleigh Area Service Territory



AT&T North Carolina Notice of Franchise for Asheville Area Service Territory



Commencement of Service: Counties (not available for all living units)

- Charlotte DMA
  - Burke, Cabarrus, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan
- Raleigh DMA
  - Chatham, Durham, Orange, Johnston, Wake
- Asheville DMA
  - Buncombe, Haywood, Henderson

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Commencement of Service: Cities, Towns, and Communities (not available for all living units)

- **Charlotte DMA**
  - Alexis, Belmont, Bessemer City, Boger City, Boiling Springs, Charlotte, Cherryville, Cleveland, Claremont, Connelly Springs, Conover, Cornelius, Cramerton, Crouse, Dallas, Denver, Drexel, Davidson, E. Spencer, Gamewell, Gastonia, Granite Falls, Grover, Harrisburg, Huntersville, Iron Station, Kings Mountain, Lenoir, Lincolnton, Lowell, Maiden, Matthews, McAdenville, Midland, Mint Hill, Morganton, Mt. Holly, Mt. Ulla, Newton, Patterson Springs, Pineville, Ranlo, Salisbury, Shelby, Spencer, Stanley, Statesville, Triangle, Troutman, Valdese, Waco
- **Raleigh DMA**
  - Apex, Carrboro, Cary, Chapel Hill, Fearrington, Garner, Holly Springs, Knightdale, Morrisville, New Hill, Raleigh, Willow Springs, Wendell
- **Asheville DMA**
  - Alexander, Arden, Asheville, Avery Creek, Bent Creek, Biltmore Forest, Candler, Fairview, Fletcher, Hendersonville, Mills River, Royal Pines, Skyland, Swannanoa, Woodfin

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Statistical Summary

- Video subscribers as of December, 2009: Approximately 13,000
- Public/Education/Government (PEG) Channels

Raleigh Market:

RALEIGH,NC - 3 channels

CHAPEL HILL,NC - 2 channels

CARY,NC - 1 channel

GARNER,NC - 1 channel

KNIGHTDALE,NC - 1 shared channel

WENDELL,NC - 1 shared channel

ZEBULON,NC - 1 shared channel

ROLESVILLE,NC - 1 shared channel

Charlotte Market:

CHARLOTTE,NC - 4 channels

AT&T U-verse TV Package Pricing

Service	Description	Price
U100	• General package with up to 130 of the most viewed channels, includes locals • Includes one HD-ready receiver	$54/ month
U200	• Up to 230 TV channels, including news, movies, children's and family entertainment • Local channels • 48 digital music channels • Includes HD Service and one HD-ready DVR	$67/month
U200 Latino	• Up to 250 channels, including everything in U200 plus Paquete Español	$77/ month
U300	• Up to 300 TV channels and everything in U200 • 34 premium movie channels including SHOWTIME, The Movie Channel, Starz, FLIX and Encore • Includes HD Service and one HD-ready DVR	$82/ month
U450	• Up to 390 TV channels and everything in U300 • 60 premium movie channels including HBO and Cinemax • The most-watched sports channels, including regional sports • Includes HD Service and one HD-ready DVR	$112 / month
U-family	• Market-leading family-friendly package including up to 70 of the best family-oriented channels, plus video-on-demand • Includes HD Service and one HD-ready DVR	$54 / month
U-basic	• Basic package with up to 20 local channels (# available locals varies by market) • Includes one HD-ready receiver	$19/ month

Package counts reflect possible channels based on subscription to Core Package and HD Technology Fee.

at&t

Broadband Impact

- Approximately 94% of AT&T customers in North Carolina have access to high-speed Internet DSL service.
- Introduction of U-verse made high-speed service available to customers in some locations where it had not previously been offered.
- Introduction of U-verse made available three higher-speed options for U-verse customers: Max, Max Plus and Max Turbo.

AT&T U-verse High Speed Internet Tiers	Downstream speed	Upstream speed
Express	Up to 1.5 Mbps	Up to 1.0 Mbps
Pro	Up to 3 Mbps	Up to 1.0 Mbps
Elite	Up to 6 Mbps	Up to 1.0 Mbps
Max	Up to 12 Mbps	Up to 1.5 Mbps
Max Plus	Up to 18 Mbps	Up to 1.5 Mbps
Max Turbo	Up to 24 Mbps	Up to 3.0 Mbps

All U-verse High Speed Internet packages include wireless home networking and unlimited access to AT&T Wi-Fi hotspots

NORTH STATE COMMUNICATIONS

Lynn B. Welborn
Director
External Affairs

April 28, 2010

Heather D. Fennell
Staff Attorney
North Carolina General Assembly
Research Division
545 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603

RE: Revenue Laws Study Committee review of Article 42 of Chapter 66

Dear Ms. Fennell:

Pursuant to the Video Service Competition Act (S.L. 2006-151), North State Communications LLC, d/b/a North State Communications filed on December 11, 2008 with the North Carolina Secretary of State's office our *Notice of Cable Franchise* to offer video services within our franchised telephone service territory. The area covers portions of Davidson, Forsyth, Guilford and Randolph Counties.

The Video Service Competition Act was an integral part of our company's video offering decision. The Act streamlined the process of securing a statewide franchise which in turn eliminated the normal timelines and costs of obtaining franchise agreements with 10 city and county entities.

Both of these benefits provided to North State the ability to offer video services in direct competition with the dominant multichannel video distributor within our area in a timely fashion and with competitive pricing.

111 North Main Street • P.O. Box 2326 • High Point, North Carolina • 27261 • Tel: 336-886-3768 • Fax: 336-887-7418 • Email: lynn.welborn@nscom.com

Similar to other Multichannel Video Service Providers, our pricing structure is based on the quantity of channels provisioned as well as bundling the video portion with other telecommunications services. The video packages range from $20 to $105 depending on channel groupings and High Definition options.

North State Communications introduced to the market its full featured, commercially available video offering in August 2009 through extensive advertising and branding efforts. Most recently North State Communications introduced one of the highest symmetrical broadband service for home use than any competitor in our marketplace.

Both of these services are provisioned via our fiber to the premise (FTTP) infrastructure. In most cases, video services are being purchased in conjunction with our broadband and voice services. The passing of the Act allowed North State Communications to advance the pace of our ongoing infrastructure upgrade which will ultimately culminate in an all fiber network.

North State Communications appreciates the opportunity to share this information with you and if the Revenue Laws Study Committee requires any additional information, please let me know.

Sincerely,

Lynn Welborn

Lynn Welborn

MEMORANDUM

TO: Heather Fennell, Legislative Research

FROM: Dwight Allen, N.C. Telephone Cooperative Coalition, Inc.

RE: VIDEO SERVICE COMPETITION ACT

This Memorandum is a follow-up to our earlier conversations concerning the impact of Video Service Competition Act (Video Franchise Act) on the member companies of the N.C. Telephone Cooperative Coalition. Those companies include ATMC, Randolph TMC, Skyline TMC, Star TMC, Surry TMC, Tri-County TMC, Wilkes TMC and Yadkin Valley TMC. Collectively, the companies operate in all or part of the most rural areas of 26 N.C. counties and provide state-of-the-art telecommunications services to approximately 180,000 citizens.

When I surveyed the eight companies, I was somewhat surprised, but also pleased, to learn that all eight of these rural companies have utilized the Video Franchise Act to either expand or initiate video service. In some instances, the services are being provided in competition with an incumbent provider. In other instances, the Video Franchise Act has simplified market entry so that rural customers now have access to a land based video product that was not previously available. The new law has permitted some companies to expand their video offerings and the other companies developed video offerings following passage of the law. One of the TMC managers noted that the Video Franchise Act reduced the administrative costs and burdens of pursuing multiple local franchises and, thus, permitted them to enter the market quicker and more efficiently than would otherwise have been the case.

It is noteworthy that these companies were capable of providing high speed Internet to their total customer base at the time that the Video Franchise Act was passed. However, the passage of the Video Franchise Act has provided an additional incentive to these companies to expand their fiber optic networks since they now have the opportunity to benefit from an additional revenue source, which helps justify the significant capital costs that must be incurred. The newly deployed fiber facilities will not only provide the backbone network to provide IPTV services but it will also permit the companies to increase the data speeds that will be required by customers in the future. Time limitations did not permit us to obtain information from all eight companies, however, the six companies that did provide information indicate that on a combined basis, they have invested more than $75 million in additional capital for fiber and video deployment since

the passage of the Video Franchise Act. This is a significant capital outlay for companies of this size. While some of that investment might have occurred made without the new law, it is apparent that the availability of the new law played a significant role in these investment decisions.

Since video offerings differ, it is impossible to compare prices for video services on a fully comparable basis. However, the range of Tier I pricing for the 6 companies range from a low of $12.50 per month to a high of $47.50 per month, both of which appear comparable to Tier I offerings in more populated areas. In summary, the Video Franchise Act has been very beneficial to the State's Telephone Membership Corporations. As another manager put it, "the law has been good for customers and good for competition."

REPORT OF THE NORTH CAROLINA CABLE TELECOMMUNICATIONS ASSOCIATION CONCERNING THE BIENNIAL REVIEW OF THE VIDEO SERVICES COMPETITION ACT

April 28, 2010

The North Carolina Cable Telecommunications Association is pleased to present this report in connection with the biennial review of the Video Services Competition Act.

NCCTA is a trade association representing the cable telecommunications industry. Its members provide video, broadband, telephone, and related services to over 1.7 million subscribers in North Carolina.

I. Status of Video Competition

Competition in the video programming market remains vigorous. This consists of several components.

First, about 30% of North Carolina households with TV sets subscribe to satellite-provided multi-channel TV services. As satellite TV service is available throughout the state, satellite is a state-wide competitor of video programming services.

Second, incumbent telephone companies and telephone cooperatives offer "triple play" services consisting of a telephone, broadband and video bundle. The video component of this bundle typically consists of the telephone companies' resale of satellite-delivered service or the companies' provision of its own services. This last category—telephone company provision of its own video services—has been encouraged and facilitated by the Video Services Competition Act, which greatly reduced the burdens associated with negotiating and securing local franchise agreements from North Carolina local governments. According to statistics available to NCCTA, the telephone companies presently serve more than 60,000 customers in North Carolina with video services via their own facilities. (According to AT&T's 2010 Q1 financial report, it added 231,000 U-verse TV customers nationwide in the first quarter, bringing its total U-verse customer base to 2.3 million.) Without question, telephone companies and

cooperatives have deployed competitive video services in North Carolina over the past year and are continuing to do.

Finally, the past several years have seen competition by several city-owned providers of video services, including the City of Wilson, MI Connection (owned by Mooresville and Davidson), Morganton, and the City of Salisbury (to be operational this summer). These cities offer video services in direct competition with cable companies and benefit from a variety of competitive advantages—such as tax exemptions, access to tax exempt financing, and the ability to regulate their competitors. By allowing these cities to take advantage of tax exemptions, the state is effectively subsidizing competition by the cities against private providers of communications and information services.

II. Status of Broadband Deployment

The deployment of broadband in North Carolina by private industry has been remarkable. Just 10 years ago, there was virtually no broadband in this state. Today, approximately 92% of all North Carolina households have access to broadband services as a result of the enormous investment made by private industry. Given this widespread deployment, there are two primary issues faced by the state in the area of broadband—(1) increasing the take rate among citizens that have access to broadband but are unable or unwilling to purchase the service, and (2) extending broadband to those few households that remain unserved.

There are a variety of public-private initiatives under consideration to address these issues. For example, the e-NC Authority has awarded grants to private providers to extend broadband into unserved areas. Also, the federal government is currently awarding grants to extend broadband service to both increase broadband demand and availability. Finally, the staff of the Federal Communications Commission (FCC) has recently released a Broadband Plan which provides a comprehensive federal plan to promote broadband deployment and access.

III. Recommendations

The cable industry was not a sponsor or proponent of the original legislation that moved cable franchising to the state level. Despite this, NCCTA believes that, in general, the VSCA has worked well. The legislation has streamlined the franchising process and has made it easier for

new entrants to secure the necessary authorization so as to provide video service. In this regard, without question, the VSCA has served to promote competition with respect to video services.

For this reason, NCCTA does not believe that any changes to the VSCA are necessary at this time.

* * *

NC LEAGUE OF MUNICIPALITIES

April 29, 2010

TO: NCGA Revenue Laws Committee
FR: North Carolina League of Municipalities

RE: Report regarding impact of the Video Service Competition Act (S.L. 2006-151)

Thank you for the opportunity to submit information based on the experience of North Carolina League of Municipalities' member cities and towns. This is an important issue to our communities and citizens across the state. If you have questions or comments regarding this report, please contact Kelli Kukura, Director of Governmental Affairs at 919-715-3942.

(1) Competition in video programming services.
Anecdotal information suggests that competition does not exist in most of the state, but it is difficult to assess the level of competition for video programming services given the limited data available. While several companies have submitted Notices of Franchise to the Secretary of State for areas of the State, the information submitted with the Notices does not indicate whether the franchise is sought because an existing agreement has expired, the existing provider now faces competition, or the area is a new market for the company. In addition, very few of the providers filing Notices of Franchise have also filed Notices of Service (or the Secretary of State is not posting those Notices), so it is not possible to know whether video programming service actually is available in the franchise area. The e-NC Authority currently is collecting data that could show which areas of the State are served by multiple providers as part of a federally-funded project, but the data is not yet available for analysis.

(2) The number of cable service subscribers, the price of cable service by service tier, and the technology used to deliver the service.
The Video Service Competition Act has not led to an improvement in cable prices. A 2009 report by the Center for Science Technology & Public Policy at the University of Minnesota found that North Carolina's 48.2 percent increase in the cost per channel of cable for the period December 2006 to February 2009 ranked fourth highest among the 50 states. *The beginning of this period corresponds to the implementation of the Act, so the Act clearly has not led to lower prices or even slower growth in price relative to the rest of the nation.*

The data currently being collected by the e-NC Authority will provide information on the number of cable subscribers and the technology used to provide the service.

(3) The deployment of broadband in the State.
Broadband deployment has improved since the passage of the Video Service Competition Act, but this improvement is due largely to the government subsidies provided by the State through the e-NC Authority, rather than to increased competition. A recent project by Connected Nation indicated that many areas of the State have broadband access only through wireless connections, and so have not been served by cable providers as a result of cable deregulation. Deployment of extensive fiber-to-the-home broadband systems is limited to a municipal system in the City of Wilson and several systems set up by telephone cooperatives. North Carolina's economic future depends upon the development of an efficient system of data communication that will require such fiber connections.

SOUTHEAST ASSOCIATION OF TELECOMMUNICATIONS OFFICERS & ADVISORS
GEORGIA – NORTH CAROLINA – SOUTH CAROLINA – TENNESSEE
A REGIONAL CHAPTER OF NATOA

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JOHN ROCCO

April 29, 2010

To: Heather Fennell, Staff Attorney, Research Division

From: Catharine Rice, SEATOA President

Subj: Request on Impact of Video Service Competition Act

SEATOA learned on or around April 23, 2010, that the Revenue Laws Study Committee planned to report on impact of the Video Service Competition Act on May 5, 2010, and was given until April 29, 2010 to report on the issues outlined in Section 21 of that law, including 1) competition in video programming services; 2) the number of cable service subscribers, the price of cable service by service tier, and the technology used to deliver the service; and 3) the deployment of broadband in the State. Section 21 requires that in reviewing the effect of the law on these areas, it should determine if any changes to the law are needed.

The SEATOA Board of Directors voted on April 27, 2010 that I should provide the following feedback to the Committee:

Based on the industry's promise that the VSCA would lead to increased competition, consumer choice, lower cable rates, maintained and strengthened PEG channels, improved customer service and accountability, and that local governments would be kept financially whole through the replacement of their local cable franchise fees with a video programming tax, the experience of local communities has been:

1) That the Video Service Competition Act has failed; after four years, it has produced no discernable or significant evidence of video competition but instead has allowed monopoly operators to continue unchecked with no real level of government consumer protection oversight;
2) That in the absence of any data collected by the state, the largest indicator of a lack of competition is that cable rates have increased every year since enactment of the Act except in communities with municipally owned cable systems;
3) That in some places in the state, state franchising has led to less consumer video choice, as deregulated companies have reduced the size of the service areas previously served under local cable franchises;
4) That the deregulation of the state's cable industry has led to underfunding of public, educational and government (PEG) channels which were previously funded by cable operators as a negotiated requirement in local cable franchise, the termination of PEG channels and the stifling of the development of PEG channels;

5) That the VSCA it has led to less consumer accountability than prior to the VSCA due to the absence of competition, substantive reporting requirements, and enforcement by the Secretary of State's office of the existing, deminimus reporting requirements;

6) That no evidence has been produced that local governments were kept financially whole through the replacement of their franchise fees with a video programming tax.

The SEATOA Board recommends that the General Assembly require a careful and comprehensive investigation of the level (and lack) of video competition in North Carolina, (and devote more than one week to this effort). That additionally cable service rates be tracked over time to measure whether they are increasing or decreasing. That new reporting requirements be established, and public access be provided the following data, broken out by local community: a) the names of the cable operators serving that community; b) the exact service areas of those operators graphically displayed with detailed maps; and c) the number of cable subscribers, and pricing by level of service. That the General Assembly re-establish local government cable oversight due to a lack video competition and not remove local consumer oversight until effective competition is clearly established, as measured by long term reduction in service prices. That in light of the significant role cable broadband systems play in the economic growth of local communities, the General Assembly reinstate the right of local communities to require build-out standards, along with financial penalties for non-compliance.

The Board also recommends that a careful analysis be done of local public, educational and government channels, and the reasons behind the absence of new channels developing. That an investigation be done of reports that current cable operators are refusing to provide local public, educational and government channels on their cable systems in local communities despite proper requests for those channels according to Section 66.357.

The Board also recommends that the Secretary of State's (SOS) office be required to publicly the Notice of Franchises on its web site. That the Notice of Service forms be amended to detail the provision of the law under which an operator is claiming to be subject to a state franchise (and not to a local franchise.) That that office post on its website color maps of the state franchise applicant's service area, instead of black and white maps. That the Attorney General's office track both written and phone call cable consumer complaints.

BACKGROUND

Only July 21, 2006, during the short session of the North Carolina General Assembly, the Video Service Competition Act (VSCA) was signed into law, in essence removing thirty-years of local government cable franchising and associated consumer protection and oversight. Prior to this law, North Carolina's local governments protected consumers through local cable franchises which contained consumer protections, build-out, construction and transfer of ownership requirements, requirements that local public, education and government channels be carried on the local cable system and funded by the cable operator, and financial penalty provisions for cable operator non-compliance. Federal law prevented communities from granting monopoly cable franchises, but local cable operators reached "gentlemen's agreements" not to compete. The VSCA in essence deregulated these monopoly operations without any minimum requirement that competition be present, shifted consumer oversight to the Attorney General but limited the terms

of that oversight and permitted the Secretary of State's office to restrict FCC's cable consumer protection obligations which the Attorney General would then enforce, removed all public oversight or evaluation when cable systems are bought and sold, and established no penalty provisions for failure to meet FCC customer protection standards or state franchise reporting requirements. Consumers and communities were relegated to the single, unaffordable remedy of suing a cable operator who was in breach of the VSCA's minimum requirements.

IMPACT OF THE VSCA

1) *Failure to Create Competition, leading to increased cable rates, less consumer video choice:*

The VSCA provides no mechanism for the State to document the level of local community cable competition, cable prices, service levels or technologies used to deliver service. SEATOA Board members, who represent Raleigh, Charlotte, Cary, Salisbury and Asheville, report no sign or no significant presence of competition. AT&T, the largest potential competitor in the state, began offering U-verse service in the state a full three years after the VSCA was enacted, and while publicly claiming to offer service in the state, refuses to provide subscriber totals or maps of actual areas served. According to AT&T's 2009 Annual Report, it only serves 16% of homes passed in its service area. AT&T's 2008 and 2009 state franchise notices reveal that its potential U-verse service areas will now only cover slightly more than half its telephone service area; with that telephone service area only covering 25% of the state. (See attachment 1). The net result of the VSCA has been to deregulate the state's cable operators, who are subject to no competition, leading to increased cable rates across the state (except in those areas facing competition from municipal cable operators).

The Triangle J Council of Government's Broadband Consortium's cable consultant reports that Triangle area cable rates have increased every year since the VSCA was enacted. 2008 cable rate data collected by the Triangle J Council of Government Cable/Broadband Consortium, reveals that Time Warner Cable's rates for 15 communities including Raleigh increased between 5-50% depending on service tier, in contrast to Time Warner Cable customers living in Wilson and served from the same headend as the Triangle, with the same programming as the Triangle, experienced no change in rates during 2007 or 2008. Time Warner Cable faces competition from Greenlight in Wilson, a municipally-owned system. (See Attachment 2).

Nash County's cable consultant reports that Time Warner Cable used the VSCA to terminate its locate franchise which contained build-out and upgrade requirements, and in turn reduced the size of its Nash County cable service area, likely due to the rural, low density, low income nature of those areas.

2) *Failure to stimulate increased broadband deployment in the State*

The VSCA provides mechanisms for the early termination of existing local cable franchises and for their complete termination upon local cable franchise expirations. Local cable franchises traditionally included "build-out" provisions requiring operators to build areas of the community that met a certain agreed-upon household density. The VSCA contains no build-out requirements for state franchised operators, nor any market mechanism, that would lead to increased broadband deployments. Increased broadband and cable deployments have only been reported in communities who continue to exercise local cable franchising authority (e.g., Chatham County), where financial penalty provisions and the threat of rejecting the sale of the

cable system to a new operator were used to convince the incumbent cable operator to serve areas that met franchise household density build out requirements but were not being served.

No accurate measurements of broadband adoption in the state exists. No state law even requires the reporting of broadband subscriber numbers and no known state census has requested this information. e-NC has received an NTIA mapping grant to map broadband subscriptions in the state; but various incumbent providers have insisted on confidentiality of this data, meaning such data will likely never be reported at the local community level. Many communities are of the opinion that earlier broadband mapping data from e-NC over-reported broadband availability levels due to "averaging" of measurements across counties or wireline service areas, or incorrect households totals, and equating low levels of internet speeds with the term "broadband." (*e.g.,* Chatham County, Yancey County.) e-NC provided incentive grants to Embarq in the recent past to build DSLAMS is a number of underserved areas in North Carolina, but the actual deployment of these DSLAMS was never verified (nor actual increase in broadband subscriptions). Local communities lack the funds to survey their own residents for broadband use and availability.

3) *Decreased Consumer Accountability*

Prior to the VSCA, federal law provided local communities the authority to enforce provisions in local cable franchises that met or exceeded the FCC cable consumer protection requirements through financial penalty provisions in local cable franchises. The VSCA has led to reduced consumer accountability by first preempting these local obligations and replacing them with no substantive consumer protections. First, the VSCA redefined the Secretary of State (SOS) as the State's exclusive cable franchising authority for state franchised operators, but the SOS took the position that it did not have the authority to utilize the franchising authority provided it under federal law. Under §66-356(b), any state franchised operator must comply with the FCC's customer service requirements pursuant to 47 C.F.R Part 76. Nevertheless, the SOS reduced those obligations to a subset of the FCC's consumer protection provisions in a rulemaking in late 2007. Under §66-356(c) the VSCA provides the Attorney General the authority to enforce compliance with the FCC's customer service requirements, but limited its enforcement authority by requiring as a pre-requisite for non-compliance, a "pattern or practice" of violations of these rules, and establishing a series of factors which the Attorney must consider when evaluating a consumer protection violation to the extent that an operator can deny a person cable service based on race or income during the first year of state franchised service. (§66-356(a)(1).

The VSCA has also reduced consumer accountability in other ways, including by failing to require the state franchised operator to state the legal basis on which it is filing for a state franchise. This has led to the inability of a community to confirm the validity of the basis of a state franchise filing when it is used to prematurely terminate a local cable franchise. The VSCA also failed to require the SOS to require service area maps be submitted with sufficient detail to discern where the service area was located in a community. State franchise applicants are generally filing maps that fail to detail the service area within a community, making it impossible to verify that the pre-requisites for a state franchise have been met. The VSCA also failed to require the SOS to publicly post the State franchise Notice of Service or the maps of the actual service area, making it impossible for members of the public to verify if the requirements for a state franchise had been met. The SOS is not posting the Notice of Service on its website,

but is only posting a black and white version of a state franchise applicant's service area map, who typically mark their service areas in color (something not discernable on a black and white map.) (See Attachment 3)

The VSCA also failed to provide penalty provisions for cable operators who do not file their Annual Service Reports, or penalty provisions for the SOS's failure to enforce this requirement, which results in denying the public data on how many households each state franchised operator has actually passed under deregulation.

The VSCA's general lack of detailed reporting or penalty provisions has led to the filing of a number of invalid state franchises and the improper termination of local cable franchises which contain strong penalty enforcement provisions and concrete consumer protection standards (e.g. Chatham County, Broadway, Mecklenburg, Mt. Holly, Pitt County, Rowan County).

The VSCA has reduced consumer accountability of cable operators by also failing to stimulate competition in the state (*i.e.*, permitting monopoly providers to be deregulated without any pre-requisite evidence that a community was subject to competition) that allegedly should have resulted in more responsiveness to consumers who would have the choice to switch to another provider. In the absence of competition, consumers have no alternative except turning off their cable service, which is not an option with the conversion of free over-the-air broadcasting to digital only spectrum.

For all intents and purposes, the VSCA has led to less consumer accountability because it lacks any enforcement mechanisms. The VSCA establishes only the right of a consumer or a community to sue if a state franchised operator fails to meet the terms of the law. North Carolina's cable operators are well aware that this is an unaffordable remedy for the average resident or community in North Carolina.

4) *The slow dismantling and stifled development local Public, Education and Government Channels*

The VSCA has led to the slow dismantling of existing local public, educational and government channels (channels which feature students, Boards of Education and local town council meetings and community events), and the stifling of their development. Cable operators who file for a state franchise terminate local cable franchise obligations which require them to provide and fund local PEG channels (negotiated in local franchises in exchange for the right to use public rights of way). (For example, Time Warner Cable initially provided the City of Durham two weeks notice that it was ending its coverage of Durham's City Council meetings, and simply placed a note on the door of its public access studio that the studio was closed for public access productions.) The VSCA has replaced local cable PEG funding, typically $100-$200,000 annually, to a state allocation of about $18,000 per channel for up to three channels. The VSCA's net effect is that cable operators have experienced a long-term windfall by no longer having to fund these PEG channels, while few new local community channels have developed beyond those that were in existence when the VSCA was enacted, while those that exist function at anemic levels and are forced to find new, less secure, sources of funding.

Additionally, the lack of penalty provisions in the law has of late permitted various cable operators to begin refusing to provide PEG channels to local communities, despite the requirements of §66-357 through 358. For example, Time Warner Cable has refused to transmit Durham's public access programming from its origination site, forcing the production contractor to physically bicycle the tapes to its Chapel Hill office for transmission over the cable system;

Time Warner Cable has refused to transmit the government access channel in Bailey, NC arguing it is not required to provide the equipment that transmits the PEG signal, it is required to only transmit the signal. Durham County sued Time Warner Cable who had refused to provide it the minimum number of PEG channels allowed under the VSCA, a case which finally reach settlement out of court.

The VSCA has also permitted new state franchised operators (namely AT&T) to denigrate the quality of PEG signals and reduce the viewing of these locally-produced channels, by changing their transmission protocols. Raleigh, Chapel Hill, and Charlotte-Mecklenburg report that, rather than place each PEG channel on its own 6 MHz channel comparable to a commercial channel, AT&T has placed all PEG channels on a single channel (99) and forces viewers to use their remotes in an entirely new way to view these channels. Consumer must scroll through numerous sub-menus and wait for extended periods of time for these PEG channels to build on the screen. AT&T has also concluded that its obligation to transmit PEG signals only exists for three months. AT&T has informed those North Carolina communities where it provides U-verse that despite the requirements of the VSCA specifying that it bears the responsibility for transmitting PEG signals from their origination sites, after three months, it no longer will be responsible for the maintenance of the equipment that is required to transmit PEG signals from the PEG origination site. (This means that if the local government does not have the funds to maintain the equipment and it breaks down, the channels is no longer transmitted.) Finally, Charlotte-Mecklenburg and Chapel Hill PEG channel operators have reported that they are unable to see whether their PEG channels are being transmitted over the U-verse system. This is because AT&T is not providing U-verse service in the location where the PEG signals originate so no U-verse cable service can be connected to the origination site to view the channels running over the U-verse system.

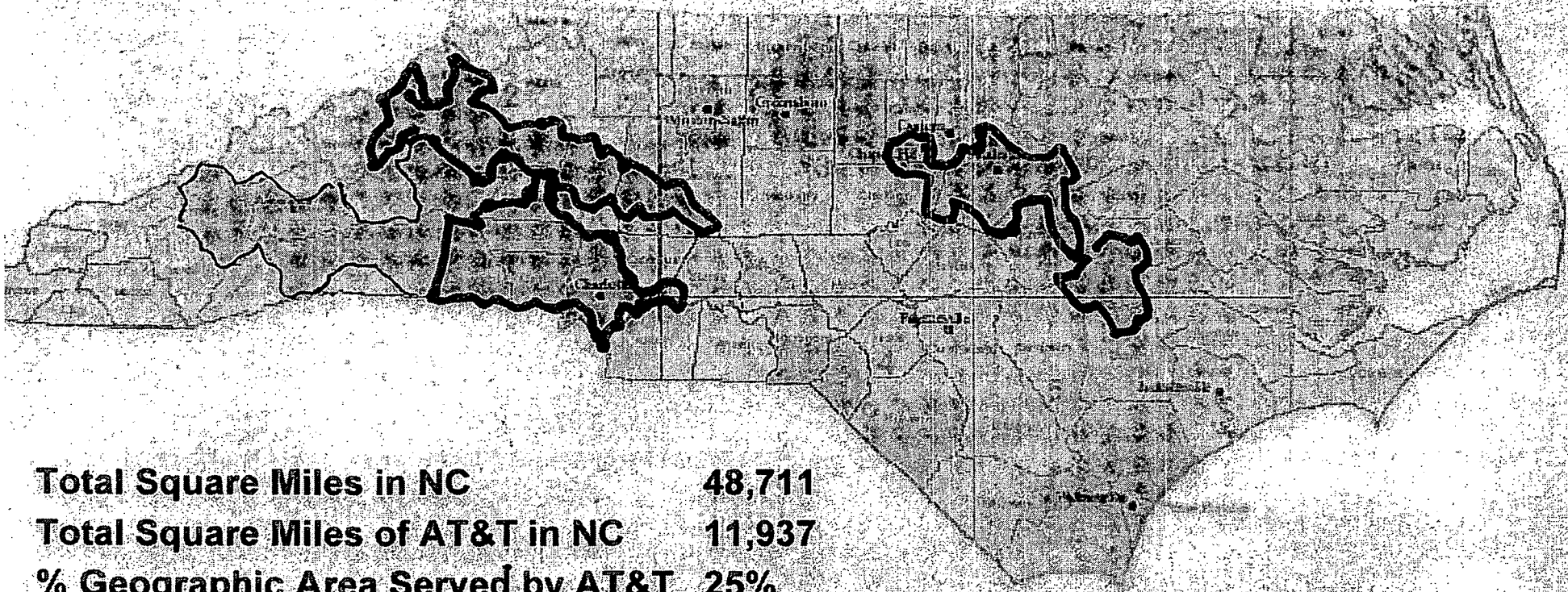
5) *Failure to keep local government financially whole?*

The VSCA replaced local cable franchise fees with video programming sales tax. In the first year after enactment, an evaluation by NCLM reported that more than 70% of local communities in North Carolina received less in video programming taxes than they had received the year prior in local franchise fees and that cable operators had paid less to the state than anticipated. Although cable operators have raised their cable rates around the state every year, it is unclear that local government video programming taxes have increased in equal measure. The VSCA does not require state auditors to ensure annually that proper video programming sales taxes are paid by the state franchised cable operators, or that state franchise cable operators are audited regularly.

Attachment 1

AT&T's Service Territory

□ - AT+T U-Verse Servia Area



Total Square Miles in NC	**48,711**
Total Square Miles of AT&T in NC	**11,937**
% Geographic Area Served by AT&T	**25%**
Total NC Switched Lines	**4.8M**
Total NC AT&T Switched Lines	**1.8M**
% of NC Lines served by AT&T	**38%**

Legend

- City
- County Boundary
- Map Grid
- AT&T Service Area
- Non-AT&T Service Area

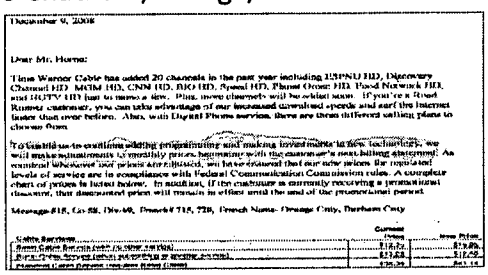
NC House Select Committee on High Speed Internet Access in Rural and Urban Areas

December 14, 2009
Room 544
9:30 a.m.

- *Presentation by*

Catharine Rice
Action Audits, LLC
ricecb@yahoo.com
(919) 439-9084

TWC letter to Chatham/Orange/Durham Counties



December 9, 2008

Dear Mr. Horne:

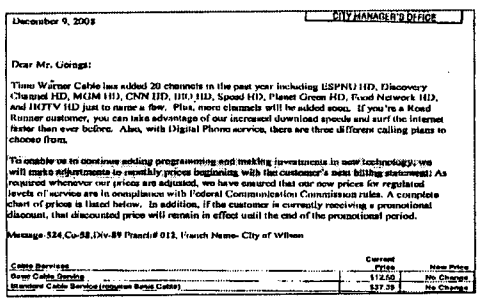
Time Warner Cable has added 20 channels in the past year including ESPNU HD, Discovery Channel HD, MGM HD, CNN HD, BIO HD, Speed HD, Planet Green HD, Food Network HD, and HDTV HD just to name a few. Plus, more channels will be added soon. If you're a Road Runner customer, you can take advantage of our increased download speeds and surf the Internet faster than ever before. Also, with Digital Phone service, there are three different calling plans to choose from.

To enable us to continue adding programming and making investments in new technology, we will make adjustments to monthly prices beginning with the customer's next billing statement. As required whenever our prices are adjusted, we have ensured that our new prices for regulated levels of service are in compliance with Federal Communication Commission rules. A complete chart of prices is listed below. In addition, if the customer is currently receiving a promotional discount, that discounted price will remain in effect until the end of the promotional period.

Message:818, Co:58, Div:89, Franch#:715, 720, Franch Name- Orange City, Durham City

Cable Services	Current Price	New Price
Basic Cable Service (Limited Basic Cable)	$16.62	$19.99
Basic Plus Service (Limited Basic Cable)	$23.68	$15.99
Standard Cable Service (Limited Basic Cable)	$36.39	$41.14

TWC Letter to Wilson



December 9, 2008

CITY MANAGER'S OFFICE

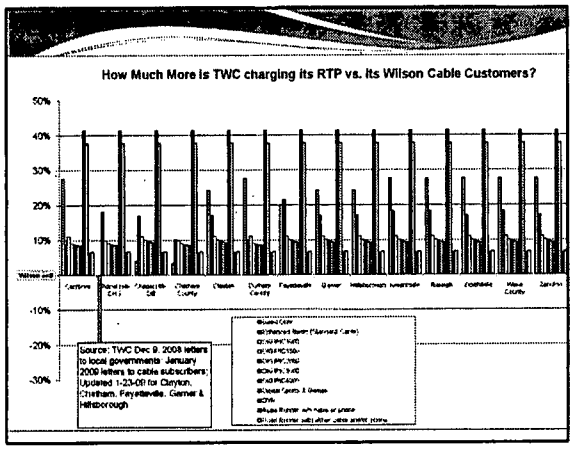
Dear Mr. Goings:

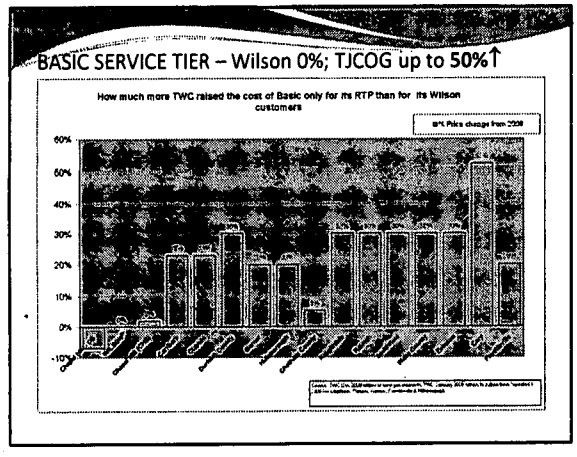
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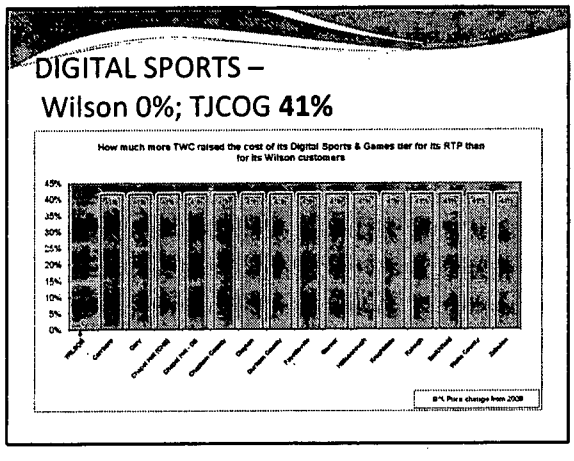
To enable us to continue adding programming and making investments in new technology, we will make adjustments to monthly prices beginning with the customer's next billing statement. As required whenever our prices are adjusted, we have ensured that our new prices for regulated levels of service are in compliance with Federal Communication Commission rules. A complete chart of prices is listed below. In addition, if the customer is currently receiving a promotional discount, that discounted price will remain in effect until the end of the promotional period.

Message:524,Co:58,Div:89 Franch#:013, Franch Name- City of Wilson

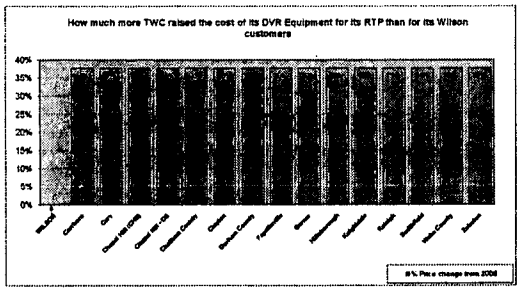
Cable Services	Current Price	New Price
Basic Cable Service	$12.50	No Change
Standard Cable Service (Limited Basic Cable)	$37.39	No Change


How Much More Is TWC charging its RTP vs. its Wilson Cable Customers?
50%
40%
30%
20%
10%
-10%
-20%
-30%
Source: TWC Dec 9, 2008 letters to local governments. January 2009 letters to cable subscribers; Updated 1-23-09 for Clayton, Chatham, Fayetteville, Garner & Hillsborough

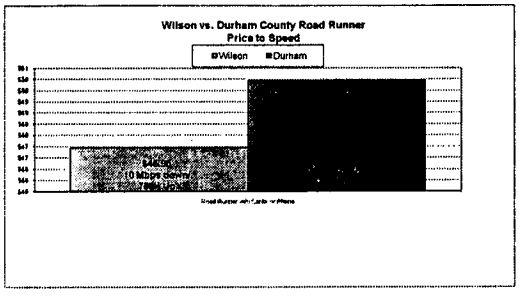

BASIC SERVICE TIER – Wilson 0%; TJCOG up to 50%↑
How much more TWC raised the cost of Basic only for its RTP than for its Wilson customers
60%
50%
40%
30%
20%
10%
0%
-10%


DIGITAL SPORTS –
Wilson 0%; TJCOG 41%
How much more TWC raised the cost of its Digital Sports & Games tier for its RTP than for its Wilson customers
45%
40%
35%
30%
25%
20%
15%
10%
5%
0%

DVR – Wilson 0%; TJCOG **38%**

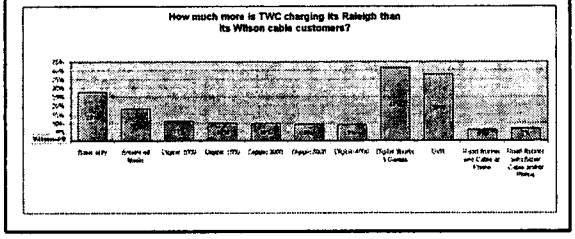


Higher Price/ Less Service



Easy to Conclude:

- **TWC IS CROSS-SUBSIDIZING**
- Is the Triangle (and the rest of North Carolina) paying for Time Warner Cable's lower rates in Wilson?



TWC: predatory prices?

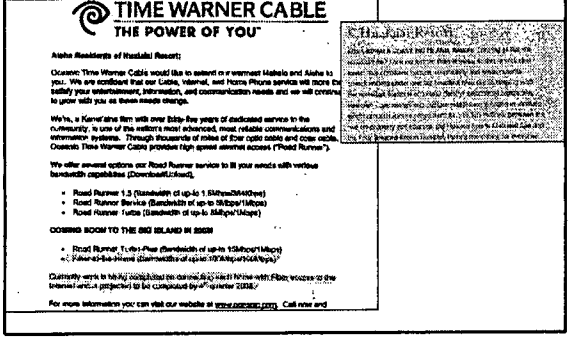
• Service	Greenlight	TWC Price from CSR
• Digital Plus/Voice/HD/DVR	$136	$63 plus 1 year Showtime/Movie Channel
• Digital Bronze/Turbo/Voice/HD/DVR	$149*	$99 plus 1 year Showtime/Movie Channel

*Cary - @$180 w/o Showtime/MC

Conclusions:

- Video Service Competition Act did not create competition;
- Instead, cable industry raised its rates;
- Everywhere except in communities with municipally-owned systems – where real competition developed on its own out a need for better infrastructure;
- Cable industry's first priority is profit; (monopoly profits are best profits)
- (Cross-subsidizing) Charging its own customers in the Triangle (& state) higher rates in order to undercut its competitor's rates (Wilson's Greenlight) to drive it out of the market into failure (sets an example);
- Cable industry sponsoring H1252 to terminate real competition in NC represented by municipally-owned broadband systems.
- Once competition disappears, everyone's rates go up with no impetus for improving infrastructure or building-out communities with essential broadband. Profits from NC invested in TWC states characterized by higher incomes, higher household density.

TWC Fiber to the home in Hawaii


TIME WARNER CABLE
THE POWER OF YOU™

Aloha Residents of Hualalai Resort:

Oceanic Time Warner Cable would like to extend our warmest Malaela and Aloha to you. We are confident that our Cable, Internet, and Home Phone service will more than satisfy your entertainment, information, and communication needs and we will continue to grow with you as those needs change.

We're a Kona-area firm with over thirty-five years of dedicated service to the community. In one of the nation's most advanced, most reliable communications and information systems. Through thousands of miles of fiber optic cable and coax cable, Oceanic Time Warner Cable provides high speed internet access ("Road Runner").

We offer several options our Road Runner service to fit your needs with various bandwidth capabilities (Download/Upload).

- Road Runner 1.5 (Bandwidth of up-to 1.5Mbps/384Kbps)
- Road Runner Service (Bandwidth of up-to 5Mbps/1Mbps)
- Road Runner Turbo (Bandwidth of up-to 8Mbps/1Mbps)

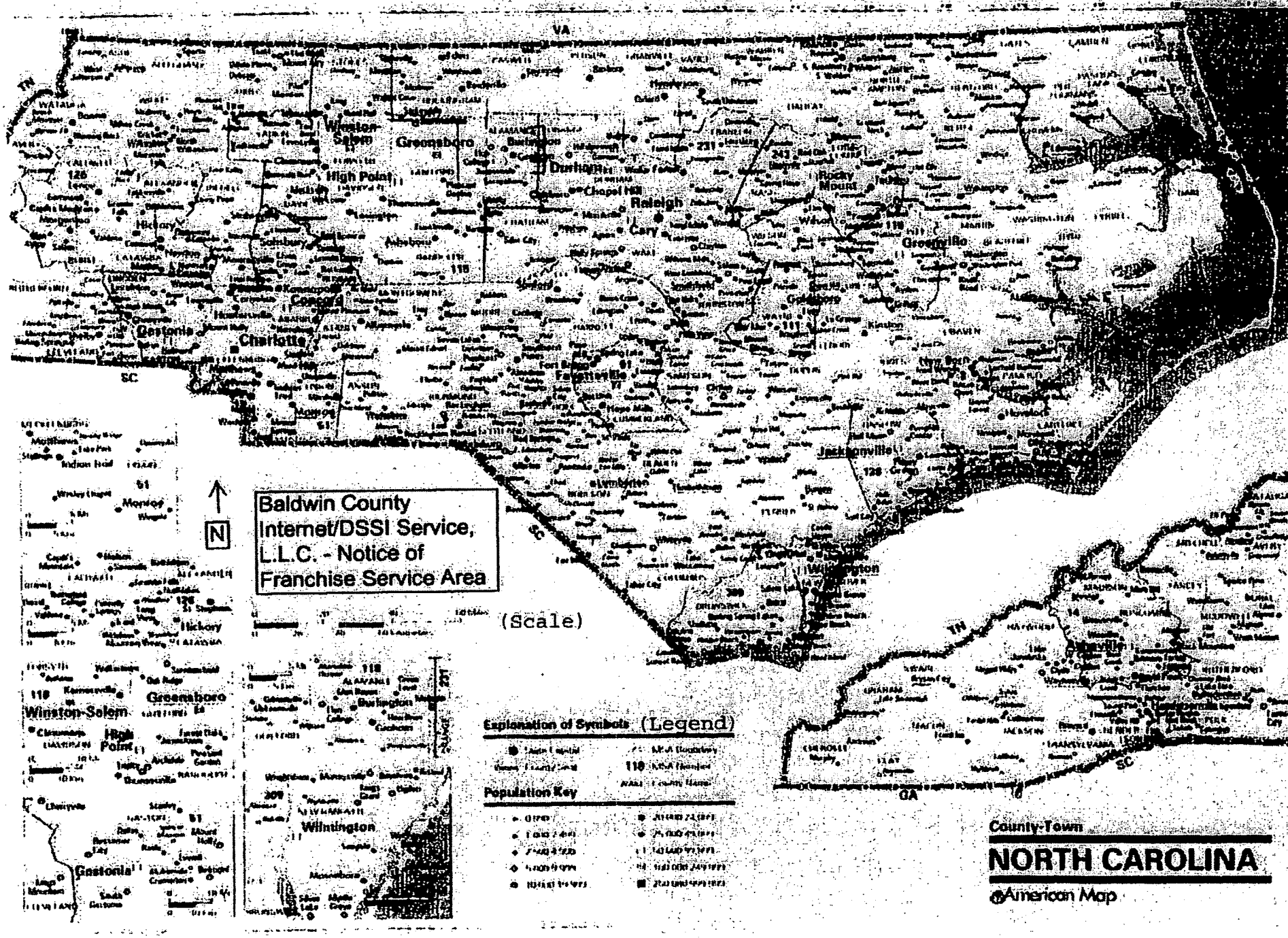
COMING SOON TO THE BIG ISLAND IN 2008

- Road Runner Turbo Plus (Bandwidth of up-to 15Mbps/1Mbps)
- Fiber-to-the-Home (Bandwidth of up-to 100Mbps/50Mbps)

Currently work is being completed on connecting each home with Fiber, process to be finished and is projected to be completed by 4th quarter 2008.

For more information you can visit our website at www.oceanic.com. Call now and

ATTACHMENT 3: SAMPLE OF SOS SERVICE MAP



ROY COOPER
ATTORNEY GENERAL

State of North Carolina
Department of Justice
PO Box 629
Raleigh, North Carolina
27602

Phone: (919) 716-6400
Fax: (919) 716-6750

April 27, 2010

The Honorable Daniel Clodfelter
Co-Chair, Revenue Laws Study Committee
300 N. Salisbury St., Room 408
North Carolina General Assembly
Raleigh, North Carolina 27603-5925

The Honorable Paul Luebke
Co-Chair, Revenue Laws Study Committee
300 N. Salisbury St., Room 529
North Carolina General Assembly
Raleigh, North Carolina 27603-5925

RE: Video Services Competition Act

Dear Members:

Pursuant to Section 18 of the Video Services Competition Act, please find the enclosed report regarding cable complaints.

If you have any questions or I can be of further assistance, please feel free to contact me at (919) 716-6400.

Very truly yours,

Kristi Hyman
Chief of Staff

KH:ml

cc: Kristine Leggett, NCGA Fiscal Research Division
Greg McLeod, NCDOJ, Legislative Counsel

NORTH CAROLINA DEPARTMENT OF JUSTICE
CONSUMER PROTECTION DIVISION REPORT REGARDING CABLE COMPLAINTS

The Video Services Competition Act (Session Law 2006-151) enacted a number of changes that impact cable television companies, video service providers, and consumers. Among other things, the law allows such companies and providers to obtain State-issued franchises from the Secretary of State's office to provide cable TV service, rather than local franchises from local units of government, under certain circumstances. Section 17 of the law designates the Consumer Protection Division of the Attorney General's Office (CPD) as the agency to "receive and respond to unresolved customer complaints about cable service provided by the holder of a State-issued franchise."

Section 18 requires the CPD to report to the Revenue Laws Study Committee the following information regarding complaints about cable service received by the CPD: Number of complaints, types of complaints, and the means for resolving them. Pursuant to Section 18, the Attorney General's Office makes the following report.

As of March 25, 2010, three hundred and thirty-eight (338) State-issued franchises have been accepted by the Secretary of State's office, according to that office's website.

For the time period of March 26, 2009 to March 25, 2010, the CPD received two hundred and eighty-two (282) written complaints against companies with a State-issued

franchise. This represents a 50% increase in complaints from last year. As set forth in the CPD's report filed with the Revenue Laws Study Committee on March 31, 2009, the CPD received one hundred and eighty-eight (188) complaints during the March 26, 2008 to March 26, 2009 time period covered in its previous report.

Out of these two hundred and eighty-two (282) complaints:

- Ninety-four (94) involved allegations of unsatisfactory service or repair;
- One hundred and three (103) involved alleged billing errors;
- Three (3) involved an alleged failure to perform or complete a service installation or upgrade in a timely manner;
- Twelve (12) involved a refund that was allegedly not properly provided;
- The remaining complaints involved discrete or miscellaneous issues.

For the same time period, the CPD received fifty-two (52) written complaints against companies with a local franchise from consumers who incorrectly believed that the new law directed the CPD to handle all consumer complaints against all cable companies as of January 1, 2007. CPD attempted to refer these complaints to the locality still holding local franchise agreements with the company. Some of these localities were willing to handle the complaints while the rest were not. For those that were not, the CPD handled the complaint for the consumer. Out of these fifty-two (52) complaints against companies with local franchises:

- Nineteen (19) involved alleged unsatisfactory service or repair;
- Fifteen (15) involved alleged billing errors;

- Three (3) involved a refund that was allegedly not provided;
- The remaining complaints involved discrete or miscellaneous issues.

The CPD treats cable complaints like other consumer complaints it receives and attempts to mediate resolutions by sending the complaints to the cable company for a response. The CPD tracks responses to see if consumers are satisfied and to determine if the complaints show patterns that may warrant further investigation.

CITIZEN-TIMES.com
ASHEVILLE'S HOMEPAGE

April 23, 2010

Morris Broadband to reimburse Western North Carolina for service outages

STAFF REPORTS

Morris Broadband, a telecommunications and cable company serving parts of western North Carolina, has agreed to pay additional credits to consumers who experienced lengthy service outages last fall, Attorney General Roy Cooper announced today.

In February 2009, Morris Broadband, of Augusta, Georgia, purchased cable and telephone operations for several cities and towns in the western part of the state from Mediacom. When Morris took over the service, technical problems caused a significant number of consumers to lose service. Areas affected by the problems were Hendersonville, Nebo, Sylva, and Franklin.

Cooper's Consumer Protection Division first sent a letter to Morris Broadband in October 2009 based on calls and complaints from 27 people who experienced service outages. Consumers complained that they lost telephone, cable and internet service for several days. During this time, some consumers were unable to make 911 or other emergency calls and businesses were without Internet access.

As part of the agreement, Morris Broadband will issue $60,000 in credits to the remaining households and businesses that were affected by the services problems by May 14. The credits are in addition to $68,000 worth of credits the company has already issued. According to Morris's estimates, approximately 1,800 telephone and 8,000 Internet subscribers were without service for up to 10 days.

The accounts of Morris Broadband customers affected by the outages should be credited no later than May 14. Consumers with questions can contact Cooper's Consumer Protection Division by phone at 1-877-5-NOSCAM or online at www.ncdoj.gov.

Morris giving credits for loss of cable service

From staff reports/BlueRidgeNow.com

Published: Sunday, April 25, 2010 at 4:30 a.m.
Last Modified: Saturday, April 24, 2010 at 11:00 p.m.

Morris Broadband has agreed to pay credits to consumers who experienced lengthy service outages last fall, said Attorney General Roy Cooper.

The transition from Mediacom to Morris Broadband did not go smoothly. In early October 2009, company representatives said wiring problems and software glitches were to blame for thousands of customers losing their cable, Internet and phone services in October. Eventually the problems were fixed, and residents were able to receive their cable services.

"When a business falls short of your expectations, my office wants to know about it," said Cooper. "Thanks to the people who contacted us, we were able to get the issues resolved and win credits for consumers."

As part of the agreement, Morris Broadband will issue $60,000 in credits to the remaining households and businesses that were affected by the services problems by May 14. The credits are in addition to $68,000 worth of credits the company has already issued. According to Morris's estimates, approximately 1,800 telephone and 8,000 internet subscribers were without service for up to 10 days.

The accounts of Morris Broadband customers affected by the outages should be credited no later than May 14. Areas affected by the problems were Hendersonville, Nebo (McDowell County), Sylva (Jackson County) and Franklin (Macon County).

Cooper's Consumer Protection Division first sent a letter to Morris Broadband in October based on calls and complaints from 27 people who experienced service outages. Consumers complained that they lost telephone, cable and internet service for several days. During this time, some consumers were unable to make 911 or other emergency calls and businesses were without Internet access.

Morris Broadband, a telecommunications and cable company serving parts of western North Carolina, purchased cable and telephone operations for several cities and towns in the western part of the state from Mediacom. When Morris, of Augusta, Ga., took over the service, technical problems caused a significant number of consumers to lose service. Problems developed when the Internet and telephone systems were transferred, CFO Craig Mitchell said in late October. This caused many people to lose service.

Mitchell said the company was not equipped to handle the volume of outage calls, which were widespread throughout the county, prompting more complaints from customers.

"What frustrated customers was they couldn't get in touch with anybody," he said.

Cable customers also suffered from a software glitch. Small cable companies outsource many of the technological aspects, such as which channels a particular subscriber should receive.

When Morris switched to its outsourcing company, there were technological problems and some customers lost cable.

The whole ordeal frustrated many customers, and Mitchell said some have canceled their service. "We did take a number of subscriber losses."

Consumers with questions can contact Cooper's Consumer Protection Division by phone at 1-877-5-NO-SCAM or online at www.ncdoj.gov.

ELAINE F. MARSHALL
SECRETARY OF STATE

State of North Carolina
Department of the Secretary of State

MEMORANDUM

To: Revenue Laws Study Committee

From: Jana M. Hightower, Securities Division

Date: September 30, 2009

Subject: **Qualified Business Registration 2009 Annual Report**

Enclosed for your review is the Qualified Business Registration 2009 Annual Report pursuant to §105-163.013(g). The report has been created in an Excel spreadsheet format. The information is divided into four (4) parts. The format is as follows:

Report to the Revenue Laws Study Committee
Attachment A – Business Name and Place of Business
Attachment B – Number of Jobs Created, Average Wages Paid, & Minority Status
Attachment C – Brief Description of Business Activity

If you have any questions, I may be contacted at 919-733-3924.

PO BOX 29622 • RALEIGH, NC 27626-0622

ELAINE F. MARSHALL
SECRETARY OF STATE

State of North Carolina
Department of the Secretary of State

REPORT TO THE REVENUE LAWS STUDY COMMITTEE

Qualified Business Registration 2009 Annual Report

(As of October 2009*)

Number of Registrations	**136**
Number of Minority Owned Businesses	**2**
Number of Jobs Created	**314**
Total Average Wages Paid	**$32,088.11**

*These figures reflect the time period from October 2008 to October 2009, and may include Qualified Business Ventures that have been revoked by operation of law but may still choose to reinstate their QBV status pursuant to G.S.§ 105-163.013(b).

PO BOX 29622 • RALEIGH, NC 27626-0622

Business Name	Type	Authorized Representative	Place of Business	Address 2	City	State	Zip
A Bunch of Us Productions, LLC	QBV	Mr. Terry J. Linehan, Manager	517 Charlotte Ave.		Carolina Beach	NC	28428
AC-2, LLC	QBV	Mr. Paul W. Skillicorn, Manaager	101 West Harper Street		Snow Hill	NC	28580
Addrenex Pharmaceutical, Inc.	Grantee	Mr. William N. Wofford, Secretary	5410 Trinity Road	Suite 400	Raleigh	NC	27607
Advanced Digital Systems, Inc.	QBV	Ms. Carolee E. Nail	4601 Creekstone Drive, #130		Durham	NC	27703
Advanced Liquid Logic Inc.	Grantee	Mr. Richard M. West, President & CEO	615 Davis Drive, Suite 800		RTP	NC	27709
Affinergy, Inc.	Grantee	Mr. Jonathan Gindes, CFO&Sr. VP	617 Davis Drive, Suite 100	P.O. Box 14650	RTP	NC	27709
Akapella Health, Inc.	QBV	Mr. Thomas Furr, CEO	P.O. Box 9983		Chapel Hill	NC	27515
Aldagen, Inc.	QBV	Mr. Edward L. Field, President	2810 Meridian Parkway	Suite 148	Durham	NC	27713
Alpha Theory, LLC	QBV	Mr. Cameron Hight, President	327 Wilby Drive		Charlotte	NC	28270
Applied Catheter Technologies, Inc.	QBV	Mr. Jon S. Wilson, President & CEO	101 N. Chestnut Street	Suite 300	Winston-Salem	NC	27104
Arbor Pharmaceutical, Inc.	QBV	Mr. Jarrett Disbrow, President & CEO	4505 Falls of the Neuse Rd.	Suite 420	Raleigh	NC	27609
Arbovax, Inc.	QBV	Mr. Malcolm Thomas, President &CEO	617 Hutton Street	Suite 101	Raleigh	NC	27606
Argand Energy Solutions, LLC	QBV	Mr. Erik Lensch, President	2725 Westinghouse Blvd.	Suite 100	Charlotte	NC	28273
ArtusLabs, Inc.	QBV	Mr. Robin Smith, President	4220 Hwy 55,	Suite 160	Durham	NC	27713
Asklepios Biopharmaceutical, Inc.	Grantee	Mr. Richard J. Samulski, CEO	45 N. Chatham Parkway		Chapel Hill	NC	27517
Aurora Ventures IV, L.L.C.	Grantee	Mr. B. Jefferson Clark/Manager	2525 Meridian Parkway	Suite 220	Durham	NC	27713
Aurora Ventures V, L.P.	Grantee	Mr. B. Jefferson Clark/Manager	2525 Meridian Parkway	Suite 220	Durham	NC	27713
Azalea Research Center, LLC	QBV	Mr. Richard Sears, President	7040 Wrightsville, Ave.	Suite 104	Wilmington	NC	28403
Beroe, Inc.	QBV	Mr. Donald R. Reynolds, Secretary	2054 Kildaire Farm Rd	PMB 430	Cary	NC	27518
Bio Marck Pharmaceuticals, Ltd.	Grantee	Mr. Mark W. Mueller	7200 Falls of Neuse Rd., Suite 202		Raleigh	NC	27615
Bioptigen, Inc.	QBV	Mr. Eric L. Buckland, President, CEO	112 Mariners Point Lane		Hickory	NC	28601
BioResource International, Inc.	QBV	Dr. Giles C. Shih, President	627 Davis Drive	Suite 600	Morrisville	NC	27560
Biotechnology Research & Development, LLC	QBV	Mr. Paul W. Skillicorn, Manaager	101 West Harper Street		Snow Hill	NC	28580
Blue Ridge Analytics, Inc.	QBV	Mr. Michael Detwiler, President & CEO	101 W. Worthington Ave.	Suite 206	Charlotte	NC	28203
Blue Ridge BioFuels, LLC	QBV	Mr. Briam Winslett, Managing Partner	109 Roberts Street		Asheville	NC	28801
Bright View Technologies, Inc.	QBV	Mr. David Reed, Vice President	5151 McCrimmon Parkway	Suite 200	Morrisville	NC	27560
BUILDERadius, Inc.	QBV	Mr. William S. Ward, President &CEO	16 Biltmore Avenue	Suite 300	Asheville	NC	28801
Buster Sports Communications Inc.	QBV	Mr. Dan Ballard, President	2210 E. Millbrook Road	Suite 115	Raleigh	NC	27604
Charlotte Angel Partners, LLC	Grantee	Mr. W. Brent Kulman, Fund Executive	1907 Baytree Drive		Greensboro	NC	27455
Chesson Laboratory Associates, Inc.	QBV	Mr. Scott Neuville, President & CEO	3100 Tower Blvd.	Suite 117	Durham	NC	27707
Civatech Oncology, Inc.	QBV	Mr. Robert D.Black, President	301 Village Crossing Drive	P.O. Box 2347	Chapel Hill	NC	27515
Clean Burn Fuels, LLC	QBV	Mr. Tom Williamson, CFO	211 W. Martin Street	Suite 200	Raleigh	NC	27601
CleanTechnics International, Inc.	QBV	Mr. Bruce R. Thomas,President & CEO	311 Amhurst Avenue		High Point	NC	27260
Clear Advantage Collar, Inc	QBV	Mr. Jeremi Snook, Chief Operating Officer	1200 The Plaza	Suite B	Charlotte	NC	28205
ClearClosing, Inc.	QBV	Mr. Paul J. Michaels, President	107 Glenwood Avenue		Raleigh	NC	27603
ClickBrick, Inc.	QBV	Mr. Timothy L. Mercer, President	142 E. Chisholm Street	P.O. Box 4214	Sanford	NC	27330
Clinical Ink, LLC	QBV	Mr. Douglas Edward Pierce, Jr. CEO	P.O. Box 871		Lewisville	NC	27023
Colunbia Life Systems, Inc.	QBV	Mr. John C Taube. President	301 Village Crossing Drive	P.O. Box 2347	Chapel Hill	NC	27515
Companioncabinet Software, LLC	QBV	Mr. Brent Jackson, President	8520 Cuff Cameron Drive	Suite 430	Charlotte	NC	28269
Consert Inc. f/n as Cleartricity,inc.	QBV	Mr. Joseph W. Forbes, Jr., Secretary	4700 Fallws of Neuse Road	Suite 340	Raleigh	NC	27609
Consolidated Asset Recovery Systems, Inc.	QBV	Mr. Steve Norwood, President & CEO	8399 Falls of Neuse Rd.	Suite 108	Raleigh	NC	27615
Cooler Horsemanship, LLC	QBV	Mr. James C. Cooler, President	7600 Millbrook Rd		Summerfield	NC	27358
Destination Commerce Corporation	QBV	Mr. Charles J. Peller, Treasurer	110 Livingston Court		Clemmons	NC	27012
Endacea, Inc. (fka Link Technology, Inc.)	Grantee	Mr. Donald H. Wilson, III, Pres./CEO	2 Davis Drive	P.O. Box 12076	RTP	NC	27709
EnSolve Biosystems, Inc.	Grantee	Mr. Jason A. Caplan, President & CEO	5805 Departure Drive	Suite B	Raleigh	NC	27616
Entegrion, Inc.	QBV	Mr. Richard E. Martin, CFO		P.O. Box 14867	RTP	NC	27709
ESP Systems LLC	QBV	Mr. Scott Boulware, Vice President	1422 East 4th Street		Charlotte	NC	28204
Eyeborgs, LLC	QBV	Mr. Charles J. Peller, Treasurer	110 Livingston Court		Clemmons	NC	27012
Field2Base, Inc.	QBV	Mr. Robert McKenzie, Treasurer	101 J Morris Commons Lane	Suite 115	Morrisville	NC	27560
Five Points Solutions, Inc.	QBV	Mr. Loren Harrell, Treasurer & CEO	1913 Reid Street		Raleigh	NC	27608
FloLogic, Inc.	QBV	Mr. Charles R. De Smet	7413-130 Six Forks Road		Raleigh	NC	27615
Focus 3, Inc.	QBV	Ms. Kristy Peters, President	7005 Orchard Knoll Dr.		Apex	NC	27539
F-Origin, Inc.	QBV	Mr. Merrill M. Mason, Secretary	2500 Wachovia Capitol Center	P.O. Box 2611	Raleigh	NC	27514
Freedom Shopping, Inc.	QBV	Mr. Michael A. Dailey, President	920 Tate Blvd, South East,	Suite #103/104	Hickory	NC	28602
Gentris Corporation	QBV	Ms. Dawn L. Bordeaux, Vice President	133 Southcenter Ct	Ste. 400	Morrisville	NC	27560
Greatwall Systems, Inc.	Grantee	Mr. Robert E. Anderson, President	635 West Fourth Street	Suite 200	Winston-Salem	NC	27101
Group Story, Inc.	QBV	Mr. George Junginger, President	4009 Summer Brook Drove		Apex	NC	27539
Hatteras Venture Affiliates III, LP	Grantee	Mr. John C. Crumpler, Manager	280 South Mangum Street	Suite 350	Durham	NC	27701
Horticultural Asset Management, Inc.	QBV	Mr. Douglas W. Cowles, President &CEO	107 Edinburgh South Drive	Suite 205	Cary	NC	27511
Idea Fund 1, L.P.	Grantee	Mr. Jon Cambier, General Partner	4505 Emperor Blvd.	Suite 130	Durham	NC	27703
IMAF - West, LLC	Grantee	Mr. Timothy R. Janke, Organizer	1959 N. Peace Haven Road	Suite 111	Winston-Salem	NC	27106
IMAF- Kannapolis, LLC	Grantee	Mr. Timothy R. Janke, Organizer	1959 N. Peace Haven Road	Suite 111	Winston-Salem	NC	27106
IMAF-East, LLC	Grantee	Mr. Timothy R. Janke, Organizer	1959 N. Peace Haven Road	Suite 111	Winston-Salem	NC	27106
ImagineOptix Corporation	Grantee	Mr. Erin K. Clark, Vice President	7202 Doverton Court		Raleigh	NC	27615
Inception Micro Angel Fund LLC	Grantee	Mr. Timothy R. Janke, Organizer	4149 Chatham Hill Drive	Suite 111	Winston-Salem	NC	27104
Inneroptic Technology, Inc.	Licensee	Mr. Kurtis Keller, President	106A North Churton Street		Hillsborough	NC	27278
Intersouth Affiliates V, L.P.	Grantee	Mr. Mitchell Mumma, Member Manager	406 Blackwell Street	Suite 200	Durham	NC	27701
Intersouth Partners V, L.P.	Grantee	Mr. Mitchell Mumma, Member Manager	406 Blackwell Street	Suite 200	Durham	NC	27701
Intersouth Partners VI, L.P.	Grantee	Mr. Mitchell Mumma, Member Manager	406 Blackwell Street	Suite 200	Durham	NC	27701

Business Name	Type	Authorized Representative	Place of Business	Address 2	City	State	Zip
Intersouth Partners VII, L.P.	Grantee	Mr. Mitchell Mumma, Member Manager	406 Blackwell Street	Suite 200	Durham	NC	27701
Intervolve, Inc.	QBV	Mr. William Kaluza, CEO	319 West Martin Street		Raleigh	NC	27601
IV Holdings, Inc. (fks Innovations Village, Inc.)	QBV	Mr. Michael Reece, President	120 South Sunset Ddrive		Winston-Salem	NC	27701
KeraNetics, LLC	QBV	Mr. Charles W. Johnson, Director	4240 Allistair Road		Winston-Salem	NC	27104
Killing Jar Films, LLC	QBV	Mr. Mark Young, Manager	1934 Ewing Avenue		Charlotte	NC	28203
Krenitsky Pharmaceuticals, Inc.	QBV	Mr. Wayne R. Eberhardt, Vice President	Four University Place	4611 University Drive	Durham	NC	27707
Kryosphere, Inc.	QBV	Mr. L. Eric Hallman, President	116 West Queen Street		Hillsborough	NC	27278
Laamscience, Inc.	QGB	Mr. Paatrick D. Mize, Chief Science Officer	617 Hutton Street	Suite 101	Raleigh	NC	27707
Learning Management Systems, Inc.	QBV	Mr. John Carl Zeigler, CEO	101 Hawthorne Avenue		Swannanoa	NC	28778
Liquidity Technologies, Inc.	QBV	Mr. Bruce Boucher, President	P.O. Box 110085		RTP	NC	27709
Listingbook, LLC	QBV	Mr. Randall R. Kaplin, Chairman	123 S. Elm Street,	P.O. Box 10648	Greensboro	NC	27404
Live Cargo, Inc.	QBV	Mr. Doug Young, CEO	6520 Airport Center Drive	Suite 102	Greensboro	NC	27409
Longfiber Cotton Gins, Inc.	QBV	Mr. J. Robert Tyler, III, Asst. Secretary	5410 Trinity Road.	Suite 400	Raleigh	NC	27607
Magnus Health Technology, Inc.	QBV	Mr. William Pittman, Vice President	920 Main Campus Drive	Suite 101	Raleigh	NC	27606
MediWave Star Techology Inc.	QBV	Mr. Thomas R. Sloan, Treasurer	705 Sunset Drive		Greensboro	NC	27408
Modality, Inc.	QBV	Mr. Stephen Mark Williams, President	905 W. Main Street	Suite 23C, Box #2	Durham	NC	27701
Moving Midway, LLC	QBV	Mr. John Jesse Spain, Manager	411 Kinsey Street	P.O. Box 27612	Raleigh	NC	27611
New Direction Biofuels, LLc	QBV	Mr. Tyson Warren, Manager/Member	P.O. Box 6558		Raleigh	NC	27628
Novan, Inc.	QBV	Mr. Nathan Stasko, President	79 TW Alexander Dr, P.O. Box 110023	Research Commons, Suite 105	RTP	NC	27709
Oncoscope, Inc.	QBV	Mr. William Brown, CEO	324 Blackwell Street	Suite 1120	Durham	NC	27701
OptiVia Medical, LLC	QBV	Mr. Jack Snoke, CTO	301 North Main Street	Suite 2302	Winston-Salem	NC	27101
Orbit Energy, Inc.	QGB	Mr. Reese Howle, President	3301 Benson Drive	Suite 535	Realigh	NC	27609
Paula Lee Haller Productions LLC	QBV	Ms. Paula Lee Haller, Manager	P.O. Box 1042		Wrightsville Beach	NC	28480
Pepper Dog Specialty Foods, Inc.	QBV	Ms. Virginia M. Molthen, Vice President	3003 Cumberland Gap Ct.		Apex	NC	27523
Physcient, Inc.	Grantee	Mr. Hugh Crenshaw, CEO	121 Pine Crest Road		Durham	NC	27705
PhytoChem Pharmaceuticals	QBV	Mr. Tom Gutierrez, President	1000 Centre Green Way	Suite 200	Cary	NC	27513
Piedmont Angel Network LLC	Grantee	Ms. Lou Anne Flanders-Stec, Fund Executive	2007 Yanceyville Street	P.O Box 69	Greensboro	NC	27405
Piedmont Angel Network TWO LLC	Grantee	Mr. W. B. Rodman, Organizer/Manager	300 N. Greene Street	Suite 200	Greensboro	NC	27401
Piedmont Global Solutions, Inc.	QBV	Mr. David M. Daniels, President & CEO	5904 Crutchfield Farm Road		Oak Ridge	NC	27310
Piedmont Pharmaceuticals LLC	QBV	Mr. Roland Johnson, Manager/President	204 Muirs Chapel Road	Suite 200	Greensboro	NC	27410
Pogo Health LLC	QBV	Ms. Alicia Paladin, President	211 Oxford Hills Drive		Chapel Hill	NC	27514
Positioning Animals Worldwide, Inc.	QBV	Mr. Christopher Newton, President & CEO	5619-C Hillsborough Street		Raleigh	NC	27606
Practice Sync, Inc.	QBV	Mr. David Brooks, President	3612 Shannon Road	Suite 105	Durham	NC	27707
Proficient, LLC	QBV	Mr. Robert W. Hutchison, Jr.	201 N. Church Street	Suite 238	Greensboro	NC	27401
Protochips, Inc.	QGB	Mr. J. Robert Tyler, III, Assit Secretary	5410 Trinity Rd.	Suite 400	Raleigh	NC	27607
Quartek Corporation	QBV	Mr. Reyad Sawafta, President & CEO	4180 Piedmant Parkway		Greensboro	NC	27410
RadarFind Corporation	QBV	Mr. B. Bobby Bahram, CFO & COO	2100 Gateway Centre Blvd.,	Suite 150	Morrisville	NC	27560
Realserv, LLC	QBV	Mr. Greg Ferguson, President	84 W. Walnut Street , P.O. Box18830	Suite 202	Asheville	NC	28814
Regado Biosciences, Inc.	QBV	Mr. Chris Courts, VP - Finance	318 Blackwell Street	Suite 130	Durham	NC	27701
Remote Light Water, Inc.	QBV	Mr. J. Phillip L. Johnson, President	1634 N. Main Street		High Point	NC	27262
Renewable Fibers, LLC	QBV	Mr. Paul W. Skillicorn, Manaager	101 West Harper Street		Snow Hill	NC	28580
RiceWrap MFG, LLC	QBV	Mr. Richard Cronk, General Manager	102 Wortham Court		Henderson	NC	27537
RollCast Energy, Inc.	QBV	Mr. Srephen E. Cox, Jr., CEO	301 South Tryon Street	Suite 1590	Charlotte	NC	28202
Scion Neurostim, LLC	QBV	Mr. Lanty L. Smith, Member - Manager	3105 Cone Manor Lane	Suite B	Raleigh	NC	27613
Sequentric Energy Systems, LLC	QBV	Mr. Daniel Flohr, Manager	8 Cedar Island		Wilmington	NC	28409
Sharedvue, Inc.	QBV	Mr. Michael R. Overcash, President	900 Ridgefield Road	Suite 140	Raleigh	NC	27609
Silky America Corporation	QVB	Mr. Eugene V. Kozhevnikov, President	7144 Weddington, Rd	Suite 160	Concord	NC	28027
Slate Pharmaceuticals, Inc.	QBV	Mr. Robert Whitehead, President	318 Blackwell Street	Suite 240	Durham	NC	27701
Solaro Armour, Inc.	QBV	Mr. Gregg W. Schmidt	170 Huckleberry Drive		Stokesdale	NC	27357
Southeast Techinventures, Inc.	Grantee	Ms. Karen LeVert, President	P.O. Box 13714		RTP	NC	27709
Southern Capitol Technology Fund II, LP	Grantee	Mr. Benjamin T. Brooks, III	21 Glenwood Avenue	Suite 105	Raleigh	NC	27603
Spark Plug Games, LLC	QBV	Mr. Charles Long, Manager	314 S. Harrington Street		Raleigh	NC	27603
Specialty Wood Components, Inc.	QBV	Mr. Blane E. Rockafellow, CEO	7405 Kemp Road		Raleigh	NC	27613
Textile Film Initiative L.L.C.	QBV	Mr. Robin Grey, Registered Agent	2424 N. Davidson Street	Suite 103	Charlotte	NC	28205
The Center For Board Evaluations, LLC	QBV	Mr. J. Phillip L. Johnson, President	1634 N. Main Street		High Point	NC	27262
The Trial Productions LLC	QBV	Mr. Robert Whitllow, Manager	301 South McDowell Street	Suite 410	Charlotte	NC	28204
Titan Pet Products, Inc	QBV	Mr. Jason A. Hardi, Chief Executive Officer	6521 Creedmoor Road	Suite 101	Raleigh	NC	27613
Trana Discovery, Inc.	Licensee	Mr. Michael A. Gallucci, Jr. Treasurer & CFO	113 Lochinvar Ct		Cary	NC	27511
TransEnterix, Inc.	QBV	Mr. Todd M. Pope, President & CEO	3908 Patriot Drive	Suite 170	Durham	NC	27703
Triad Specialty Products LLC	QBV	Mr. Roland Johnson, Manager	204 Muirs Chapel Road	Suite 200	Greensboro	NC	27410
Tri-State Investment Group IV, LLC	Grantee	Mr. Stephen Clossick, Administrator	6002 Meadow Run Ct.		Chapel Hill	NC	27516
U.S. Environmental Protection Service, LLC	QBV	Mr. Albert J. Allen, Manager	3300 Battleground Avenue	Suite 305	Greensboro	NC	27410
Vtflex, Inc.	QBV	Mr. Samir Hakooz, President	105 Lion's Gate Drive		Cary	NC	27518
Waste Hauling Services, LLC	QBV	Mr. Patrick J. Ballantine, Manager	6109 Old Branch Road		Wilmington	NC	28409
Yap, Inc.	QBV	Mr. Igor Jablokov, CEO	1930 Camden Road	Suite 2040	Charlotte	NC	28203
Zenph Studios, Inc.	QBV	Mr. John Q. Walker, II, President	9660 Falls of Neuse Road	Suite 138-145	Raleigh	NC	27615
ZyCare, Inc.	QBV	Mrs. Sandra Cummings, President	3804 Sweeten Creek Road		Chapel Hill	NC	27514
Total Number of Registrations:	**136**						

Business Name	Number of Jobs Created	Average Wages Paid	Minority Business
A Bunch of Us Productions, LLC	0	$0.00	no
AC-2, LLC	0	$0.00	no
Addrenex Pharmaceutical, Inc.	7	$90,000.00	no
Advanced Digital Systems, Inc.	0	$0.00	no
Advanced Liquid Logic Inc.	0	$0.00	no
Affinergy, Inc.	9	$66,662.22	no
Akapella Health, Inc.	0	$0.00	no
Aldagen, Inc.	6	$48,000.00	no
Alpha Theory, LLC	0	$0.00	no
Applied Catheter Technologies, Inc.	1	$125,000.00	no
Arbor Pharmaceutical, Inc.	13	$32,000.00	no
Arbovax, Inc.	2	$35,000.00	no
Argand Energy Solutions, LLC	0	$0.00	no
ArtusLabs, Inc.	8	$90,000.00	no
Asklepios Biopharmaceutical, Inc.	0	$0.00	no
Aurora Ventures IV, L.L.C.	0	$0.00	no
Aurora Ventures V, L.P.	0	$0.00	no
Azalea Research Center, LLC	0	$0.00	no
Beroe, Inc.	2	$127,500.00	no
Bio Marck Pharmaceuticals, Ltd.	0	$0.00	no
Bioptigen, Inc.	1	$68,000.00	no
BioResource International, Inc.	4	$67,500.00	no
Biotechnology Research & Development, LLC	0	$0.00	no
Blue Ridge Analytics, Inc.	11	$59,500.00	no
Blue Ridge BioFuels, LLC	1	$18,000.00	no
Bright View Technologies, Inc.	0	$0.00	no
BUILDERadius, Inc.	29	$57,000.00	no
Buster Sports Communications Inc.	8	$15,912.04	no
Charlotte Angel Partners, LLC	0	$0.00	no
Chesson Laboratory Associates, Inc.	4	$94,000.00	no
Civatech Oncology, Inc.	0	$81,088.00	no
Clean Burn Fuels, LLC	0	$0.00	no
CleanTechnics International, Inc.	0	$0.00	no
Clear Advantage Collar, Inc	0	$0.00	no
ClearClosing, Inc.	0	$0.00	no
ClickBrick, Inc.	0	$0.00	no
Clinical Ink, LLC	0	$0.00	no
Colunbia Life Systems, Inc.	0	$0.00	no
Companioncabinet Software, LLC	2	$149,999.00	no

Business Name	Number of Jobs Created	Average Wages Paid	Minority Business
Consert Inc. f/n as Cleartricity,inc.	0	$0.00	no
Consolidated Asset Recovery Systems, Inc.	9	$41,000.00	no
Cooler Horsemanship, LLC	0	$0.00	no
Destination Commerce Corporation	0	$0.00	no
Endacea, Inc. (fka Link Technology, Inc.)	0	$0.00	no
EnSolve Biosystems, Inc.	0	$0.00	no
Entegrion, Inc.	2	$63,000.00	no
ESP Systems LLC	3	$35,000.00	no
Eyeborgs, LLC	6	$45,000.00	no
Field2Base, Inc.	1	$120,000.00	no
Five Points Solutions, Inc.	1	$100,000.00	no
FloLogic, Inc.	1	$30,000.00	no
Focus 3, Inc.	2	$56,250.00	no
F-Origin, Inc.	9	$100,711.00	no
Freedom Shopping, Inc.	3	$40,666.00	no
Gentris Corporation	6	$33,083.33	no
Greatwall Systems, Inc.	5	$49,240.00	no
Group Story, Inc.	0	$0.00	no
Hatteras Venture Affiliates III, LP	0	$0.00	no
Horticultural Asset Management, Inc.	1	$120,000.00	no
Idea Fund 1. L.P.	0	$0.00	no
IMAF-East, LLC	0	0	no
IMAF-Kannapolis, LLC	0	0	no
IMAF-West, LLC	0	0	no
ImagineOptix Corporation	0	0	no
Inception Micro Angel Fund LLC	1	$120,000.00	no
Inneroptic Technology, Inc.	1	$89,000.00	Yes
Intersouth Affiliates V, L.P.	0	$0.00	no
Intersouth Partners V, L.P.	0	$0.00	no
Intersouth Partners VI, L.P.	0	$0.00	no
Intersouth Partners VII, L.P.	0	$0.00	no
Intervolve, Inc.	2	$76,717.39	no
IV Holdings, Inc. (fks Innovations Village, Inc.)	3	$114,000.00	no
KeraNetics, LLC	2	$100,000.00	no
Killing Jar Films, LLC	0	$0.00	no
Krenitsky Pharmaceuticals, Inc.	0	$0.00	no
Kryosphere, Inc.	5	$58,488.00	no
Laamscience, Inc.	3	$52,000.00	no
Learning Management Systems, Inc.	0	$0.00	no

Business Name	Number of Jobs Created	Average Wages Paid	Minority Business
Liquidity Technologies, Inc.	4	$54,518.00	no
Listingbook, LLC	14	$63,158.00	no
Live Cargo, Inc.	5	$80,900.00	no
Longfiber Cotton Gins, Inc.	0	$0.00	no
Magnus Health Technology, Inc.	6	$52,963.00	no
MediWave Star Techology Inc.	4	$21,438.00	no
Modality, Inc.	4	$55,250.00	no
Moving Midway, LLC	4	$8,000.00	no
New Direction Biofueols, LLc	0	$0.00	no
Novan, Inc.	2	$58,000.00	no
Oncoscope, Inc.	5	$89,000.00	no
OptiVia Medical, LLC	0	$0.00	no
Orbit Energy, Inc.	0	$0.00	no
Paula Lee Haller Productions LLC	0	$0.00	Yes
Pepper Dog Specialty Foods, Inc.	0	$0.00	no
Physcient, Inc.	0	$0.00	no
PhytoChem Pharmaceuticals	0	$0.00	no
Piedmont Angel Network LLC	0	$0.00	no
Piedmont Angel Network TWO LLC	0	$0.00	no
Piedmont Global Solutions, Inc.	4	$87,500.00	no
Piedmont Pharmaceuticals LLC	0	$0.00	no
Pogo Health LLC	10	$34,502.00	no
Positioning Animals Worldwide, Inc.	0	$0.00	no
Practice Sync, Inc.	0	$0.00	no
Proficient, LLC	0	$0.00	no
Protochips, Inc.	0	$0.00	no
Quartek Corporation	3	$50,000.00	no
RadarFind Corporation	13	$79,577.00	no
Realserv, LLC	2	$35,000.00	no
Regado Biosciences, Inc.	5	$141,650.00	no
Remote Light Water, Inc.	0	$0.00	no
Renewable Fibers, LLC	0	$0.00	no
RiceWrap MFG, LLC	0	$0.00	no
RollCast Energy, Inc.	0	$0.00	no
Scion Neurostim, LLC	0	$0.00	no
Sequentric Energy Systems, LLC	0	$0.00	no
Sharedvue, Inc.	1	$67,000.00	no
Silky America Corporation	0	$0.00	no
Slate Pharmaceuticals, Inc.	6	$100,000.00	no

Business Name	Number of Jobs Created	Average Wages Paid	Minority Business
Solaro Armour, Inc.	0	$0.00	no
Southeast Techinventures, Inc.	1	$70,000.00	no
Southern Capitol Technology Fund II, LP	7	$82,000.00	no
Spark Plug Games, LLC	0	$0.00	no
Specialty Wood Components, Inc.	0	$0.00	no
Textile Film Initiative L.L.C.	0	$0.00	no
The Center For Board Evaluations, LLC	0	$0.00	no
The Trial Productions LLC	1	$47,560.00	no
Titan Pet Products, Inc	0	$0.00	no
Trana Discovery, Inc.	0	$0.00	no
TransEnterix, Inc.	15	$134,983.00	no
Triad Specialty Products LLC	0	$0.00	no
Tri-State Investment Group IV, LLC	0	$0.00	no
U.S. Environmental Protection Service, LLC	8	$45,000.00	no
Vtflex, Inc.	0	$0.00	no
Waste Hauling Services, LLC	6	$54,000.00	no
Yap, Inc.	6	$122,667.00	no
Zenph Studios, Inc.	1	$30,000.00	no
ZyCare, Inc.	3	$30,000.00	no
Number of Minority Owned Businesses	**2**		
Number of Jobs Created	**314**		
Total Average of Wages Paid	**$32,088.11**		

Business Name	Brief Description of Business Activity
A Bunch of Us Productions, LLC	Engaged in the development, financing, production, distribution, and exploitation of motion pictures.
AC-2, LLC	Development and commercialization techonoligies in the fields water supply, wastewater treatment, bio-energy, green structural material and enzymes.
Addrenex Pharmaceutical, Inc.	The business is engaged in the development and commercialization of pharmaceuticals.
Advanced Digital Systems, Inc.	Provide personal information management software by developing a pen-on-paper-based user-interface.
Advanced Liquid Logic Inc.	The company is in the business of design, development, manufacture and sale of equipment to manipulate fluids at the nanoscale.
Affinergy, Inc.	The company has developed the innovative technology of "interfacial biomaterials" or IFBMs.
Akapella Health, Inc.	This business was created in the marketplace where physician and small businesses can work together without the cost or burden in insurnace.
Aldagen, Inc.	The development, manufacture and distribution of a series of proprietary medical device products designed to improve therapeutic transplantation of adult hematopoetic stem and progenitor cells
Alpha Theory, LLC	Engaged in financial software who use the application to manage portfolio for investments.
Applied Catheter Technologies, Inc.	Development & commercialization of properietary, patent-protected catheters and catheter tecgnologies, including urethral coated stents for surgical procedures.
Arbor Pharmaceutical, Inc.	The company is primairly focused on commercialization of pharmaceutical and related technology and intellectual property.
Arbovax, Inc.	An early stage research and development company that will commercialize a vaccine targeting mosquito-borne diseases.
Argand Energy Solutions, LLC	The business is a Solar Energy Systems integration company that designes, engineers, finances, installs and maintains, a solar thermal systems.
ArtusLabs, Inc.	Technology company providing scientific data mamagement software and service for research based businesses.
Asklepios Biopharmaceutical, Inc.	Development and production of vector based delivery vehicles for genes and gene products for therapeutic applications.
Aurora Ventures IV, L.L.C.	The company will operate as a venture capital fund formed to invest primarily in seed and early stage investments.
Aurora Ventures V, L.P.	The company will invest primarily in seed, and early stage and follow on investments in information technology and life sciences .
Azalea Research Center, LLC	Manage research and clinical trials within the pharmaceutical and medical device industry.
Beroe, Inc.	It researches commodities and analyzes their performance worldwide using proprietary software.
Bio Marck Pharmaceuticals, Ltd.	R&D directed to the discovery and preclinical development of new drugs for the treatment of diseases such as asthma, chronic bronchitis, and cystic fibrosis.
Bioptigen, Inc.	Bioptigen is developing Optical Coherence Tomography instrumentation for imaging of humans and small animals for pre-clinical research .
BioResource International, Inc.	Research and development of industrial enzymes for animal feed applications.
Biotechnology Research & Development, LLC	Development and commercialization techonoligies in the fields water supply, wastewater treatment, bio-energy, green structural material and enzymes.
Blue Ridge Analytics, Inc.	Provide a new Internet based outsourcing option for employers.
Blue Ridge BioFuels, LLC	Waste oil is converted into biodiesel fuel at production facility.
Bright View Technologies, Inc.	Development of technology permitting creation and replication of complex microstructures over large areas and application of this technology to design and production of new products.
BUILDERadius, Inc.	Develops and markets software for building departments and building contractors.
Buster Sports Communications Inc.	The company will broadcast sports related radio shows via the internet.
Charlotte Angel Partners, LLC	Venture capital investments.
Chesson Laboratory Associates, Inc.	Decover, develop and commercialize therapeutic pharmaceutical systems and products.
Civatech Oncology, Inc.	Will develop and manufacture a medical device which will allow radiation therapy for the treatment of cancer.
Clean Burn Fuels, LLC	Process for the production of ethanol - dry milling.
CleanTechnics International, Inc.	Sell, market, manufacture, warehouse & distribute technology in fluid filtration.
Clear Advantage Collar, Inc	Manufacturing and distribution of patented transparent cervical collars.
ClearClosing, Inc.	The applicant is engaged in the business of developing, marketing, licensing, and selling software and other services.
ClickBrick, Inc.	Will manufactory and distribute a thin brick panel assembly panelof brick and plastic componants.
Clinical Ink, LLC	Clinical Ink Will develop data capture software for use in clinical trials.
Colunbia Life Systems, Inc.	Design and Manufactory a medical device that will allow a physicilan to delivery supplemental oxygen to newborns in need of oxygen therapy.
Companioncabinet Software, LLC	This is a software package for the cabinet industry.
Consert Inc. f/n as Cleartricity,inc.	An early stage technology company formed to research, develop and manufacture advanced communications technologies.
Consolidated Asset Recovery Systems, Inc.	Consolidated Asset Recovery Systems operates an internet portal for industry for the financial service industry to reduce cost.
Cooler Horsemanship, LLC	Operating a natural horsemanship and equine development program
Destination Commerce Corporation	An information company organized to develop and communicate a wide range of in-depth destination content about tourism & residential communities.

Business Name	Brief Description of Business Activity
Endacea, Inc. (fka Link Technology, Inc.)	Business intends to develop the endotoxin detection kit first for industrial use and subsequently for clinical diagnostic use, developing a drug for asthma
EnSolve Biosystems, Inc.	Ensolve Biosystems develops bioremediation treatment systems for the maritime industry.
Entegrion, Inc.	Entegrion, Inc. is engaged in the research & development of biological products for the treatment of blood or other conditions.
ESP Systems LLC	The ESP Systems has patented, pioneered and commercialized a state of the art wireless system for technology.
Eyeborgs, LLC	A North Carolina based corporation specializing in the production of an original feature film for motion pictures.
Field2Base, Inc.	Offers a highly mobile communications solution to its end users via use of the Tablet PC and certain proprietary software.
Five Points Solutions, Inc.	This is a software as a service web site solution to ficlitate communication and collaboration of everyday business groups.
FloLogic, Inc.	Directs the design, development, manufacture and markets an automatic fluid shutoff valve for installation.
Focus 3, Inc.	Development and sales of web-based customer relationship management application for real estate sales and marketing businesses.
F-Origin, Inc.	Engages in research, development and commercialization of software and hardware relating to portable handheld devices.
Freedom Shopping, Inc.	The company provides affordable and secure RFID solutions to the consuming public technology.
Gentris Corporation	Engaged in the R & D and commercialization of proprietary clinical pharmacogenomic product and services.
Greatwall Systems, Inc.	Research and development of network security products.
Group Story, Inc.	This a web based company that creates and publishes shared media pages of life events.
Hatteras Venture Affiliates III, LP	Intended to be a venture capital fund to invest primarily in companies engaged in the biotechnology, medical device and similar related industries.
Horticultural Asset Management, Inc.	Develop a custom horticultural software product that will enable professionals to evaluate the installed landscape and to produce a product that predicts the replacement value of horticultural assets and provides a horticulturally correct specimen and care guide.
Idea Fund 1. L.P.	Idea fund 1, is an early-stage venture capital fund that will invest in other companies.
IMAF - West, LLC	The applicant is a structured investment fund which will invest in capital stock or other equity interests.
IMAF- Kannapolis, LLC	The applicant is a structured investment fund which will invest in capital stock or other equity interests.
IMAF-East, LLC	A investor investment fund which will invest in growth companies for technology opportunities.
ImagineOptix Corporation	A technology development company. Commercializing technology that will double the efficiency of video projector divices.
Inception Micro Angel Fund LLC	Angel investor investment fund focusing on the Piedmont triad area.
Inneroptic Technology, Inc.	Inneroptic is engaed in the research and development of advanced visualization product for minimally-invasiver surgery.
Intersouth Affiliates V, L.P.	Venture capital firm focusing on early stage investments in the high technology and life sciences industries.
Intersouth Partners V, L.P.	Venture capital firm focusing on early stage investments in the high technology and life sciences industries.
Intersouth Partners VI, L.P.	Venture capital firm focusing on early stage investments in the high technology and life sciences industries.
Intersouth Partners VII, L.P.	Venture capital firm focusing on early stage investments in the high technology and life sciences industries.
Intervolve, Inc.	Development, marketing and sale of customized solutions for the information technology needs of the beverage.
IV Holdings, Inc. (fks Innovations Village, Inc.)	Research and development of Company Technology
KeraNetics, LLC	A continuous program of research, development, production & commercialization in the fields of Biotherapeutics.
Killing Jar Films, LLC	Promotion and marketing the Killing Jar film.
Krenitsky Pharmaceuticals, Inc.	Engaged in the discovery and early development of drugs that provide new therapies or improve existing ones and lower overall medical costs.
Kryosphere, Inc.	Kryosphere is engaged in the business of long term refrigerated facilities for the storage of biological specimens.
Laamscience, Inc.	Research/development of innovative technology of applying materials to substances, surfaces and the like to achieve antibiological activity to destroy microscopic, ultramicroscopic or infectious agents, etc.
Learning Management Systems, Inc.	Provides distance learning technology and professional services.
Liquidity Technologies, Inc.	Research and development of chemical compounds
Listingbook, LLC	Software solutions for real estate agents and their customers.
Live Cargo, Inc.	A Secure Messaging software company that provides products and services to transfer, store, and ensure secure delivery of digital documents.
Longfiber Cotton Gins, Inc.	The principal business is product development, manufacturing & whole sale distribution of cotton gins.
Magnus Health Technology, Inc.	The business is developing a system for the organization, storage and distribution of health records.
MediWave Star Techology Inc.	Research and development of technology and devices which incorporate such technology, for use in the field of medical diagnostics.
Modality, Inc.	Modality is the developer of technology used to transform and distribute handheld devices, allowing mobile access to trusted content.
Moving Midway, LLC	The applicant business is engaged in the financing,production,distribution and explitation of a motion picture.
New Direction Biofueols, LLc	Our primary purpose will be the transesterfication of vegetable oil to produce fuels or fuel additives.
Novan, Inc.	Biotechnology pharmaceutical research and development company.
Oncoscope, Inc.	The business activity in which the corporation is engaged is the research and development of optical biopsy systems.
OptiVia Medical, LLC	Medical device development

Business Name	Brief Description of Business Activity
Orbit Energy, Inc.	Orbit energy is a renewable energy company with a pr9oprietary technology that converts organic wastes into biogas and compost.
Paula Lee Haller Productions LLC	The business is engaged in the development, financing, production, distribution and exploitation of motion pictures.
Pepper Dog Specialty Foods, Inc.	The corporation is engaged in manufacturing, processing and wholesale distribution of specialty food products.
Physcient, Inc.	Engaged in development of new medical devices.
PhytoChem Pharmaceuticals	Is engaged in research, development, manufacturing and distributing pharmaceutical and nutraceutical products.
Piedmont Angel Network LLC	Invests in capital stock or debt instruments of growth companies, including but not limited to, early stage privately-held companies.
Piedmont Angel Network TWO LLC	Will invest in capital stock or debt instruments of growth companies, including but not linited to early stage, privately-companies.
Piedmont Global Solutions, Inc.	Develop, manufacture, market and sell hospital beds.
Piedmont Pharmaceuticals LLC	Pharmaceutical research & development
Pogo Health LLC	Primarily engaged in providing a service & products business to business getting them to offer as part of companies hmo's.
Positioning Animals Worldwide, Inc.	The company researches and develops global positioning system technologt for pet so as to provide owners with tracking capabilities.
Practice Sync, Inc.	The applicant business is involved in the development, distribution, licensing, marketing of software for physicians offices.
Proficient, LLC	A web based service for medical software provides.
Protochips, Inc.	Development of accessories and consumables for election microscopy.
Quartek Corporation	Quartek is a corp. that uses nanotechnology a combination for research and technology to create the use of structures and devices to measure distance,
RadarFind Corporation	Developing an asset tracking system for hospitals and care centers. "Indoor GPS system" for mobile medical devices used in hospitals (beds, infusion pumps, incubators).
Realserv, LLC	To gather data, process, then evaluate,package and sell this data to businesses.
Regado Biosciences, Inc.	Is a biopharmaceutical company developing antidote-controlled therapeutics, focusing on the acute care antithrombotics market.
Remote Light Water, Inc.	Technology licensing company in water and air purification.
Renewable Fibers, LLC	To develop and commercialization of state-of-the-art technologies of wastewater treatment, using the vehicle therefor the Hibiseus cannabinus plant (Kenaf).
RiceWrap MFG, LLC	Food Processing, Manufacture Susi: Rolls, Distribute products through Manufacturer Rep.
RollCast Energy, Inc.	To provide services to guide the creation of renewable energy and is providing services to create a portfolio of contracted wood-fired power generation projects.
Scion Neurostim, LLC	To research, develop, manage, license and market medical technology, devices and treatments.
Sequentric Energy Systems, LLC	Sequentric Energy Systems has developed and has a patent for management control system for business customers.
Sharedvue, Inc.	Programs are designed to provide a direct connect to a web server containing products content. This is updated on a regular basis.
Silky America Corporation	This is a complete line of Silky saw products, quality hand saws with superb cutting ability available globally.
Slate Pharmaceuticals, Inc.	Research and development of pharmaceuticals.
Solaro Armour, Inc.	Manufacture skin care products.
Southeast Techinventures, Inc.	They are a technology accelerator focused on migrating technologies from universities into commercial marketplace.
Southern Capitol Technology Fund II, LP	Venture capital investments.
Spark Plug Games, LLC	The company provides cutting-edge development services for research of market needs and develop their own internet protocol for market.
Specialty Wood Components, Inc.	Research, development, manufacturing and marketing of treated wood products.
Textile Film Initiative L.L.C.	Engages in the financing, and exploitation of motion pictures.
The Center For Board Evaluations, LLC	The purpose for which the Corporation is to engage in any lawfu or activity under chapter 55 of general statutes.
The Trial Productions LLC	Formed to participate in the financing, production, distribution and exploitation of a feature-length motion picture.
Titan Pet Products, Inc	Established to develop, design, market and sell pet containment and other pet products.
Trana Discovery, Inc.	The company is engaged in research and development drug discovery technology.
TransEnterix, Inc.	Research and development of medical devices.
Triad Specialty Products LLC	Will function as an animal pharmaceutical company.
Tri-State Investment Group IV, LLC	Acquires capital stock or debt instruments of growth companies, including but not limited to early stage privately-held companies.
U.S. Environmental Protection Service, LLC	Develops and produces proprietary erosion controlled processes, products, and systems.
Vtflex, Inc.	Design, enginer, manufacture, market VT Flex therapeutic exercise devices for consumers, hospitals, and physical therapy clinics.
Waste Hauling Services, LLC	A commercial trash collection and recycling company.
Yap, Inc.	Develops and markets speech and voice-enabled mobile software.
Zenph Studios, Inc.	Development of software to create, analyze and record music.
ZyCare, Inc.	Engages in research and development with a primary focus in cost effective clinical management of insulin-requiring diabetes mellitus.

NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

JANET COWELL
TREASURER

T. VANCE HOLLOMAN
DEPUTY TREASURER

November 2, 2009

Revenue Laws Study Committee
North Carolina General Assembly
Raleigh. North Carolina 27601

Gentlemen and Ladies:

Per G.S. 105-330.10, the following report is submitted detailing the receipts and expenditures of interest on motor vehicle tax payments for the fiscal year ended June 30, 2009.

Division of Motor Vehicles Taxation Interest Fund for Integrated Computer System
(Report of funds transferred to and distributed from account)
For the Fiscal Year Ended June 30, 2009

Beginning balance, July 1, 2008	$12,475,406.76
Annual receipts	
Contributions	6,000,926.87
Interest earnings	562,887.99
	6,563,814.86
Annual expenditures	(483,956.46)
Ending balance, June 30, 2009	$18,555,265.16

Please contact me if you need any additional information regarding this matter.

Sincerely,

T. Vance Holloman

325 NORTH SALISBURY STREET, RALEIGH, NORTH CAROLINA 27603-1385
Courier #56-20-45 Telephone (919) 807-2350 Fax (919) 807-2352
Physical Address: 4505 Fair Meadow Lane, Blue Ridge Plaza, Suite 102, Raleigh, NC 27607
Website: www.nctreasurer.com

ROY COOPER
ATTORNEY GENERAL

State of North Carolina
Department of Justice
PO Box 629
Raleigh, North Carolina
27602

Phone: (919) 716-6400
Fax: (919) 716-6750

April 27, 2010

The Honorable Daniel Clodfelter
Co-Chair, Revenue Laws Study Committee
300 N. Salisbury St., Room 408
North Carolina General Assembly
Raleigh, North Carolina 27603-5925

The Honorable Paul Luebke
Co-Chair, Revenue Laws Study Committee
300 N. Salisbury St., Room 529
North Carolina General Assembly
Raleigh, North Carolina 27603-5925

RE: Video Services Competition Act

Dear Members:

Pursuant to Section 18 of the Video Services Competition Act, please find the enclosed report regarding cable complaints.

If you have any questions or I can be of further assistance, please feel free to contact me at (919) 716-6400.

Very truly yours,

Kristi Hyman
Chief of Staff

KH:ml

cc: Kristine Leggett, NCGA Fiscal Research Division
Greg McLeod, NCDOJ, Legislative Counsel

NORTH CAROLINA DEPARTMENT OF JUSTICE
CONSUMER PROTECTION DIVISION REPORT REGARDING CABLE COMPLAINTS

The Video Services Competition Act (Session Law 2006-151) enacted a number of changes that impact cable television companies, video service providers, and consumers. Among other things, the law allows such companies and providers to obtain State-issued franchises from the Secretary of State's office to provide cable TV service, rather than local franchises from local units of government, under certain circumstances. Section 17 of the law designates the Consumer Protection Division of the Attorney General's Office (CPD) as the agency to "receive and respond to unresolved customer complaints about cable service provided by the holder of a State-issued franchise."

Section 18 requires the CPD to report to the Revenue Laws Study Committee the following information regarding complaints about cable service received by the CPD: Number of complaints, types of complaints, and the means for resolving them. Pursuant to Section 18, the Attorney General's Office makes the following report.

As of March 25, 2010, three hundred and thirty-eight (338) State-issued franchises have been accepted by the Secretary of State's office, according to that office's website.

For the time period of March 26, 2009 to March 25, 2010, the CPD received two hundred and eighty-two (282) written complaints against companies with a State-issued

franchise. This represents a 50% increase in complaints from last year. As set forth in the CPD's report filed with the Revenue Laws Study Committee on March 31, 2009, the CPD received one hundred and eighty-eight (188) complaints during the March 26, 2008 to March 26, 2009 time period covered in its previous report.

Out of these two hundred and eighty-two (282) complaints:

- Ninety-four (94) involved allegations of unsatisfactory service or repair;
- One hundred and three (103) involved alleged billing errors;
- Three (3) involved an alleged failure to perform or complete a service installation or upgrade in a timely manner;
- Twelve (12) involved a refund that was allegedly not properly provided;
- The remaining complaints involved discrete or miscellaneous issues.

For the same time period, the CPD received fifty-two (52) written complaints against companies with a local franchise from consumers who incorrectly believed that the new law directed the CPD to handle all consumer complaints against all cable companies as of January 1, 2007. CPD attempted to refer these complaints to the locality still holding local franchise agreements with the company. Some of these localities were willing to handle the complaints while the rest were not. For those that were not, the CPD handled the complaint for the consumer. Out of these fifty-two (52) complaints against companies with local franchises:

- Nineteen (19) involved alleged unsatisfactory service or repair;
- Fifteen (15) involved alleged billing errors;

- Three (3) involved a refund that was allegedly not provided;
- The remaining complaints involved discrete or miscellaneous issues.

The CPD treats cable complaints like other consumer complaints it receives and attempts to mediate resolutions by sending the complaints to the cable company for a response. The CPD tracks responses to see if consumers are satisfied and to determine if the complaints show patterns that may warrant further investigation.

CITIZEN-TIMES.com
ASHEVILLE'S HOMEPAGE

April 23, 2010

Morris Broadband to reimburse Western North Carolina for service outages

STAFF REPORTS

Morris Broadband, a telecommunications and cable company serving parts of western North Carolina, has agreed to pay additional credits to consumers who experienced lengthy service outages last fall, Attorney General Roy Cooper announced today.

In February 2009, Morris Broadband, of Augusta, Georgia, purchased cable and telephone operations for several cities and towns in the western part of the state from Mediacom. When Morris took over the service, technical problems caused a significant number of consumers to lose service. Areas affected by the problems were Hendersonville, Nebo, Sylva, and Franklin.

Cooper's Consumer Protection Division first sent a letter to Morris Broadband in October 2009 based on calls and complaints from 27 people who experienced service outages. Consumers complained that they lost telephone, cable and internet service for several days. During this time, some consumers were unable to make 911 or other emergency calls and businesses were without Internet access.

As part of the agreement, Morris Broadband will issue $60,000 in credits to the remaining households and businesses that were affected by the services problems by May 14. The credits are in addition to $68,000 worth of credits the company has already issued. According to Morris's estimates, approximately 1,800 telephone and 8,000 Internet subscribers were without service for up to 10 days.

The accounts of Morris Broadband customers affected by the outages should be credited no later than May 14. Consumers with questions can contact Cooper's Consumer Protection Division by phone at 1-877-5-NOSCAM or online at www.ncdoj.gov.

Morris giving credits for loss of cable service

From staff reports/BlueRidgeNow.com

Published: Sunday, April 25, 2010 at 4:30 a.m.
Last Modified: Saturday, April 24, 2010 at 11:00 p.m.

Morris Broadband has agreed to pay credits to consumers who experienced lengthy service outages last fall, said Attorney General Roy Cooper.

The transition from Mediacom to Morris Broadband did not go smoothly. In early October 2009, company representatives said wiring problems and software glitches were to blame for thousands of customers losing their cable, Internet and phone services in October. Eventually the problems were fixed, and residents were able to receive their cable services.

"When a business falls short of your expectations, my office wants to know about it," said Cooper. "Thanks to the people who contacted us, we were able to get the issues resolved and win credits for consumers."

As part of the agreement, Morris Broadband will issue $60,000 in credits to the remaining households and businesses that were affected by the services problems by May 14. The credits are in addition to $68,000 worth of credits the company has already issued. According to Morris's estimates, approximately 1,800 telephone and 8,000 internet subscribers were without service for up to 10 days.

The accounts of Morris Broadband customers affected by the outages should be credited no later than May 14. Areas affected by the problems were Hendersonville, Nebo (McDowell County), Sylva (Jackson County) and Franklin (Macon County).

Cooper's Consumer Protection Division first sent a letter to Morris Broadband in October based on calls and complaints from 27 people who experienced service outages. Consumers complained that they lost telephone, cable and internet service for several days. During this time, some consumers were unable to make 911 or other emergency calls and businesses were without Internet access.

Morris Broadband, a telecommunications and cable company serving parts of western North Carolina, purchased cable and telephone operations for several cities and towns in the western part of the state from Mediacom. When Morris, of Augusta, Ga., took over the service, technical problems caused a significant number of consumers to lose service. Problems developed when the Internet and telephone systems were transferred, CFO Craig Mitchell said in late October. This caused many people to lose service.

Mitchell said the company was not equipped to handle the volume of outage calls, which were widespread throughout the county, prompting more complaints from customers.

"What frustrated customers was they couldn't get in touch with anybody," he said.

Cable customers also suffered from a software glitch. Small cable companies outsource many of the technological aspects, such as which channels a particular subscriber should receive.

When Morris switched to its outsourcing company, there were technological problems and some customers lost cable.

The whole ordeal frustrated many customers, and Mitchell said some have canceled their service. "We did take a number of subscriber losses."

Consumers with questions can contact Cooper's Consumer Protection Division by phone at 1-877-5-NO-SCAM or online at www.ncdoj.gov.

NORTH CAROLINA
DEPARTMENT OF COMMERCE

April 1, 2010 Report

Information current as of March 24, 2010

This report is made to the Revenue Laws Study Committee, pursuant to N.C. Gen. Stat. § 143B-435.1(d). The following provides information on clawbacks in various programs administered by the Dept. of Commerce.

PROGRAM	COMPANY	TOTAL AMT TO BE REPAID	AMT REPAID	DATE AND/OR TERMS OF RECOVERY	AMT TO BE REPAID	TRIGGERING EVENT
One NC[1]	Philip Morris USA	$ 750,000.00	$ 750,000.00	7-5-07	0	Facility closed. Moved operations to Va.
One NC	Pulte Mortgage	$ 55,000.00	$ 55,000.00	10-6-08	0	Facility closed
One NC	IWCO Direct	$ 93,750.00	$ 20,833.32	$5208.33 to be paid monthly from 12/21/09 thru 5/21/11	$72,916.68	Facility closed
JDIG[2]	Brunswick Corporation	$ 83,524.00	$ 83,524.00	4-23-09	0	Facility closed
JDIG	Dell	$ 1,512,000 .00	$ 1,512,000.00	10-23-09	0	Facility closed
JDIG	Volvo Construction Equipment	$ 69,247.00	$ 69,247.00	1-4-10	0	Termination of project operations
[redacted]	Chris Craft	$ 54,212.00	$ 4,517.74	$4517.66 to be paid quarterly from 6/1/10 thru 12/1/12	$49,694.26	Termination of project operations
JDIG	ITG	$ 13,780.00	$ 4,593.34	$4593.33 to be paid on 6/1/10 and 9/1/10	$ 9,186.66	Project terminated due to lay-offs
Green Business Fund[3]	Evans Environmental Energies, Inc.	$ 15,540.42	$ 15,540.42	10-28-09	0	Project terminated due to industrial accident and declining economy; unspent money returned

[1] The One North Carolina Fund statute requires that grant agreement include, and grant agreement do include, the ability to recapture funds for a grantee's failure to comply with the agreement. *See N.C. Gen. Stat. §143B-437.72(b)(7)*. Section 2.7 of The Guidelines for One North Carolina, promulgated under the One NC Statute also requires that agreements contain recapture provisions for nonperformance.

[2] Job Development Investment Grant Program. The ability to recapture funds for failing to maintain operations at the project location for at least 150% of the grant term is statutorily required to be, and is in fact, reflected in JDIG Agreements. This requirement is also iterated in Section 11.3 of the Criteria for Operation and Implementation of the Job Development Investment Grant Program.

[3] The ability to recapture funds for performance failures is statutorily required to be, and is in fact, reflected in the N.C. Green Business Fund grant agreements. *See* §143B-437.6(5).

Contact: Karen West, General Counsel, Commerce kwest@nccommerce.com 919 715-5579

§ 105-256. Publications prepared by Secretary of Revenue.

(a) Publications. – The Secretary shall prepare and publish the following:

(1) At least every two years, statistics concerning taxes imposed by this Chapter, including amounts collected, classifications of taxpayers, geographic distribution of taxes, and other facts considered pertinent and valuable.

(2) At least every two years, a tax expenditure report that lists the tax expenditures made by a provision in this Chapter, other than a provision in Subchapter II, and gives an estimate of the amount by which revenue is reduced by each tax expenditure. A "tax expenditure" is an exemption, an exclusion, a deduction, an allowance, a credit, a refund, a preferential tax rate, or another device that reduces the amount of tax revenue that would otherwise be available to the State. An estimate of the amount by which revenue is reduced by a tax expenditure may be stated as ranging between two amounts if the Department does not have sufficient data to make a more specific estimate.

(3) As often as required, a report that is not listed in this subsection but is required by another law.

(4) As often as the Secretary determines is needed, other reports concerning taxes imposed by this Chapter.

(5) At least once a year, a statement of the taxpayer's bill of rights, which sets forth in simple and nontechnical terms the following:

a. The taxpayer's right to have the taxpayer's tax information kept confidential.

b. The rights of a taxpayer and the obligations of the Department during an audit.

c. The procedure for a taxpayer to appeal an adverse decision of the Department at each level of determination.

d. The procedure for a taxpayer to claim a refund for an alleged overpayment.

e. The procedure for a taxpayer to request information, assistance, and interpretations or to make complaints.

f. Penalties and interest that may apply and the basis for requesting waiver of a penalty.

g. The procedures the Department may use to enforce the collection of a tax, including assessment, jeopardy assessment, enforcement of liens, and garnishment and attachment.

(6) On an annual basis, a report on the quality of services provided to taxpayers through the Taxpayer Assistance Call Center, walk-in assistance, and taxpayer education. The report must be submitted to the Joint Legislative Commission on Governmental Operations.

(7) The reports required under G.S. 105-129.19 and G.S. 105-129.44.

(8) By January 1 and July 1 of each year, a semiannual report on the Department's activities listed in this subdivision. The report must be submitted to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee.

a. Its efforts to increase compliance with the tax laws. The report must describe the Department's existing initiatives in this area as of July 1, 2006, and must estimate, by tax type and amount, the revenue expected in the fiscal year by the initiative. The report must describe any new initiative implemented since July 1, 2006, and estimate, by tax type and amount, the revenue expected in the fiscal year by the initiative.

b. Its efforts to identify and address fraud and other abuses of the voluntary tax compliance system that result in unreported and underreported tax. The report must describe the Department's long-term plan for achieving greater voluntary compliance and must summarize the steps taken since the last report and their results.

c. Its efforts to collect tax debts. The report must include a breakdown of the amount and age of tax debts collected through warning letters and by other means, must itemize collections by type of tax, must describe the Department's long-term collection plan, and must summarize the steps taken since the last report and their results.

d. Its use of the proceeds of the collection assistance fee imposed by G.S. 105-243.1.

(9) A final decision of the Secretary in a contested tax case. The Secretary must redact identifying taxpayer information from a final decision prior to publication.

(b) Information. – The Secretary may require a unit of State or local government to furnish the Secretary statistical information the Secretary needs to prepare a report under this section. Upon request of the Secretary, a unit of government shall submit statistical information on one or more forms provided by the Secretary.

(c) Distribution. – The Secretary shall distribute reports prepared by the Secretary as follows without charge:

(1) Five copies to the Division of State Library of the Department of Cultural Resources, as required by G.S. 125-11.7.

(2) Five copies to the Legislative Services Commission for the use of the General Assembly.

(3) Upon request, one copy to each entity and official to which a copy of the reports of the Appellate Division of the General Court of Justice is furnished under G.S. 7A-343.1.

(4) One copy of the tax expenditure report to each member of the General Assembly and, upon request, one copy of any other report to each member of the General Assembly.

(5) One copy of the taxpayer's bill of rights to each taxpayer the Department contacts regarding determination or collection of a tax, other than by providing a tax form.

(6) Upon request, one copy of the taxpayer's bill of rights to each taxpayer.

The Secretary may charge a person not listed in this subsection a fee for a report prepared by the Secretary in an amount that covers publication or copying costs and mailing costs.

(d) Other Requirements. – The following requirements apply to the Secretary:

(1) Repealed by Session Laws 2006-6, s. 10, effective July 1, 2007.

(2) Escheats. – G.S. 116B-60(g) requires the Secretary to furnish information to the Escheat Fund on October 1 of each year.

(e) Repealed by Session Laws 2004-124, s. 23.3(b), effective July 1, 2004. (1939, c. 158, s. 926; 1955, c. 1350, s. 8; 1973, c. 476, s. 193; 1991, c. 10, s. 1; 1991 (Reg. Sess., 1992), c. 1007, s. 16; 1993, c. 433, s. 1; c. 532, s. 6; 2001-414, ss. 25, 26; 2002-87, s. 8; 2002-126, s. 22.5; 2004-124, s. 23.3(b); 2006-6, s. 10; 2006-66, s. 19.3(b); 2007-491, ss. 35, 36.)

NC Use Value Advisory Board

Report to the Revenue Laws Study Committee

May 4, 2010

The Use Value Advisory Board met on Tuesday, March 9, 2010. During this meeting, held at the Farm Bureau Offices in Raleigh, we adopted the 2010 Use Value Manual to be "recommended" by the NC Department of Revenue for use by those counties reappraising their real property effective for January 1, 2011. In that document (available online at the NC DOR website), we set forth the following:

Cap Rate for Agricultural & Horticultural Land: 6.5%
Cap Rate for Forestland: 9%

This rate represents no change in the current rate structure.

NOTE: Regardless of the value indicated by the application of the above cap rate to the rent ($/acre) appropriate for agricultural land, there is a ceiling value per acre of $1,200.

Respectfully Submitted by:
Dr. Joe Zublena, Chair
Use Value Advisory Board
joe_zublena@ncsu.edu

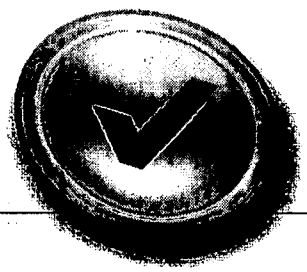
The Video Programming Act
SL 2006-151

Revenue Laws Study Committee
May 5, 2010

Cindy Avrette and Heather Fennell, Research Division
Rodney Bizzell and Sandra Johnson – Fiscal Research

Goals of SL 2006-151

- Equal taxation of the same service
- Tax system that is easy to administer
- Preserve local government revenue stream



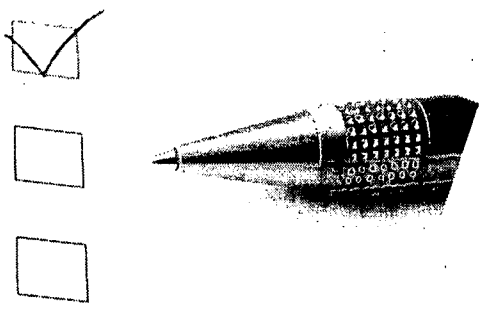
- Promote competition in marketplace
- Promote deployment of broadband as a basic communication tool
- Financial support and viability of PEG channels

Reporting Requirement

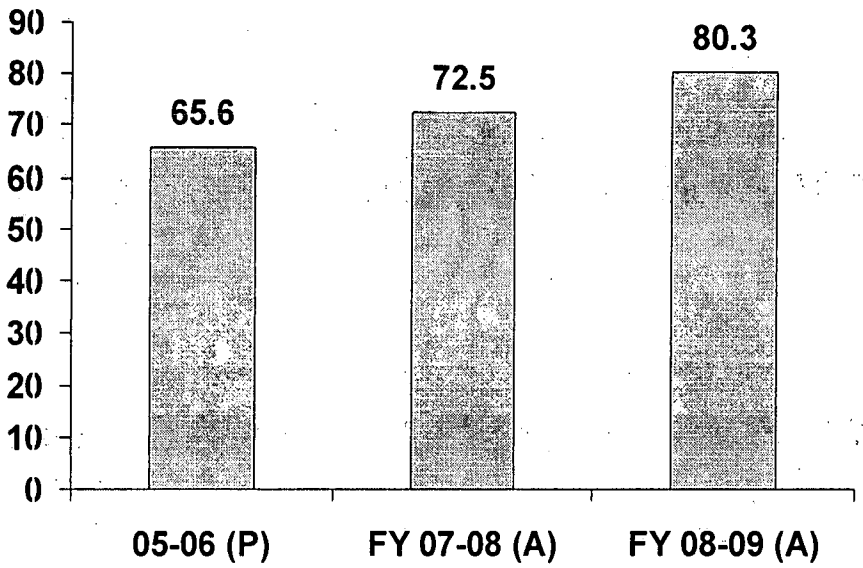
- Revenues
- Competition in Video Programming & Deployment of Broadband
  - S.L. 2006-151, section 21
  - Revenue Laws Study Committee
- Video Programming Customer Services
  - S.L. 2006-151, section 18
  - CPD of the AG's Office

Reporting Requirement

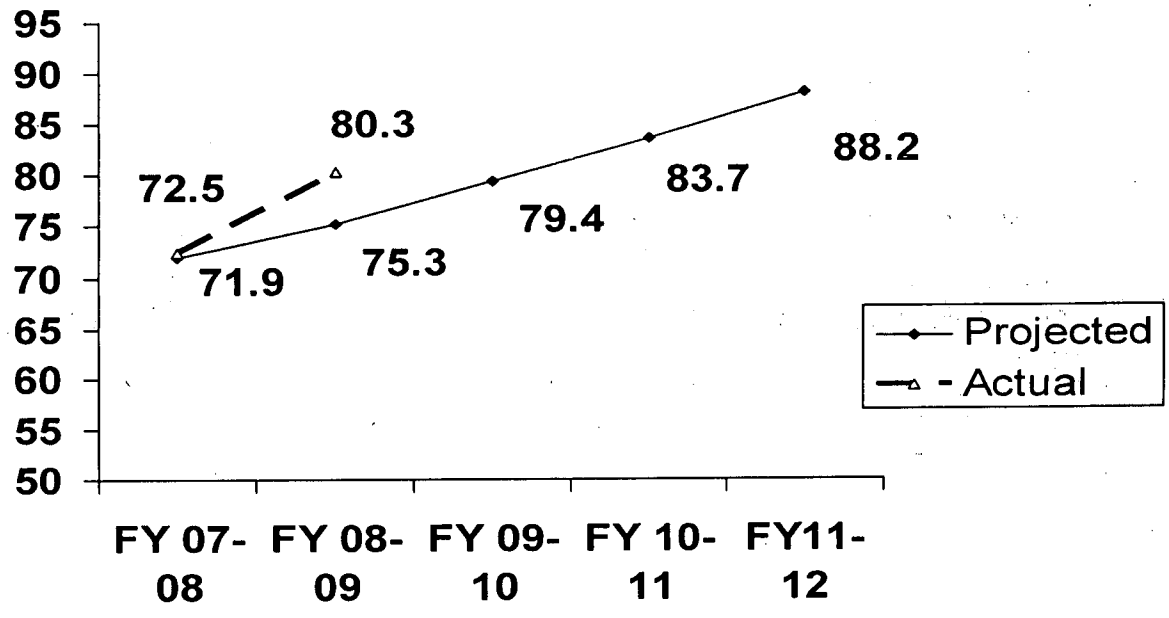
- Revenues
- Competition in Video Programming & Deployment of Broadband
- Video Programming Customer Services



Local Distribution, Projected 05-06 Actual FY 07-08, FY 08-09 ($ In Millions)

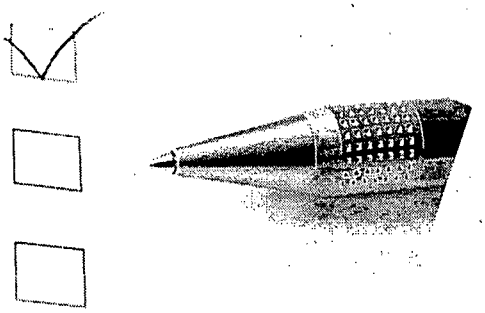


Local Video Programming Tax Revenue, FY07-08 thru FY11-12



Reporting Requirement

- Revenues
- Competition in Video Programming & Deployment of Broadband
- Video Programming Customer Services



State Issued Franchises

- 118 State Franchises approved between January 2007 and April 2008
- 221 State Franchises approved since April 2008
- State franchises generally represent the same service areas covered under old franchise agreements

Reports from Providers

- AT&T
- North State Communications
- NC Telephone Cooperative Coalition, Inc.
- NC Cable Telecommunications Association

- Streamlined process eliminated time & expense
- Deploy service faster
- Infrastructure deployment
- Dramatically increased data speeds

Reports from Interested Parties

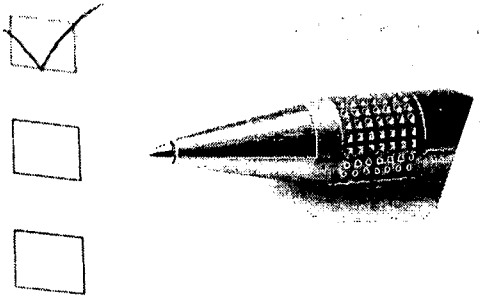
- League of Municipalities
- Southeast Association of Telecommunications Officers & Advisors (SEATOA)
- e-NC
- Many areas served by only one provider
- Prices?
- e-NC will report in May or June on the current state of broadband deployment in NC

FCC 06-180

- Build-out Requirements
  - Locally negotiated
  - FCC "record shows that build-out issues are one of the most contentious…"
  - FCC 06-180 limits LFAs' ability to impose certain build-out requirements
- PEG Services and Equipment
  - S.L. 2006-151 provided PEG support
  - FCC "proper treatment of LFA-mandated contributions in support of PEG services and equipment"
  - FCC 06-180 limits LFAs' authority

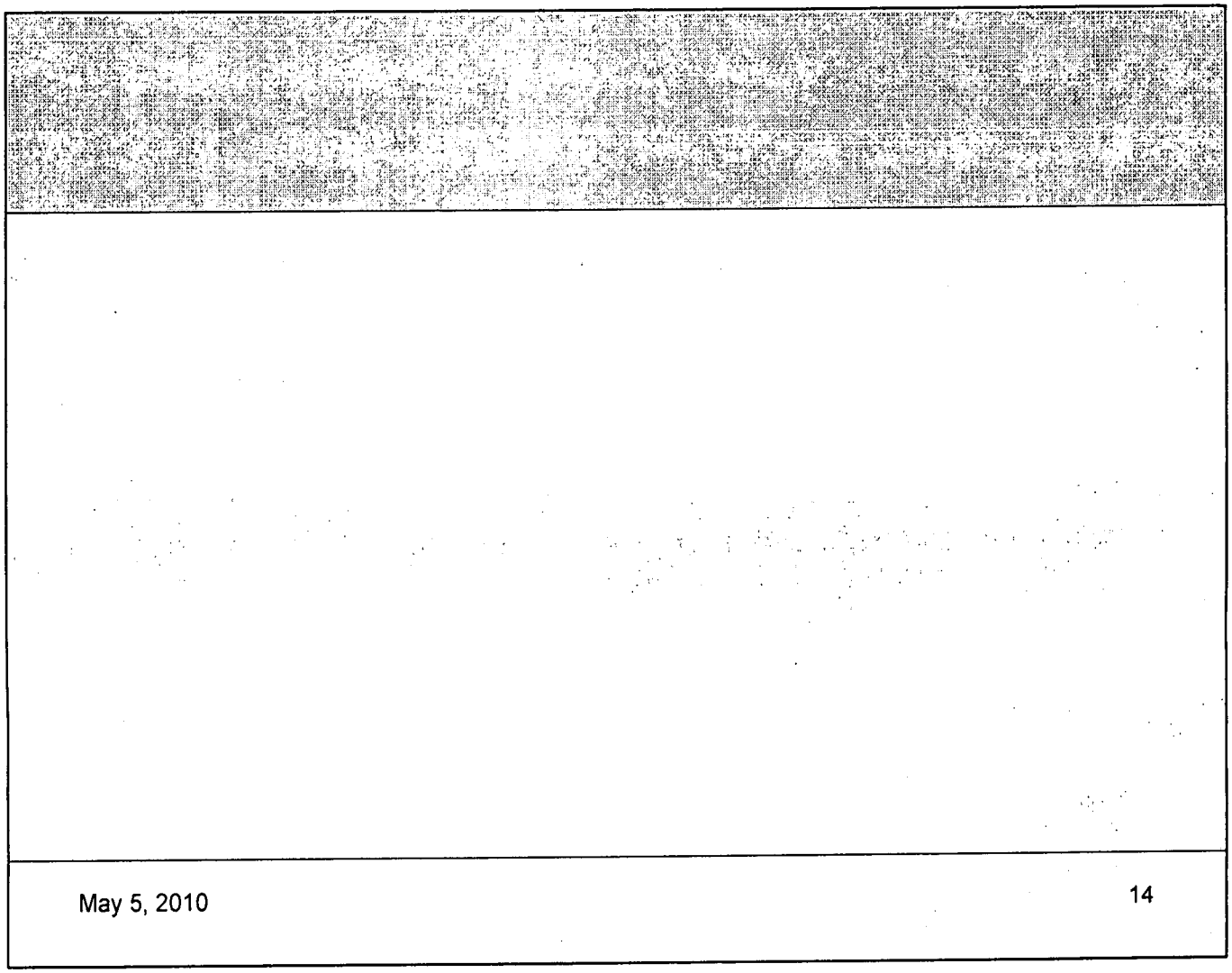
Reporting Requirement

- Revenues
- Competition in Video Programming & Deployment of Broadband
- Video Programming Customer Services



CPD of AG's Office

- March 2009 – March 2010
  - 282 written complaints
  - 50% increase
- Majority of Complaints
  - 103 alleged billing errors
  - 94 alleged unsatisfactory service or repair
- Mediate Resolutions; Track Responses
  - Consumer satisfaction
  - Pattern of behavior that warrants investigation



May 10, 2010

MEMORANDUM

TO: **Kenneth R. Lay**
Secretary of Revenue

FROM: William L. Spencer, Director
Policy Analysis & Statistics Division

SUBJECT: Article 44 Hold Harmless Estimate for FY 2010-11 (CORRECTED)

G.S. 105-521 requires that "the Department of Revenue...must...submit to the Secretary and to the General Assembly a final projection of the estimated amount of replacement revenue that all local governments would be expected to receive during the upcoming fiscal year." This section further requires that "On or before August 15, 2008, and every August 15 through August 15, 2012, the Secretary must multiply each local government's local sales tax share by the estimated amount of replacement revenue that all local governments are expected to receive during the current fiscal year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars ($100.00)."

The Department of Revenue's "final projection of the estimated amount of replacement revenue that all local governments would be expected to receive during the upcoming fiscal year" is $408,800,000. The accompanying Excel Workbook shows how the estimate was derived, and the calculation of each local government's share (its "Hold Harmless" amount) to be distributed August 15, 2010.

FY 2010-11 Article 44 Hold Harmless Calculation

Art40-1/2%	Art42-1/2%	Sales-1%		Local Sales	Computed Share	Reimbursements	Hold Harmless
			Distribution	Tax Share	of Replacement Revenue	Less Replacement Revenue	
2008-2009	2008-2009	2008-2009	2008-2009	2008-2009	Projection 2010-11	Projection 2010-11	2010-2011
1,186,017.98	1,180,143.79	1,296,644.01	**3,662,805.78**	**0.0017355**	**709,473.86**	**-37,594.48**	
75,536.75	75,162.64	82,582.53	233,281.92	**0.0001105**	45,185.97	-1,408.31	
36,333.01	36,153.06	39,722.11	112,208.18	**0.0000532**	21,734.37	-2,302.25	
59,746.04	59,450.31	65,328.01	184,524.36	**0.0000874**	35,741.78	11,423.34	**11,423.34**
34,856.68	34,684.09	38,109.84	107,650.61	**0.0000510**	20,851.58	85,043.26	**85,043.26**
177,959.70	177,078.06	194,549.01	549,586.77	**0.0002604**	106,453.21	-13,158.33	
3,735,563.41	3,695,289.53	7,021,159.86	**14,452,012.80**	**0.0068476**	**2,799,309.01**	**51,518.90**	**51,518.90**
203,355.57	201,162.51	382,136.90	786,654.98	**0.0003727**	152,372.57	22,675.92	**22,675.92**
12,645.49	12,509.23	23,777.16	48,931.88	**0.0000232**	9,477.95	-5,123.86	
100,067.68	98,988.95	188,096.49	387,153.12	**0.0001834**	74,990.33	-22,687.21	
24,278.43	24,016.62	45,625.80	93,920.85	**0.0000445**	18,192.17	-6,653.87	
60,322.82	59,672.32	113,358.97	233,354.11	**0.0001106**	45,199.95	-17,001.99	
516,588.21	511,017.85	970,840.16	1,998,446.22	**0.0009469**	387,092.69	-49,862.87	
57,638.89	57,017.55	108,343.96	223,000.40	**0.0001057**	43,194.47	11,273.85	**11,273.85**
543,889.95	538,026.30	1,022,280.31	2,104,196.56	**0.0009970**	407,576.20	122,872.19	**122,872.19**
42,863.42	42,401.34	80,568.50	165,833.26	**0.0000786**	32,121.38	-19,502.36	
35,855.36	35,468.85	67,398.89	138,723.10	**0.0000657**	26,870.22	-4,654.31	
106,910.89	105,758.31	200,948.74	413,617.94	**0.0001960**	80,116.48	-19,039.15	
3,176,911.98	3,144,161.80	6,909,655.06	**13,230,728.84**	**0.0062690**	**2,562,750.19**	**44,397.66**	**44,397.66**
24,362.26	24,111.09	52,987.97	101,461.32	**0.0000481**	19,652.74	-8,875.59	
12,545.97	12,416.63	27,287.17	52,249.77	**0.0000248**	10,120.61	-8,375.17	
29,658.62	29,352.89	64,505.35	123,516.86	**0.0000585**	23,924.82	-23,252.74	
29,710.05	29,403.43	64,631.70	123,745.18	**0.0000586**	23,969.05	-9,820.77	
10,225.52	10,120.12	22,239.92	42,585.56	**0.0000202**	8,248.69	-7,399.80	
163,917.01	162,227.40	356,506.06	682,650.47	**0.0003235**	132,227.23	-50,873.47	
100,730.22	99,691.60	219,092.97	419,514.79	**0.0001988**	81,258.68	-78,995.47	
2,038,073.36	2,019,774.52	3,845,868.37	7,903,716.25	**0.0037449**	1,530,924.75	-268,851.60	
57,713.20	57,148.25	118,544.95	233,406.40	**0.0001106**	45,210.08	-28,635.74	
44,382.48	43,925.00	96,527.76	184,835.24	**0.0000876**	35,802.00	-9,206.01	
27,065.94	26,851.43	45,043.74	98,961.11	**0.0000469**	19,168.45	-8,281.94	
8,819,856.37	8,672,861.81	25,274,880.28	**42,767,598.46**	**0.0202641**	**8,283,948.10**	**-3,751,848.41**	
256,354.75	252,079.65	733,818.62	1,242,253.02	**0.0005886**	240,620.47	-164,769.56	
95,875.44	94,276.44	274,392.72	464,544.60	**0.0002201**	89,980.81	-63,533.75	
2,531,993.04	2,489,805.46	7,259,454.12	12,281,252.62	**0.0058191**	2,378,839.66	-269,021.17	
126,113.12	124,011.75	361,543.70	611,668.57	**0.0002898**	118,478.26	-63,517.36	
968,598.08	965,980.02	472,935.57	**2,407,513.67**	**0.0011407**	**466,327.76**	**3,815.51**	**3,815.51**
32,111.38	32,024.57	15,683.57	79,819.52	**0.0000378**	15,460.79	-266.31	
55,323.83	55,174.20	27,022.49	137,520.52	**0.0000652**	26,637.29	-17,452.76	
43,033.93	42,917.68	21,005.47	106,957.08	**0.0000507**	20,717.25	-10,468.54	
30,975.39	30,891.63	15,128.46	76,995.48	**0.0000365**	14,913.78	-8,837.89	
4,238.68	4,227.20	2,069.94	10,535.82	**0.0000050**	2,040.75	-1,308.03	
39,581.94	39,474.93	19,327.67	98,384.54	**0.0000466**	19,056.77	-9,244.41	

FY 2010-11 Article 44 Hold Harmless Calculation

Jurisdiction	Computed Reimbursements 2002-2003	Art40-1/2% 2008-2009	Art42-1/2% 2008-2009	Sales-1% 2008-2009	Distribution 2008-2009	Local Sales Tax Share 2008-2009	Computed Share of Replacement Revenue Projection 2010-11	Reimbursements Less Replacement Revenue Projection 2010-11	Hold Harmless 2010-2011
Orange	**3,116,011.46**	5,248,351.97	5,205,066.21	7,381,515.09	**17,834,933.27**	**0.0084505**	**3,454,569.97**	**-338,558.51**	
Carrboro	272,742.81	790,071.69	783,555.32	1,111,172.87	2,684,799.88	**0.0012721**	520,037.22	-247,294.41	
Chapel Hill*	761,981.58	2,250,108.16	2,231,010.05	3,247,225.49	7,728,343.70	**0.0036618**	1,496,955.65	-734,974.07	
Hillsborough	123,858.65	269,490.90	267,266.79	378,916.63	915,674.32	**0.0004339**	177,363.21	-53,504.56	
Pamlico	**252,691.57**	711,416.14	707,708.73	778,065.93	**2,197,190.80**	**0.0010411**	**425,588.89**	**-172,897.32**	
Alliance	0.00	0.00	0.00	0.00	0.00	**0.0000000**	0.00	0.00	
Arapahoe	893.62	47.79	47.56	54.18	149.53	**0.0000001**	28.96	864.66	**864.66**
Bayboro	4,209.99	4,692.59	4,668.23	5,139.06	14,499.88	**0.0000069**	2,808.58	1,401.41	**1,401.41**
Grantsboro	1,775.81	1,088.32	1,082.64	1,191.85	3,362.81	**0.0000016**	651.37	1,124.44	**1,124.44**
Mesic	1,232.21	1,504.85	1,497.02	1,648.06	4,649.93	**0.0000022**	900.68	331.53	**331.53**
Minnesott Beach	2,258.23	7,161.69	7,124.37	7,833.25	22,119.31	**0.0000105**	4,284.44	-2,026.21	
Oriental	10,149.38	22,941.87	22,822.34	25,094.51	70,858.72	**0.0000336**	13,725.11	-3,575.73	
Stonewall	1,087.06	4,258.02	4,235.74	4,646.70	13,140.46	**0.0000062**	2,545.27	-1,458.21	
Vandemere	1,535.98	2,117.10	2,106.09	2,317.45	6,540.64	**0.0000031**	1,266.90	269.08	**269.08**
Pasquotank	**815,874.83**	1,782,997.26	1,765,152.64	3,429,985.90	**6,978,135.80**	**0.0033064**	**1,351,642.76**	**-535,767.93**	
Elizabeth City*	272,339.60	605,165.12	599,118.25	1,162,171.96	2,366,455.33	**0.0011213**	458,374.89	-186,035.29	
Pender	**611,793.69**	2,553,386.24	2,539,851.59	2,687,493.28	**7,780,731.11**	**0.0036867**	**1,507,102.92**	**-895,309.23**	
Atkinson	2,226.16	13,204.62	13,134.65	13,899.72	40,238.99	**0.0000191**	7,794.16	-5,568.00	
Burgaw	34,891.01	200,702.42	199,637.68	211,180.30	611,520.40	**0.0002897**	118,449.56	-83,558.55	
Saint Helena	1,628.49	24,196.77	24,068.56	25,469.38	73,734.71	**0.0000349**	14,282.18	-12,653.69	
Surf City*	41,749.10	258,174.96	255,995.57	389,933.54	904,104.07	**0.0004284**	175,122.09	-133,372.99	
Topsail Beach	18,270.65	29,148.97	28,994.48	30,681.28	88,824.73	**0.0000421**	17,205.07	1,065.58	**1,065.58**
Watha	434.42	9,203.02	9,154.24	9,685.91	28,043.17	**0.0000133**	5,431.87	-4,997.45	
Perquimans	**185,883.19**	645,139.31	642,638.67	486,254.87	**1,774,032.85**	**0.0008406**	**343,624.53**	**-157,741.34**	
Hertford	18,753.79	111,265.93	110,834.62	83,893.67	305,994.22	**0.0001450**	59,270.11	-40,516.32	
Winfall	4,745.73	30,537.62	30,419.24	23,023.85	83,980.71	**0.0000398**	16,266.80	-11,521.07	
Person	**766,202.76**	1,920,556.42	1,906,140.80	2,844,669.59	**6,671,366.81**	**0.0031610**	**1,292,222.58**	**-526,019.82**	
Roxboro	210,374.98	286,848.26	284,696.97	424,980.10	996,525.33	**0.0004722**	193,023.79	17,351.19	**17,351.19**
Pitt	**2,881,499.09**	5,694,274.68	5,632,080.67	11,911,312.05	**23,237,667.40**	**0.0110104**	**4,501,062.43**	**-1,619,563.34**	
Ayden	36,698.86	185,729.22	183,704.02	388,521.68	757,954.92	**0.0003591**	146,813.46	-110,114.60	
Bethel	15,456.12	67,818.23	67,078.70	141,866.90	276,763.83	**0.0001311**	53,608.28	-38,152.16	
Falkland	705.29	4,408.29	4,360.21	9,221.50	17,990.00	**0.0000085**	3,484.61	-2,779.32	
Farmville	149,365.43	175,887.77	173,970.47	367,936.88	717,795.12	**0.0003401**	139,034.64	10,330.79	**10,330.79**
Fountain	5,756.01	21,458.41	21,224.20	44,887.42	87,570.03	**0.0000415**	16,962.04	-11,206.03	
Greenville	1,008,467.24	2,862,502.64	2,831,184.21	5,987,600.45	11,681,287.30	**0.0055348**	2,262,628.28	-1,254,161.04	
Grifton*	18,729.51	83,319.89	82,416.14	174,034.44	339,770.47	**0.0001610**	65,812.46	-47,082.95	
Grimesland	3,085.45	16,935.69	16,751.04	35,427.28	69,114.01	**0.0000327**	13,387.16	-10,301.71	
Simpson	3,912.62	18,320.75	18,120.84	38,324.14	74,765.73	**0.0000354**	14,481.88	-10,569.26	
Winterville	67,632.76	320,865.15	317,358.35	671,179.03	1,309,402.53	**0.0006204**	253,627.11	-185,994.35	
Polk	**986,324.78**	950,052.20	945,263.03	976,344.43	**2,871,659.66**	**0.0013606**	**556,231.36**	**430,093.42**	**430,093.42**
Columbus	28,794.67	52,688.90	52,423.27	54,147.01	159,259.18	**0.0000755**	30,848.00	-2,053.33	
Saluda*	36,141.69	29,420.94	29,266.69	31,152.26	89,839.89	**0.0000426**	17,401.70	18,739.99	**18,739.99**

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Tryon	97,753.02	88,057.85	87,614.05	90,496.05	266,167.95	**0.0001261**	51,555.89	46,197.13	**46,197.13**

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Randolph	**3,114,395.56**	5,920,751.58	5,884,233.12	7,390,987.95	**19,195,972.65**	**0.0090954**	**3,718,198.98**	**-603,803.42**	
Archdale*	124,540.73	399,342.00	396,857.70	502,638.68	1,298,838.38	**0.0006154**	251,580.87	-127,040.14	
Asheboro	900,091.97	1,015,838.59	1,009,572.39	1,268,094.12	3,293,505.10	**0.0015605**	637,941.49	262,150.48	**262,150.48**
Franklinville	7,232.04	58,589.48	58,228.06	73,138.60	189,956.14	**0.0000900**	36,793.90	-29,561.86	
Liberty	79,831.21	120,058.57	119,318.01	149,871.56	389,248.14	**0.0001844**	75,396.13	4,435.08	**4,435.08**
Ramseur	70,358.61	73,398.24	72,945.51	91,624.35	237,968.10	**0.0001128**	46,093.67	24,264.94	**24,264.94**
Randleman	123,688.52	184,014.70	182,879.65	229,709.59	596,603.94	**0.0002827**	115,560.29	8,128.23	**8,128.23**
Seagrove	12,050.41	10,792.71	10,726.15	13,472.73	34,991.59	**0.0000166**	6,777.76	5,272.65	**5,272.65**
Staley	2,311.49	15,374.97	15,280.13	19,192.86	49,847.96	**0.0000236**	9,655.39	-7,343.90	
Trinity	20,001.41	294,781.42	292,963.44	367,980.36	955,725.22	**0.0004528**	185,120.94	-165,119.53	
Richmond	**1,076,226.87**	2,158,468.60	2,143,552.81	2,720,013.96	**7,022,035.37**	**0.0033272**	**1,360,145.97**	**-283,919.10**	
Dobbins Heights	6,989.41	40,966.88	40,683.88	51,621.79	133,272.55	**0.0000631**	25,814.47	-18,825.06	
Ellerbe	18,859.48	45,426.19	45,112.34	57,242.18	147,780.71	**0.0000700**	28,624.65	-9,765.17	
Hamlet	76,015.87	271,557.60	269,681.13	342,202.76	883,441.49	**0.0004186**	171,119.81	-95,103.94	
Hoffman	2,724.51	31,213.48	30,997.69	39,337.41	101,548.58	**0.0000481**	19,669.64	-16,945.13	
Norman	63.90	3,388.46	3,365.09	4,269.57	11,023.12	**0.0000052**	2,135.14	-2,071.24	
Rockingham	191,760.71	436,536.97	433,520.72	550,094.28	1,420,151.97	**0.0006729**	275,078.93	-83,318.22	
Robeson	**2,896,654.80**	6,053,289.54	6,012,093.05	7,744,101.33	**19,809,483.92**	**0.0093861**	**3,837,034.17**	**-940,379.37**	
Fairmont	65,628.74	128,351.83	127,478.33	164,203.60	420,033.76	**0.0001990**	81,359.21	-15,730.47	
Lumber Bridge	933.94	5,630.25	5,591.92	7,203.41	18,425.58	**0.0000087**	3,568.98	-2,635.04	
Lumberton	498,615.54	1,071,637.26	1,064,343.57	1,370,945.71	3,506,926.54	**0.0016616**	679,280.54	-180,665.00	
Marietta	229.66	7,468.91	7,418.11	9,556.09	24,443.11	**0.0000116**	4,734.55	-4,504.89	
Maxton*	48,269.08	118,376.13	117,565.49	153,394.71	389,336.33	**0.0001845**	75,413.21	-27,144.13	
McDonald	408.51	5,931.27	5,890.92	7,587.76	19,409.95	**0.0000092**	3,759.65	-3,351.14	
Orrum	109.96	3,604.14	3,579.64	4,610.97	11,794.75	**0.0000056**	2,284.61	-2,174.65	
Parkton	3,863.10	25,498.07	25,324.56	32,620.46	83,443.09	**0.0000395**	16,162.66	-12,299.56	
Pembroke	30,635.62	131,231.58	130,337.64	167,854.12	429,423.34	**0.0002035**	83,177.94	-52,542.32	
Proctorville	637.02	6,051.63	6,010.46	7,742.53	19,804.62	**0.0000094**	3,836.09	-3,199.07	
Raynham	366.34	4,105.91	4,077.95	5,252.48	13,436.34	**0.0000064**	2,602.58	-2,236.24	
Red Springs	41,065.90	164,094.73	162,977.93	209,929.14	537,001.80	**0.0002544**	104,015.54	-62,949.64	
Rennert	1,158.08	16,276.55	16,165.74	20,822.92	53,265.21	**0.0000252**	10,317.30	-9,159.22	
Rowland	19,902.35	54,639.21	54,267.38	69,902.79	178,809.38	**0.0000847**	34,634.81	-14,732.46	
Saint Pauls	53,810.25	110,128.13	109,378.69	140,891.51	360,398.33	**0.0001708**	69,808.01	-15,997.76	
Rockingham	**3,190,213.07**	3,818,367.38	3,792,939.43	5,180,336.85	**12,791,643.66**	**0.0060609**	**2,477,700.78**	**712,512.29**	**712,512.29**
Eden	462,989.75	653,047.45	648,699.00	885,957.10	2,187,703.55	**0.0010366**	423,751.23	39,238.52	**39,238.52**
Madison	166,134.79	92,529.89	91,913.79	125,528.51	309,972.19	**0.0001469**	60,040.63	106,094.16	**106,094.16**
Mayodan	87,634.57	103,887.21	103,195.37	140,944.40	348,026.98	**0.0001649**	67,411.72	20,222.85	**20,222.85**
Reidsville	611,935.26	609,113.34	605,055.78	826,450.83	2,040,619.95	**0.0009669**	395,261.61	216,673.65	**216,673.65**
Stoneville	53,420.93	40,503.43	40,233.76	54,946.99	135,684.18	**0.0000643**	26,281.60	27,139.33	**27,139.33**
Wentworth	1,448.88	121,641.84	120,831.43	165,050.29	407,523.56	**0.0001931**	78,936.02	-77,487.14	
Rowan	**3,970,793.09**	5,130,902.63	5,095,022.59	7,603,841.41	**17,829,766.63**	**0.0084481**	**3,453,569.21**	**517,223.88**	**517,223.88**
China Grove	61,873.40	161,651.67	160,521.40	239,554.73	561,727.80	**0.0002662**	108,804.89	-46,931.49	

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Cleveland	118,717.64	31,177.72	30,959.77	46,199.06	108,336.55	**0.0000513**	20,984.45	97,733.19	**97,733.19**
East Spencer	34,002.47	64,085.11	63,637.30	94,949.50	222,671.91	**0.0001055**	43,130.84	-9,128.37	
Faith	10,891.55	28,638.29	28,437.01	42,509.35	99,584.65	**0.0000472**	19,289.23	-8,397.68	
Granite Quarry	47,761.65	90,480.08	89,845.70	134,204.54	314,530.32	**0.0001490**	60,923.52	-13,161.87	
Landis	46,603.66	115,793.52	114,984.03	171,585.79	402,363.34	**0.0001906**	77,936.50	-31,332.84	
Rockwell	38,006.14	76,950.12	76,411.96	114,042.00	267,404.08	**0.0001267**	51,795.32	-13,789.18	
Salisbury	1,540,731.16	1,166,810.14	1,158,651.55	1,729,117.25	4,054,578.94	**0.0019211**	785,359.07	755,372.09	**755,372.09**
Spencer	71,380.89	128,721.83	127,822.13	190,729.63	447,273.59	**0.0002119**	86,635.47	-15,254.58	

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Rutherford	**1,889,676.59**	2,991,545.09	2,968,025.88	4,715,002.98	**10,674,573.95**	**0.0050578**	**2,067,631.10**	**-177,954.51**	
Bostic	1,762.20	3,561.47	3,533.52	5,613.29	12,708.28	**0.0000060**	2,461.55	-699.35	
Chimney Rock	1,474.88	6,251.02	6,201.92	9,852.12	22,305.06	**0.0000106**	4,320.42	-2,845.54	
Ellenboro	2,442.46	5,374.41	5,332.24	8,470.50	19,177.15	**0.0000091**	3,714.55	-1,272.09	
Forest City	157,200.48	161,675.16	160,404.63	254,816.48	576,896.27	**0.0002733**	111,742.98	45,457.50	**45,457.50**
Lake Lure	39,293.39	195,187.45	193,649.52	307,644.57	696,481.54	**0.0003300**	134,906.26	-95,612.87	
Ruth	14,226.74	6,574.17	6,522.47	10,361.64	23,458.28	**0.0000111**	4,543.79	9,682.95	**9,682.95**
Rutherfordton	109,475.11	152,195.58	150,999.50	239,875.91	543,070.99	**0.0002573**	105,191.13	4,283.98	**4,283.98**
Spindale	180,205.03	103,621.56	102,807.23	163,318.16	369,746.95	**0.0001752**	71,618.81	108,586.22	**108,586.22**
Sampson	**1,278,485.01**	3,029,769.63	3,013,045.23	3,764,453.20	**9,807,268.06**	**0.0046469**	**1,899,636.70**	**-621,151.69**	
Autryville	1,817.00	9,585.49	9,532.59	11,910.39	31,028.47	**0.0000147**	6,010.12	-4,193.12	
Clinton	336,727.00	414,385.02	412,098.34	514,934.34	1,341,417.70	**0.0006356**	259,828.35	76,898.65	**76,898.65**
Garland	20,645.40	37,649.49	37,441.71	46,782.13	121,873.33	**0.0000577**	23,606.48	-2,961.08	
Harrells*	994.41	9,960.33	9,905.26	12,238.30	32,103.89	**0.0000152**	6,218.42	-5,224.01	
Newton Grove	9,284.93	29,671.01	29,507.22	36,865.38	96,043.61	**0.0000455**	18,603.34	-9,318.41	
Roseboro	19,929.83	65,679.38	65,316.94	81,612.61	212,608.93	**0.0001007**	41,181.68	-21,251.85	
Salemburg	4,376.41	22,511.72	22,387.44	27,972.11	72,871.27	**0.0000345**	14,114.93	-9,738.52	
Turkey	1,515.70	12,644.04	12,574.24	15,711.12	40,929.40	**0.0000194**	7,927.89	-6,412.19	
Scotland	**1,566,451.39**	1,818,215.13	1,804,740.26	2,742,450.87	**6,365,406.26**	**0.0030160**	**1,232,958.99**	**333,492.40**	**333,492.40**
East Laurinburg	0.00	0.00	0.00	0.00	0.00	**0.0000000**	0.00	0.00	
Gibson	5,637.35	10,333.28	10,256.56	15,590.76	36,180.60	**0.0000171**	7,008.07	-1,370.72	
Laurinburg	163,383.60	272,020.62	270,003.09	410,346.92	952,370.63	**0.0004513**	184,471.17	-21,087.57	
Wagram	6,871.16	13,439.29	13,339.59	20,273.14	47,052.02	**0.0000223**	9,113.83	-2,242.67	
Stanly	**1,504,934.95**	2,317,551.01	2,300,399.61	3,492,478.46	**8,110,429.08**	**0.0038429**	**1,570,964.37**	**-66,029.42**	
Albemarle	358,858.41	628,094.15	623,446.42	946,456.59	2,197,997.16	**0.0010415**	425,745.07	-66,886.66	
Badin	10,204.26	76,215.93	75,652.26	114,813.95	266,682.14	**0.0001264**	51,655.48	-41,451.22	
Locust*	21,577.92	115,275.98	114,391.27	177,921.54	407,588.79	**0.0001931**	78,948.66	-57,370.74	
Meisenheimer	0.00	26,635.94	26,439.08	40,112.94	93,187.96	**0.0000442**	18,050.21	-18,050.21	
New London	4,156.07	23,446.23	23,272.84	35,319.13	82,038.20	**0.0000389**	15,890.54	-11,734.47	
Norwood	56,055.73	111,013.74	110,192.65	167,241.77	388,448.16	**0.0001841**	75,241.18	-19,185.45	
Oakboro	30,893.98	44,754.80	44,423.78	67,422.05	156,600.63	**0.0000742**	30,333.05	560.93	**560.93**
Red Cross	0.00	30,343.41	30,118.81	45,730.73	106,192.95	**0.0000503**	20,569.24	-20,569.24	
Richfield	3,362.71	20,071.86	19,923.36	30,244.45	70,239.67	**0.0000333**	13,605.20	-10,242.49	
Stanfield	14,701.89	50,595.16	50,220.59	76,259.14	177,074.89	**0.0000839**	34,298.84	-19,596.95	
Stokes	**3,479,264.60**	2,500,968.25	2,491,897.96	1,821,901.75	**6,814,767.96**	**0.0032290**	**1,319,998.93**	**2,159,265.67**	**2,159,265.67**
Danbury	707.04	2,955.57	2,944.86	2,153.61	8,054.04	**0.0000038**	1,560.04	-853.00	
King*	69,040.72	209,712.97	208,827.51	177,425.48	595,965.96	**0.0002824**	115,436.72	-46,396.00	
Walnut Cove	18,509.51	46,309.99	46,142.07	33,731.00	126,183.06	**0.0000598**	24,441.26	-5,931.75	
Surry	**2,460,512.49**	3,641,037.95	3,606,176.42	7,208,903.50	**14,456,117.87**	**0.0068496**	**2,800,104.15**	**-339,591.66**	
Dobson	30,440.84	75,015.19	74,296.95	148,523.22	297,835.36	**0.0001411**	57,689.76	-27,248.92	
Elkin*	290,675.70	209,025.34	207,033.80	411,388.48	827,447.62	**0.0003921**	160,273.98	130,401.72	**130,401.72**
Mount Airy	777,176.94	522,215.78	517,182.18	1,032,001.41	2,071,399.37	**0.0009815**	401,223.48	375,953.46	**375,953.46**

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Pilot Mountain	80,901.20	64,384.78	63,768.38	127,478.20	255,631.36	0.0001211	49,514.98	31,386.22	**31,386.22**
Swain	**210,833.53**	752,112.32	746,389.19	1,090,679.29	**2,589,180.80**	**0.0012268**	**501,516.10**	**-290,682.57**	
Bryson City	24,711.94	80,675.33	80,061.31	116,999.43	277,736.07	0.0001316	53,796.60	-29,084.66	
Transylvania	**1,212,266.85**	1,727,426.01	1,711,278.98	2,871,033.02	**6,309,738.01**	**0.0029897**	**1,222,176.23**	**-9,909.38**	
Brevard	196,534.56	246,667.94	244,362.99	409,898.15	900,929.08	0.0004269	174,507.10	22,027.46	**22,027.46**
Rosman	3,987.20	5,228.91	5,180.08	8,687.59	19,096.58	0.0000090	3,698.95	288.25	**288.25**
Tyrrell	**103,067.36**	231,962.80	231,097.19	177,599.76	**640,659.75**	**0.0003036**	**124,093.76**	**-21,026.40**	
Columbia	9,658.59	16,644.02	16,581.53	12,781.49	46,007.04	0.0000218	8,911.42	747.17	**747.17**

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Union	**2,642,096.95**	8,754,772.84	8,685,539.21	12,608,937.68	**30,049,249.73**	**0.0142379**	**5,820,444.31**	**-3,178,347.36**	
Fairview	0.00	4,561.79	4,525.74	6,574.44	15,661.97	**0.0000074**	3,033.67	-3,033.67	
Hemby Bridge	1,609.75	1,907.42	1,892.35	2,749.39	6,549.16	**0.0000031**	1,268.55	341.20	**341.20**
Indian Trail	45,649.57	250,208.75	248,226.86	359,832.74	858,268.35	**0.0004067**	166,243.86	-120,594.29	
Lake Park	10,576.32	37,750.93	37,452.70	54,417.17	129,620.80	**0.0000614**	25,107.14	-14,530.82	
Marshville	33,470.35	40,705.44	40,383.85	58,676.63	139,765.92	**0.0000662**	27,072.22	6,398.13	**6,398.13**
Marvin	2,502.62	22,127.25	21,952.28	31,874.34	75,953.87	**0.0000360**	14,712.02	-12,209.40	
Mineral Springs	3,026.17	4,149.39	4,116.62	5,981.99	14,248.00	**0.0000068**	2,759.79	266.38	**266.38**
Monroe	763,958.86	1,053,916.83	1,045,586.27	1,518,529.41	3,618,032.51	**0.0017143**	700,801.42	63,157.44	**63,157.44**
Stallings	33,797.37	228,098.02	226,264.40	335,018.48	789,380.90	**0.0003740**	152,900.58	-119,103.21	
Unionville	8,889.01	5,510.39	5,466.81	7,941.00	18,918.20	**0.0000090**	3,664.40	5,224.61	**5,224.61**
Waxhaw	22,559.48	177,440.67	176,036.68	255,425.84	608,903.19	**0.0002885**	117,942.62	-95,383.14	
Weddington	13,607.87	26,204.12	25,997.03	37,763.39	89,964.54	**0.0000426**	17,425.85	-3,817.98	
Wesley Chapel	5,988.56	8,163.21	8,098.70	11,765.76	28,027.67	**0.0000133**	5,428.87	559.69	**559.69**
Wingate	11,470.21	32,555.42	32,298.12	46,913.07	111,766.61	**0.0000530**	21,648.84	-10,178.63	
Vance	**1,433,828.54**	2,126,878.25	2,108,028.11	3,599,196.33	**7,834,102.69**	**0.0037119**	**1,517,440.83**	**-83,612.29**	
Henderson	434,026.03	538,890.05	534,114.23	911,906.02	1,984,910.30	**0.0009405**	384,470.83	49,555.20	**49,555.20**
Kittrell	394.23	491.72	487.37	831.87	1,810.96	**0.0000009**	350.78	43.45	
Middleburg	797.97	1,240.81	1,229.83	2,099.24	4,569.88	**0.0000022**	885.17	-87.20	
Wake	**14,056,573.79**	25,971,828.96	25,611,587.42	68,904,908.31	**120,488,324.69**	**0.0570895**	**23,338,206.11**	**-9,281,632.32**	
Apex	479,880.09	939,086.73	926,066.39	2,491,818.62	4,356,971.74	**0.0020644**	843,931.60	-364,051.51	
Cary*	1,291,226.66	4,106,902.48	4,049,924.84	10,887,041.88	19,043,869.20	**0.0090233**	3,688,737.03	-2,397,510.37	
Fuquay-Varina	252,805.30	455,227.13	448,897.21	1,206,659.33	2,110,783.67	**0.0010001**	408,852.10	-156,046.80	
Garner	255,044.95	780,437.14	769,608.40	2,070,292.92	3,620,338.46	**0.0017154**	701,248.07	-446,203.12	
Holly Springs	122,218.94	596,936.10	588,641.27	1,582,669.37	2,768,246.74	**0.0013116**	536,200.61	-413,981.67	
Knightdale	61,434.53	302,242.34	298,044.79	801,499.64	1,401,786.77	**0.0006642**	271,521.65	-210,087.12	
Morrisville*	299,797.28	445,655.92	439,473.54	1,182,289.59	2,067,419.05	**0.0009796**	400,452.51	-100,655.23	
Raleigh*	5,442,220.83	11,526,331.87	11,366,516.70	30,581,292.05	53,474,140.62	**0.0253370**	10,357,771.33	-4,915,550.50	
Rolesville	10,019.55	68,042.04	67,093.62	180,196.70	315,332.36	**0.0001494**	61,078.88	-51,059.33	
Wake Forest	286,482.96	791,985.54	781,160.55	2,066,054.16	3,639,200.25	**0.0017243**	704,901.54	-418,418.58	
Wendell	55,748.28	178,890.27	176,408.65	474,585.65	829,884.57	**0.0003932**	160,746.01	-104,997.73	
Zebulon	595,685.97	155,272.58	153,119.84	412,015.41	720,407.83	**0.0003413**	139,540.71	456,145.26	**456,145.26**
Warren	**424,616.39**	1,026,444.23	1,023,076.51	721,567.20	**2,771,087.94**	**0.0013130**	**536,750.94**	**-112,134.55**	
Macon	643.61	5,435.85	5,418.02	3,820.75	14,674.62	**0.0000070**	2,842.43	-2,198.82	
Norlina	9,044.27	55,812.07	55,628.98	39,234.59	150,675.64	**0.0000714**	29,185.39	-20,141.12	
Warrenton	23,432.06	47,954.28	47,797.00	33,709.16	129,460.44	**0.0000613**	25,076.08	-1,644.02	
Washington	**315,723.77**	676,751.10	672,823.43	786,957.26	**2,136,531.79**	**0.0010123**	**413,839.43**	**-98,115.66**	
Creswell	2,275.36	5,704.75	5,671.66	6,633.75	18,010.16	**0.0000085**	3,488.51	-1,213.15	
Plymouth	57,379.96	112,199.50	111,547.43	130,524.02	354,270.95	**0.0001679**	68,621.16	-11,241.20	
Roper	4,667.98	14,860.68	14,774.39	17,282.97	46,918.04	**0.0000222**	9,087.88	-4,419.90	
Watauga	**723,452.32**	2,010,998.13	1,977,196.03	5,786,466.46	**9,774,660.62**	**0.0046314**	**1,893,320.74**	**-1,169,868.42**	
Beech Mountain*	55,140.84	17,323.70	17,044.61	47,855.56	82,223.87	**0.0000390**	15,926.50	39,214.34	**39,214.34**

FY 2010-11 Article 44 Hold Harmless Calculation

Jurisdiction	Computed Reimbursements 2002-2003	Art40-1/2% 2008-2009	Art42-1/2% 2008-2009	Sales-1% 2008-2009	Distribution 2008-2009	Local Sales Tax Share 2008-2009	Computed Share of Replacement Revenue Projection 2010-11	Reimbursements Less Replacement Revenue Projection 2010-11	Hold Harmless 2010-2011
Blowing Rock*	74,289.25	65,832.83	64,748.90	186,008.30	316,590.03	0.0001500	61,322.48	12,966.77	12,966.77
Boone	245,303.13	664,442.88	653,283.84	1,911,187.49	3,228,914.21	0.0015299	625,430.44	-380,127.31	
Seven Devils*	14,971.53	6,644.61	6,538.05	18,261.50	31,444.16	0.0000149	6,090.63	8,880.90	8,880.90
Wayne	**2,166,643.29**	4,979,607.08	4,938,744.25	8,292,956.67	**18,211,308.00**	0.0086288	**3,527,472.56**	**-1,360,829.27**	
Eureka	3,305.84	5,603.76	5,557.76	9,332.52	20,494.04	0.0000097	3,969.63	-663.79	
Fremont	39,628.29	31,246.34	30,990.11	52,032.67	114,269.12	0.0000541	22,133.57	17,494.72	17,494.72
Goldsboro	1,051,463.21	1,283,099.19	1,272,573.82	2,136,738.87	4,692,411.88	0.0022233	908,905.29	142,557.92	142,557.92
Mount Olive*	118,612.18	120,526.63	119,541.86	199,872.77	439,941.26	0.0002085	85,215.23	33,396.95	33,396.95
Pikeville	10,088.02	17,990.53	17,842.99	29,958.63	65,792.15	0.0000312	12,743.73	-2,655.71	
Seven Springs	1,277.62	2,278.93	2,260.21	3,795.38	8,334.52	0.0000039	1,614.37	-336.75	
Walnut Creek	22,156.78	53,635.44	53,195.59	89,315.65	196,146.68	0.0000929	37,992.99	-15,836.21	
Wilkes	**1,813,201.49**	3,596,283.52	3,570,620.87	5,012,520.95	**12,179,425.34**	0.0057708	**2,359,116.04**	**-545,914.55**	
North Wilkesboro	263,738.89	223,795.71	222,198.73	311,928.04	757,922.48	0.0003591	146,807.18	116,931.71	116,931.71
Ronda	4,081.26	25,677.08	25,493.82	35,789.12	86,960.02	0.0000412	16,843.88	-12,762.62	
Wilkesboro	170,665.20	169,993.00	168,780.36	236,930.31	575,703.67	0.0002728	111,511.97	59,153.23	59,153.23
Wilson	**2,201,879.22**	3,165,002.81	3,132,006.29	6,473,391.60	**12,770,400.70**	0.0060508	**2,473,586.09**	**-271,706.87**	
Black Creek	5,209.23	10,089.62	9,984.46	20,635.07	40,709.15	0.0000193	7,885.23	-2,676.00	
Elm City	47,160.22	24,436.49	24,181.85	49,974.57	98,592.91	0.0000467	19,097.13	28,063.09	28,063.09
Lucama	6,243.19	10,456.71	10,347.78	21,384.63	42,189.12	0.0000200	8,171.90	-1,928.71	
Saratoga	3,432.33	6,032.17	5,969.30	12,336.55	24,338.02	0.0000115	4,714.20	-1,281.87	
Sims	1,724.24	2,920.04	2,889.55	5,974.41	11,784.00	0.0000056	2,282.52	-558.28	
Stantonsburg	4,631.54	11,659.69	11,538.08	23,850.13	47,047.90	0.0000223	9,113.03	-4,481.49	
Wilson	801,113.87	1,243,730.19	1,230,760.93	2,543,930.85	5,018,421.97	0.0023778	972,052.41	-170,938.54	
Yadkin	**806,694.77**	2,004,531.28	1,994,312.09	2,051,647.81	**6,050,491.18**	0.0028668	**1,171,960.94**	**-365,266.17**	
Boonville	26,276.25	34,501.19	34,325.52	35,301.49	104,128.20	0.0000493	20,169.30	6,106.95	6,106.95
East Bend	8,406.51	20,563.06	20,458.29	21,042.45	62,063.80	0.0000294	12,021.56	-3,615.05	
Jonesville	37,104.58	85,419.50	84,984.45	87,408.20	257,812.15	0.0001222	49,937.40	-12,832.82	
Yadkinville	91,733.28	77,242.25	76,848.39	79,061.70	233,152.34	0.0001105	45,160.87	46,572.41	46,572.41
Yancey	**386,977.56**	1,007,312.17	1,001,026.97	1,246,921.10	**3,255,260.24**	0.0015424	630,533.58	-243,556.02	
Burnsville	47,718.13	89,940.58	89,379.69	111,318.53	290,638.80	0.0001377	56,295.81	-8,577.68	
Totals	**333,443,973.15**	**527,756,139.06**	**522,168,962.17**	**1,060,589,601.29**	**2,110,514,702.52**	1.0000000	**408,800,000.00**	**-75,356,026.85**	**30,500,697.27**

HP LaserJet P1505

Self Test / Configuration

Product Information

Product Name:	= HP LaserJet P1505
Formatter Number:	= CA57295
Product Serial Number:	= CNBK204283
Service ID:	= 18154
Firmware Version:	= 20070816
Max Print Resolution:	= FastRes 1200

Memory

Total Memory:	= 2 MBytes
Available Memory:	= 0 MBytes

Counters

Total Pages printed	= 13969
Input Jams	= 3
Output Jams	= 2
Narrow Media Page Count	= 8
Cartridge Jams	= 0
Average Job Size	= 2.72
Total Jobs Printed	= 5135
Average Coverage	= 5

Status Log

Code	Page
13.0001	13961
13.0001	10869
13.0002	7188
10.1000	3673
13.0001	3673

Jurisdiction	Inventory 2002-2003	Foodstamp 2002-2003	Intangible 2002-2003	Homestead 2002-2003	Total Reimbursements 2002-2003
Alamance	**2,653,802.33**	**37,629.35**	**1,255,943.10**	**108,662.49**	**4,056,037.27**
Alamance	1,815.61	89.06	2,240.49	300.29	4,445.45
Burlington*	879,425.90	12,932.51	458,530.39	35,842.43	1,386,731.23
Elon	71,941.90	1,936.48	39,091.84	1,133.20	114,103.42
Graham	166,554.54	3,692.54	97,930.44	7,771.22	275,948.74
Green Level	4,353.77	587.36	4,531.93	0.00	9,473.06
Haw River	154,397.23	549.27	15,950.29	1,282.33	172,179.12
Mebane*	163,362.11	2,053.19	98,896.54	4,840.93	269,152.77
Ossipee	0.00	0.00	0.00	0.00	0.00
Swepsonville	0.00	265.19	0.00	0.00	265.19
Alexander	**611,445.13**	**13,327.75**	**235,750.14**	**22,811.61**	**883,334.63**
Taylorsville	39,574.01	714.11	11,621.96	1,535.88	53,445.96
Alleghany	**126,310.17**	**7,818.15**	**117,880.01**	**20,880.88**	**272,889.21**
Sparta	9,609.90	1,329.91	4,745.40	1,794.99	17,480.20
Anson	**576,202.65**	**33,056.92**	**216,639.98**	**47,712.99**	**873,612.54**
Ansonville	1,643.15	830.08	979.26	388.14	3,840.63
Lilesville	1,563.24	599.07	1,305.23	471.12	3,938.66
McFarlan	218.60	116.16	109.21	114.94	558.91
Morven	1,650.36	755.68	1,136.47	457.20	3,999.71
Peachland	1,437.22	766.12	766.37	405.15	3,374.86
Polkton	6,564.81	2,548.96	1,817.29	0.00	10,931.06
Wadesboro	135,254.89	4,638.51	20,611.14	3,275.10	163,779.64
Ashe	**288,474.63**	**19,986.45**	**194,472.83**	**35,998.87**	**538,932.78**
Jefferson	16,484.53	1,165.28	7,908.24	891.00	26,449.05
Lansing	614.82	123.48	402.16	295.18	1,435.64
West Jefferson	53,745.13	886.43	9,208.88	1,411.20	65,251.64
Avery	**127,584.76**	**15,176.04**	**161,073.49**	**12,600.12**	**316,434.41**
Banner Elk	4,158.07	725.84	5,040.10	401.63	10,325.64
Crossnore	612.04	211.88	148.14	138.38	1,110.44
Elk Park	1,231.85	402.76	665.52	423.84	2,723.97
Grandfather Village	0.00	63.92	0.00	0.00	63.92
Newland	9,983.25	618.14	2,731.09	384.34	13,716.82
Sugar Mountain	6,276.97	197.88	11,871.87	0.00	18,346.72
Beaufort	**826,379.71**	**44,604.41**	**522,775.64**	**27,726.42**	**1,421,486.18**
Aurora	1,979.97	578.48	2,424.45	799.36	5,782.26
Bath	1,022.58	272.40	1,333.84	153.03	2,781.85
Belhaven	7,981.53	1,952.37	9,484.38	2,719.82	22,138.10
Chocowinity	14,205.08	727.06	3,407.88	366.55	18,706.57
Pantego	506.47	168.39	524.26	110.56	1,309.68
Washington	129,203.55	9,524.12	74,753.06	8,428.80	221,909.53
Washington Park	1,460.10	436.83	1,738.42	26.40	3,661.75

Jurisdiction	Inventory 2002-2003	Foodstamp 2002-2003	Intangible 2002-2003	Homestead 2002-2003	Total Reimbursements 2002-2003
Bertie	**228,200.03**	**24,910.42**	**172,824.95**	**49,494.74**	**475,430.14**
Askewville	529.80	227.08	293.87	102.17	1,152.92
Aulander	9,870.02	1,118.99	5,468.69	2,275.73	18,733.43
Colerain	1,017.69	278.80	890.46	661.39	2,848.34
Kelford	754.91	309.08	444.10	486.39	1,994.48
Lewiston-Woodville	9,540.95	772.06	1,142.34	221.73	11,677.08
Powellsville	779.41	326.74	448.25	425.51	1,979.91
Roxobel	764.69	331.79	414.04	367.18	1,877.70
Windsor	7,083.81	2,876.32	3,371.54	869.70	14,201.37
Bladen	**528,008.92**	**37,219.14**	**234,401.90**	**51,634.66**	**851,264.62**
Bladenboro	17,719.32	914.59	5,970.53	3,092.05	27,696.49
Clarkton	10,432.78	534.83	3,491.41	1,102.03	15,561.05
Dublin	5,458.80	145.72	951.29	433.62	6,989.43
East Arcadia	1,294.05	77.86	508.25	0.00	1,880.16
Elizabethtown	63,281.50	3,452.33	22,537.10	5,389.94	94,660.87
Tar Heel	246.28	28.46	185.82	73.17	533.73
White Lake	6,345.28	1,242.59	8,111.75	134.51	15,834.13
Brunswick	**672,520.37**	**49,016.99**	**523,290.06**	**59,270.95**	**1,304,098.37**
Bald Head Island	12,788.91	115.74	26,821.36	0.00	39,726.01
Belville	1,038.76	190.90	736.05	0.00	1,965.71
Boiling Spring Lakes	6,996.19	1,991.49	4,013.51	844.41	13,845.60
Bolivia	1,231.16	99.11	34.89	0.00	1,365.16
Calabash	3,349.33	476.25	471.22	0.00	4,296.80
Carolina Shores	2,907.55	993.08	785.84	0.00	4,686.47
Caswell Beach	2,012.01	248.10	2,942.63	21.60	5,224.34
Holden Beach	5,542.04	527.47	9,022.61	64.80	15,156.92
Leland	8,225.38	2,680.60	2,998.95	102.25	14,007.18
Navassa	2,661.05	320.61	569.46	210.00	3,761.12
Northwest	1,321.90	449.65	394.58	0.00	2,166.13
Oak Island	25,507.14	4,402.69	29,588.43	3,028.85	62,527.11
Ocean Isle Beach	5,103.08	288.01	9,409.39	0.00	14,800.48
Sandy Creek	521.41	164.96	229.98	0.00	916.35
Shallotte	23,529.29	927.23	6,120.34	462.39	31,039.25
Southport	8,254.34	1,588.40	9,069.00	3,618.00	22,529.74
Saint James	2,793.74	538.78	3,088.04	0.00	6,420.56
Sunset Beach	5,877.28	1,221.90	6,119.66	40.08	13,258.92
Varnamtown	878.30	321.94	127.72	64.80	1,392.76
Buncombe	**2,847,691.71**	**136,023.07**	**3,234,445.24**	**262,388.17**	**6,480,548.19**
Asheville	1,177,425.74	39,485.71	1,070,046.82	77,269.71	2,364,227.98
Biltmore Forest	10,974.49	1,514.14	41,032.62	168.00	53,689.25
Black Mountain	32,809.02	2,454.09	66,504.71	5,154.56	106,922.38
Montreat	4,720.89	649.98	17,614.10	132.00	23,116.97
Weaverville	32,735.14	1,338.62	36,276.08	1,661.40	72,011.24
Woodfin	34,290.03	958.07	25,963.19	0.00	61,211.29

Jurisdiction	Inventory 2002-2003	Foodstamp 2002-2003	Intangible 2002-2003	Homestead 2002-2003	Total Reimbursements 2002-2003
Burke	**1,503,426.28**	**37,438.56**	**778,654.06**	**80,721.06**	**2,400,239.96**
Connelly Springs	3,357.14	761.76	732.82	154.71	5,006.43
Drexel	46,182.79	813.63	9,213.50	1,728.21	57,938.13
Glen Alpine	3,444.06	457.64	3,743.26	674.59	8,319.55
Hildebran	10,087.52	732.06	5,196.47	214.80	16,230.85
Morganton	403,332.62	7,289.60	165,811.13	11,892.00	588,325.35
Rutherford College	3,319.39	548.00	2,592.75	248.99	6,709.13
Valdese	205,358.19	1,883.26	37,505.07	4,287.77	249,034.29
Cabarrus	**2,559,361.48**	**32,179.27**	**1,116,669.27**	**98,985.57**	**3,807,195.59**
Concord	1,177,096.84	12,872.87	457,205.11	25,108.48	1,672,283.30
Harrisburg	25,448.51	331.74	11,817.75	171.00	37,769.00
Kannapolis*	459,624.87	7,603.81	214,511.75	29,023.55	710,763.98
Midland	4,611.68	99.55	3,546.47	0.00	8,257.70
Mount Pleasant	13,899.00	196.03	6,983.45	922.52	22,001.00
Caldwell	**1,462,559.43**	**32,050.05**	**770,376.42**	**84,873.00**	**2,349,858.90**
Cajah Mountain	0.00	1,113.44	0.00	0.00	1,113.44
Cedar Rock	1,047.30	130.56	1,504.18	0.00	2,682.04
Gamewell	0.00	1,519.15	0.00	0.00	1,519.15
Granite Falls	85,026.70	1,909.16	37,458.42	3,059.67	127,453.95
Hudson	37,697.84	1,286.55	23,169.26	1,770.39	63,924.04
Lenoir	868,525.60	6,964.87	265,550.44	16,725.51	1,157,766.42
Rhodhiss*	13,692.27	156.66	4,079.24	1,292.70	19,220.87
Sawmills	10,099.19	2,048.81	6,028.32	760.39	18,936.71
Camden	**52,826.03**	**3,409.74**	**53,023.81**	**10,053.85**	**119,313.43**
Carteret	**462,499.93**	**35,245.61**	**675,065.22**	**36,937.21**	**1,209,747.97**
Atlantic Beach	14,378.51	1,762.05	36,739.48	229.07	53,109.11
Beaufort	20,646.57	1,305.62	27,222.81	6,671.81	55,846.81
Bogue	1,078.92	19.09	397.98	0.00	1,495.99
Cape Carteret	4,601.92	407.13	8,488.87	307.80	13,805.72
Cedar Point	2,005.54	77.61	1,618.27	59.24	3,760.66
Emerald Isle	21,449.02	2,413.91	50,330.98	159.76	74,353.67
Indian Beach	4,834.53	714.50	5,130.00	0.00	10,679.03
Morehead City	90,652.77	3,349.66	69,841.79	6,059.70	169,903.92
Newport	9,452.48	625.26	13,036.89	1,048.80	24,163.43
Peletier	901.59	17.46	363.96	0.00	1,283.01
Pine Knoll Shores	8,160.73	874.18	18,226.96	54.00	27,315.87
Caswell	**217,459.22**	**17,174.49**	**156,572.42**	**42,454.93**	**433,661.06**
Milton	633.31	47.76	436.36	77.14	1,194.57
Yanceyville	11,294.11	528.01	4,824.01	1,197.29	17,843.42

Jurisdiction	Inventory 2002-2003	Foodstamp 2002-2003	Intangible 2002-2003	Homestead 2002-2003	Total Reimbursements 2002-2003
Catawba	**2,353,637.64**	**44,063.04**	**1,751,013.76**	**59,997.28**	**4,208,711.72**
Brookford	13,777.47	134.99	3,098.33	976.30	17,987.09
Catawba	6,689.22	217.04	6,984.44	584.89	14,475.59
Claremont	68,020.84	322.92	59,428.33	764.40	128,536.49
Conover	371,919.45	2,057.36	95,967.79	1,783.19	471,727.79
Hickory*	1,111,956.46	11,583.36	672,936.62	16,781.67	1,813,258.11
Long View*	151,070.04	1,556.83	34,462.51	3,122.25	190,211.63
Maiden*	84,698.44	1,020.78	31,592.02	1,935.90	119,247.14
Newton	367,027.76	3,906.04	113,885.21	5,468.82	490,287.83
Chatham	**708,273.62**	**16,904.84**	**815,258.54**	**41,694.13**	**1,582,131.13**
Goldston	7,652.68	109.43	428.23	38.67	8,229.01
Pittsboro	21,230.35	762.27	18,008.93	1,349.25	41,350.80
Siler City	125,817.08	2,387.02	39,771.63	4,893.70	172,869.43
Cherokee	**273,298.18**	**25,179.74**	**166,684.72**	**22,822.69**	**487,985.33**
Andrews	16,858.62	1,863.14	8,121.61	2,177.69	29,021.06
Murphy	26,287.33	1,624.70	12,959.36	2,099.57	42,970.96
Chowan	**230,465.87**	**24,827.48**	**170,535.68**	**16,123.22**	**441,952.25**
Edenton	90,918.20	4,551.90	32,447.92	3,772.95	131,690.97
Clay	**82,156.73**	**3,537.34**	**71,685.73**	**9,852.23**	**167,232.03**
Hayesville	2,809.59	66.72	1,504.67	0.00	4,380.98
Cleveland	**1,694,560.88**	**62,574.50**	**842,446.02**	**88,892.36**	**2,688,473.76**
Belwood	0.00	0.00	0.00	0.00	0.00
Boiling Springs	13,854.98	714.32	12,566.94	328.26	27,464.50
Casar	553.49	7.58	133.42	0.00	694.49
Earl	466.80	12.11	213.09	0.00	692.00
Fallston	1,138.38	21.48	377.86	0.00	1,537.72
Grover	11,333.72	154.50	2,718.07	356.20	14,562.49
Kings Mountain*	108,698.13	3,025.13	55,433.68	5,662.24	172,819.18
Kingstown	2,115.93	106.67	1,876.59	124.21	4,223.40
Lattimore	959.34	36.68	645.28	53.85	1,695.15
Lawndale	16,379.89	114.40	2,012.66	553.50	19,060.45
Mooresboro	0.00	0.00	0.00	0.00	0.00
Patterson Springs	0.00	0.00	0.00	0.00	0.00
Polkville	994.31	15.31	269.35	0.00	1,278.97
Shelby	150,566.76	8,256.66	142,001.68	8,834.21	309,659.31
Waco	649.11	16.33	287.29	0.00	952.73

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Columbus	**1,204,060.04**	**72,606.84**	**403,715.71**	**78,444.16**	**1,758,826.75**
Boardman	380.44	267.36	36.56	0.00	684.36
Bolton	1,746.74	655.17	1,352.84	0.00	3,754.75
Brunswick	2,665.65	1,392.39	1,216.47	883.77	6,158.28
Cerro Gordo	608.46	324.27	272.03	127.30	1,332.06
Chadbourn	16,588.46	2,824.49	9,295.27	3,024.25	31,732.47
Fair Bluff	5,148.70	1,621.37	4,616.59	2,374.73	13,761.39
Lake Waccamaw	11,306.21	1,867.55	7,329.15	529.91	21,032.82
Sandyfield	900.58	451.34	452.65	0.00	1,804.57
Tabor City	56,538.32	3,368.48	14,171.27	4,729.13	78,807.20
Whiteville	175,159.59	6,828.28	29,150.66	5,009.78	216,148.31
Craven	**920,119.39**	**73,522.60**	**909,522.07**	**50,931.61**	**1,954,095.67**
Bridgeton	5,243.10	244.85	3,145.76	291.70	8,925.41
Cove City	910.63	42.60	547.30	143.54	1,644.07
Dover	1,095.48	94.92	1,053.21	490.96	2,734.57
Havelock	83,566.98	4,887.30	62,789.69	473.27	151,717.24
New Bern	225,777.71	17,156.69	217,565.11	10,353.00	470,852.51
River Bend	9,247.46	1,026.91	13,193.22	43.20	23,510.79
Trent Woods	9,818.30	787.23	10,113.97	121.92	20,841.42
Vanceboro	3,233.55	396.62	5,095.60	659.95	9,385.72
Cumberland	**2,854,532.06**	**245,899.68**	**1,996,347.85**	**130,404.88**	**5,227,184.47**
Falcon*	636.92	265.41	238.54	36.00	1,176.87
Fayetteville	663,508.96	101,271.42	573,386.66	40,584.03	1,378,751.07
Godwin	256.96	90.63	150.50	36.00	534.09
Hope Mills	38,196.48	9,495.59	32,736.78	2,131.39	82,560.24
Linden	305.65	102.76	206.90	46.52	661.83
Spring Lake	28,048.65	6,568.83	27,617.64	1,117.85	63,352.97
Stedman	1,971.19	541.33	1,684.27	466.66	4,663.45
Wade	1,708.15	389.21	700.01	255.15	3,052.52
Currituck	**132,479.60**	**3,563.60**	**120,483.90**	**11,367.53**	**267,894.63**
Dare	**144,219.67**	**8,497.56**	**297,861.72**	**12,629.39**	**463,208.34**
Duck					0.00
Kill Devil Hills	18,859.08	865.73	36,025.33	865.49	56,615.63
Kitty Hawk	13,565.57	396.72	16,508.33	0.00	30,470.62
Manteo	29,605.15	219.60	9,138.28	609.00	39,572.03
Nags Head	13,154.06	801.28	33,343.10	265.54	47,563.98
Southern Shores	6,036.65	233.41	9,712.86	72.00	16,054.92
Davidson	**2,133,515.45**	**54,070.74**	**1,308,909.58**	**113,490.16**	**3,609,985.93**
Denton	37,035.32	532.82	12,134.34	0.00	49,702.48
Lexington	213,647.40	7,330.00	170,485.57	13,215.32	404,678.29
Thomasville*	738,511.07	7,261.20	158,074.68	19,439.22	923,286.17

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Davie	**1,813,030.88**	**10,651.92**	**709,621.68**	**25,894.84**	**2,559,199.32**
Bermuda Run	6,422.27	437.65	17,305.86	0.00	24,165.78
Cooleemee	4,314.13	276.76	2,805.44	338.79	7,735.12
Mocksville	251,382.90	1,277.35	63,483.48	2,536.96	318,680.69
Duplin	**670,588.25**	**38,137.48**	**307,247.94**	**52,705.20**	**1,068,678.87**
Beulaville	11,276.48	828.96	5,104.20	1,247.10	18,456.74
Calypso	5,878.58	318.59	957.44	422.86	7,577.47
Faison*	38,821.61	578.41	3,844.42	759.99	44,004.43
Greenevers	1,376.45	435.36	540.94	0.00	2,352.75
Kenansville	4,804.75	892.37	3,982.02	638.54	10,317.68
Magnolia	2,929.14	724.56	1,817.00	718.21	6,188.91
Rose Hill	25,148.60	1,033.88	5,827.72	1,690.36	33,700.56
Teachey	1,009.94	190.23	831.35	0.00	2,031.52
Wallace*	32,816.31	2,594.77	18,233.81	3,397.22	57,042.11
Warsaw	70,837.23	2,370.88	14,535.61	2,982.01	90,725.73
Durham	**6,533,288.81**	**107,791.80**	**2,967,245.85**	**127,235.40**	**9,735,561.86**
Durham*	2,092,279.59	90,288.98	1,575,466.70	68,212.85	3,826,248.12
Edgecombe	**997,645.84**	**62,350.27**	**584,932.68**	**67,121.86**	**1,712,050.65**
Conetoe	724.11	409.36	446.43	342.02	1,921.92
Leggett	185.38	86.36	168.93	0.00	440.67
Macclesfield	1,416.37	512.54	1,659.11	560.57	4,148.59
Pinetops	5,916.29	1,589.21	3,801.29	1,031.00	12,337.79
Princeville	4,735.96	1,053.12	6,338.14	3,161.09	15,288.31
Speed	199.55	78.51	217.55	0.00	495.61
Tarboro	327,222.02	12,506.17	86,337.45	10,797.32	436,862.96
Forsyth	**7,215,028.39**	**156,837.52**	**6,145,978.74**	**162,749.69**	**13,680,594.34**
Bethania	755.24	44.41	1,783.74	0.00	2,583.39
Clemmons	28,605.56	1,167.30	46,887.70	201.61	76,862.17
Kernersville*	1,037,867.68	7,762.97	311,839.94	4,080.74	1,361,551.33
Lewisville	17,361.23	818.52	32,877.77	0.00	51,057.52
Rural Hall	17,066.73	696.76	27,987.16	467.20	46,217.85
Tobaccoville	3,285.41	63.34	2,544.25	0.00	5,893.00
Walkertown	8,903.41	545.15	21,897.26	559.93	31,905.75
Winston-Salem	4,811,355.26	66,668.67	2,677,917.66	88,794.18	7,644,735.77
Franklin	**591,797.60**	**31,900.70**	**271,452.15**	**41,273.80**	**936,424.25**
Bunn	1,567.70	134.30	1,294.14	1,028.84	4,024.98
Centerville	0.00	0.00	0.00	0.00	0.00
Franklinton	12,530.59	630.95	6,079.95	2,707.45	21,948.94
Louisburg	24,064.56	1,274.33	12,279.58	1,423.60	39,042.07
Youngsville	15,687.03	553.54	5,334.02	817.70	22,392.29

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Gaston	**3,900,217.06**	**77,977.22**	**1,989,768.82**	**188,774.55**	**6,156,737.65**
Belmont	137,191.57	3,564.95	57,963.52	4,752.99	203,473.03
Bessemer City	79,546.70	2,096.86	20,852.69	4,489.65	106,985.90
Cherryville	66,191.99	2,217.47	24,859.96	3,866.14	97,135.56
Cramerton	36,264.24	1,219.12	20,989.01	2,626.50	61,098.87
Dallas	9,352.99	1,395.32	8,752.53	1,631.61	21,132.45
Dellview	0.00	0.00	0.00	0.00	0.00
Gastonia	985,447.44	27,766.98	410,554.33	30,800.84	1,454,569.59
High Shoals*	15,009.15	298.44	1,880.38	840.00	18,027.97
Lowell	73,804.74	1,090.34	9,769.76	2,272.30	86,937.14
McAdenville	0.00	253.47	0.00	0.00	253.47
Mount Holly	347,665.17	3,939.44	51,333.30	7,243.35	410,181.26
Ranlo	43,350.23	900.23	9,014.63	1,386.00	54,651.09
Spencer Mountain	1,540.07	20.85	71.17	0.00	1,632.09
Stanley	44,891.63	1,250.60	14,720.53	2,076.99	62,939.75
Gates	**140,057.26**	**7,130.02**	**70,439.73**	**15,396.66**	**233,023.67**
Gatesville	1,201.69	190.66	708.96	137.00	2,238.31
Graham	**87,791.88**	**10,602.46**	**48,255.26**	**13,628.82**	**160,278.42**
Lake Santeetlah	1,171.28	88.70	1,267.26	19.80	2,547.04
Robbinsville	48,333.50	990.22	3,670.23	928.67	53,922.62
Granville	**1,440,253.81**	**24,801.56**	**358,139.49**	**36,701.20**	**1,859,896.06**
Creedmoor	18,299.72	1,139.17	17,374.66	2,059.15	38,872.70
Oxford	125,446.33	4,255.37	46,839.75	12,799.94	189,341.39
Stem	825.71	116.86	759.57	210.00	1,912.14
Stovall	1,238.70	192.06	1,021.40	375.82	2,827.98
Greene	**275,795.17**	**19,677.58**	**129,787.87**	**19,532.77**	**444,793.39**
Hookerton	2,512.72	175.04	1,227.40	563.30	4,478.46
Snow Hill	8,916.29	862.39	6,047.15	1,877.67	17,703.50
Walstonburg	1,173.65	100.49	704.64	254.76	2,233.54
Guilford	**8,695,167.01**	**127,715.02**	**6,883,902.35**	**238,026.15**	**15,944,810.53**
Gibsonville*	94,167.89	1,292.91	42,995.12	3,786.18	142,242.10
Greensboro	4,540,047.40	67,929.70	3,157,836.88	79,766.10	7,845,580.08
High Point*	2,032,709.67	26,129.48	1,234,119.68	55,302.96	3,348,261.79
Jamestown	16,451.69	936.87	28,585.50	372.60	46,346.66
Oak Ridge	0.00	1,209.81	0.00	0.00	1,209.81
Pleasant Garden	0.00	1,429.91	0.00	0.00	1,429.91
Sedalia	0.00	187.49	0.00	0.00	187.49
Stokesdale	0.00	990.91	0.00	0.00	990.91
Summerfield	0.00	2,129.16	0.00	0.00	2,129.16
Whitsett	0.00	208.03	0.00	0.00	208.03

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Halifax	**837,892.88**	**120,698.72**	**556,334.74**	**83,854.31**	**1,598,780.65**
Enfield	12,309.84	1,955.09	10,189.90	2,945.10	27,399.93
Halifax	1,291.01	344.39	1,794.97	405.00	3,835.37
Hobgood	1,128.08	227.17	1,184.03	391.81	2,931.09
Littleton	10,167.15	933.66	4,866.22	1,596.09	17,563.12
Roanoke Rapids	339,789.07	29,998.48	115,742.90	24,211.71	509,742.16
Scotland Neck	19,534.48	1,900.38	9,904.76	3,766.57	35,106.19
Weldon	14,402.70	2,456.57	12,803.63	2,247.54	31,910.44
Harnett	**724,835.57**	**64,534.84**	**452,862.92**	**72,433.93**	**1,314,667.26**
Angier	17,847.20	1,474.53	11,214.51	2,989.36	33,525.60
Coats	9,533.85	881.11	6,701.25	4,023.62	21,139.83
Dunn	194,989.51	4,641.84	35,303.49	7,147.81	242,082.65
Erwin	78,918.59	2,286.09	15,176.14	9,878.84	106,259.66
Lillington	57,556.43	1,779.07	13,530.69	1,597.02	74,463.21
Haywood	**642,736.67**	**35,154.55**	**505,655.65**	**74,595.16**	**1,258,142.03**
Canton	227,405.38	2,621.09	52,641.13	6,965.10	289,632.70
Clyde	4,526.69	861.16	5,097.43	720.00	11,205.28
Maggie Valley	6,849.14	402.70	13,469.99	0.00	20,721.83
Waynesville	112,888.34	6,019.70	66,156.36	7,534.24	192,598.64
Henderson	**1,218,553.77**	**35,179.02**	**1,993,109.52**	**46,105.03**	**3,292,947.34**
Flat Rock	0.00	1,017.78	0.00	0.00	1,017.78
Fletcher	24,239.29	1,656.15	102,458.17	643.40	128,997.01
Hendersonville	198,013.88	4,151.17	233,597.52	9,937.42	445,699.99
Laurel Park	9,969.11	795.31	38,803.92	168.00	49,736.34
Hertford	**314,148.93**	**56,808.47**	**179,090.57**	**47,201.82**	**597,249.79**
Ahoskie	52,463.69	7,890.99	25,051.11	5,919.18	91,324.97
Cofield	31,890.05	400.40	1,271.11	559.57	34,121.13
Como	455.64	56.97	180.84	126.00	819.45
Harrellsville	301.00	64.23	203.90	105.05	674.18
Murfreesboro	30,573.65	3,459.12	10,981.46	3,659.67	48,673.90
Winton	20,957.29	1,049.26	3,331.02	836.75	26,174.32
Hoke	**515,795.57**	**38,026.97**	**121,583.04**	**23,907.73**	**699,313.31**
Raeford	218,582.81	3,823.29	15,985.85	3,210.08	241,602.03
Hyde	**53,357.87**	**7,929.58**	**60,646.72**	**14,724.39**	**136,658.56**
Iredell	**1,716,089.89**	**43,859.22**	**1,131,593.50**	**84,996.52**	**2,976,539.13**
Harmony	1,159.43	187.95	512.60	112.54	1,972.52
Love Valley	139.48	10.66	269.06	0.00	419.20
Mooresville	297,982.66	6,730.27	217,162.45	11,257.24	533,132.62
Statesville	974,584.67	8,337.61	186,949.98	22,375.31	1,192,247.57
Troutman	52,899.74	571.31	11,437.76	777.74	65,686.55

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Jackson	**265,041.04**	**25,594.04**	**315,989.05**	**21,855.47**	**628,479.60**
Dillsboro	1,613.92	95.67	1,181.21	96.00	2,986.80
Forest Hills	851.45	28.84	356.07	0.00	1,236.36
Sylva	38,746.34	1,387.26	17,127.44	1,545.37	58,806.41
Webster	1,222.97	14.02	173.10	0.00	1,410.09
Johnston	**1,534,432.70**	**63,974.94**	**723,946.08**	**112,272.99**	**2,434,626.71**
Benson	23,940.40	998.95	11,877.18	2,484.70	39,301.23
Clayton	106,660.92	3,832.12	45,562.44	4,105.27	160,160.75
Four Oaks	4,857.47	266.43	3,167.74	1,207.00	9,498.64
Kenly*	16,793.35	621.83	7,203.17	1,397.43	26,015.78
Micro	1,387.38	72.36	860.36	601.99	2,922.09
Pine Level	5,407.85	228.06	2,711.55	754.36	9,101.82
Princeton	3,864.41	223.51	2,657.50	1,361.25	8,106.67
Selma	126,679.07	1,380.89	16,418.29	5,064.38	149,542.63
Smithfield	93,678.20	4,364.64	51,133.80	7,821.79	156,998.43
Wilson's Mills	2,711.18	50.10	595.70	0.00	3,356.98
Jones	**82,038.95**	**8,134.02**	**60,553.63**	**11,416.83**	**162,143.43**
Maysville	4,652.51	299.10	2,230.30	727.45	7,909.36
Pollocksville	1,620.61	98.49	734.44	380.03	2,833.57
Trenton	1,807.42	111.63	832.42	163.22	2,914.69
Lee	**954,669.57**	**36,822.22**	**634,466.48**	**41,255.95**	**1,667,214.22**
Broadway*	4,623.85	764.42	7,039.97	894.08	13,322.32
Sanford	486,320.48	17,448.40	242,501.74	13,544.81	759,815.43
Lenoir	**954,888.79**	**78,209.65**	**731,993.54**	**56,535.88**	**1,821,627.86**
Kinston	342,165.14	21,833.60	207,441.19	20,314.13	591,754.06
La Grange	11,554.47	1,567.03	15,002.47	2,235.22	30,359.19
Pink Hill	12,465.55	465.35	4,455.14	390.80	17,776.84
Lincoln	**1,144,215.15**	**19,866.42**	**512,401.97**	**44,130.14**	**1,720,613.68**
Lincolnton	420,172.76	3,103.70	68,185.38	7,835.62	499,297.46
Macon	**222,488.28**	**15,668.86**	**322,868.95**	**25,227.42**	**586,253.51**
Franklin	33,287.41	1,092.82	23,998.24	2,237.47	60,615.94
Highlands*	10,200.52	1,080.07	22,864.99	526.00	34,671.58
Madison	**154,700.29**	**13,676.01**	**128,635.87**	**34,455.55**	**331,467.72**
Hot Springs	3,275.34	449.11	2,469.90	1,073.22	7,267.57
Mars Hill	16,845.29	1,227.24	6,618.44	1,460.03	26,151.00
Marshall	12,383.17	585.16	6,262.42	1,603.35	20,834.10

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Martin	**597,079.14**	**40,389.77**	**250,037.09**	**44,030.41**	**931,536.41**
Bear Grass	192.16	30.89	197.34	95.61	516.00
Everetts	672.03	84.88	542.29	401.46	1,700.66
Hamilton	1,621.04	235.19	1,502.55	582.16	3,940.94
Hassell	174.84	17.58	112.30	93.77	398.49
Jamesville	1,955.30	345.19	2,205.27	1,098.05	5,603.81
Oak City	1,245.50	210.03	1,341.77	610.79	3,408.09
Parmele	873.01	121.10	773.68	678.27	2,446.06
Robersonville	26,738.13	1,266.35	8,090.12	2,775.50	38,870.10
Williamston	116,096.55	6,395.46	40,857.62	11,077.40	174,427.03
McDowell	**879,651.17**	**16,966.89**	**261,106.73**	**57,443.61**	**1,215,168.40**
Marion	185,009.93	1,986.87	33,663.12	10,176.96	230,836.88
Old Fort	138,816.13	386.96	8,078.95	671.38	147,953.42
Mecklenburg	**13,114,050.50**	**240,937.06**	**11,740,925.60**	**158,525.12**	**25,254,438.28**
Charlotte	7,830,441.40	99,503.94	4,907,008.57	109,745.57	12,946,699.48
Cornelius	49,766.86	2,578.01	128,002.59	1,498.07	181,845.53
Davidson*	97,843.72	985.93	50,722.94	594.00	150,146.59
Huntersville	66,354.06	2,717.56	134,931.78	1,164.93	205,168.33
Matthews	144,834.94	2,450.88	121,690.43	534.29	269,510.54
Mint Hill	31,249.57	1,229.37	61,040.62	770.31	94,289.87
Pineville	76,697.96	746.51	37,065.78	442.80	114,953.05
Mitchell	**251,039.37**	**15,486.83**	**136,477.95**	**35,037.68**	**438,041.83**
Bakersville	1,998.76	257.37	2,460.66	673.68	5,390.47
Spruce Pine	54,255.01	1,909.94	18,260.74	3,620.72	78,046.41
Montgomery	**415,092.90**	**19,059.53**	**215,137.44**	**22,589.51**	**671,879.38**
Biscoe	31,707.86	1,230.63	9,668.34	1,170.83	43,777.66
Candor	13,563.24	590.87	4,762.27	515.74	19,432.12
Mount Gilead	37,116.21	986.91	7,268.00	1,794.00	47,165.12
Star	99,637.26	573.16	5,169.29	515.13	105,894.84
Troy	72,299.77	2,957.20	15,686.84	2,351.07	93,294.88
Moore	**684,654.48**	**31,790.90**	**2,097,328.79**	**37,053.74**	**2,850,827.91**
Aberdeen	66,460.42	1,446.93	104,364.13	2,777.01	175,048.49
Cameron	797.47	126.89	3,177.13	252.60	4,354.09
Carthage	17,683.19	885.24	32,859.70	874.99	52,303.12
Foxfire Village	1,766.78	201.75	9,555.37	14.40	11,538.30
Pinebluff	11,928.71	474.13	15,287.52	507.60	28,197.96
Pinehurst	45,846.38	4,125.92	287,174.72	82.80	337,229.82
Robbins	31,558.91	511.35	20,713.86	1,684.20	54,468.32
Southern Pines	185,919.92	4,683.36	331,099.34	8,745.77	530,448.39
Taylortown	2,331.97	359.09	9,313.56	614.40	12,619.02
Vass	8,091.46	318.91	13,033.94	771.60	22,215.91
Whispering Pines	8,775.05	888.63	51,413.65	0.00	61,077.33

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Nash	**1,339,507.31**	**72,652.22**	**1,146,618.49**	**48,369.83**	**2,607,147.85**
Bailey	3,950.16	556.89	5,276.27	993.83	10,777.15
Castalia	661.59	282.59	593.02	208.24	1,745.44
Dortches	0.00	672.08	0.00	0.00	672.08
Middlesex	4,366.71	696.12	8,347.04	738.41	14,148.28
Momeyer	463.19	241.98	143.72	0.00	848.89
Nashville	30,791.75	3,580.86	44,427.36	2,553.79	81,353.76
Red Oak	0.00	2,263.21	0.00	0.00	2,263.21
Rocky Mount*	741,664.55	51,477.83	442,683.95	26,246.82	1,262,073.15
Sharpsburg*	6,030.87	1,325.19	8,418.49	799.79	16,574.34
Spring Hope	6,416.25	1,048.32	17,137.63	1,993.79	26,595.99
Whitakers*	3,552.74	790.69	5,512.50	1,030.58	10,886.51
New Hanover	**2,003,023.24**	**141,656.99**	**2,294,179.33**	**93,240.13**	**4,532,099.69**
Carolina Beach	18,525.96	3,176.49	52,752.66	1,395.80	75,850.91
Kure Beach	6,137.57	1,114.83	18,514.26	680.40	26,447.06
Wilmington	1,137,814.08	51,869.75	861,412.33	58,722.33	2,109,818.49
Wrightsville Beach	12,176.58	2,416.06	40,124.06	244.20	54,960.90
Northampton	**233,356.92**	**20,413.40**	**166,951.33**	**49,421.62**	**470,143.27**
Conway	10,807.71	678.75	2,621.47	1,086.55	15,194.48
Garysburg	3,861.23	1,158.96	2,356.04	1,808.30	9,184.53
Gaston	4,580.19	899.46	2,816.24	1,952.82	10,248.71
Jackson	2,597.05	642.74	1,938.63	897.47	6,075.89
Lasker	505.28	95.12	75.70	56.62	732.72
Rich Square	3,896.91	860.68	3,150.37	1,904.40	9,812.36
Seaboard	8,166.56	642.74	1,629.51	1,659.23	12,098.04
Severn	19,077.72	242.87	1,650.25	373.51	21,344.35
Woodland	4,397.85	770.18	2,084.40	1,170.54	8,422.97
Onslow	**885,735.06**	**77,282.05**	**653,379.08**	**32,739.50**	**1,649,135.69**
Holly Ridge	16,344.46	429.52	3,541.96	356.35	20,672.29
Jacksonville	260,636.79	34,014.37	180,160.42	7,157.09	481,968.67
North Topsail Beach	21,005.90	435.72	22,711.22	78.62	44,231.46
Richlands	7,090.61	479.60	3,630.30	825.37	12,025.88
Swansboro	10,075.10	740.31	9,089.54	890.23	20,795.18
Orange	**904,825.12**	**26,593.60**	**2,122,081.99**	**62,510.75**	**3,116,011.46**
Carrboro	58,749.17	3,794.35	206,732.64	3,466.65	272,742.81
Chapel Hill*	167,386.19	12,039.42	576,913.10	5,642.87	761,981.58
Hillsborough	42,162.64	1,224.58	75,464.21	5,007.22	123,858.65

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Pamlico	**83,866.03**	**14,370.41**	**136,153.33**	**18,301.80**	**252,691.57**
Alliance	0.00	0.00	0.00	0.00	0.00
Arapahoe	789.78	9.66	94.18	0.00	893.62
Bayboro	1,909.69	147.96	1,442.49	709.85	4,209.99
Grantsboro	1,448.16	30.48	297.17	0.00	1,775.81
Mesic	596.47	37.32	363.81	234.61	1,232.21
Minnesott Beach	1,019.26	112.88	1,100.49	25.60	2,258.23
Oriental	3,836.00	540.68	5,271.10	501.60	10,149.38
Stonewall	632.11	33.17	323.37	98.41	1,087.06
Vandemere	737.30	56.46	550.43	191.79	1,535.98
Pasquotank	**345,254.08**	**51,962.29**	**396,030.30**	**22,628.16**	**815,874.83**
Elizabeth City*	116,336.10	16,790.89	127,468.91	11,743.70	272,339.60
Pender	**238,497.23**	**22,268.26**	**310,944.40**	**40,083.80**	**611,793.69**
Atkinson	938.80	128.08	717.60	441.68	2,226.16
Burgaw	17,341.54	1,808.73	12,987.37	2,753.37	34,891.01
Saint Helena	934.11	214.19	331.73	148.46	1,628.49
Surf City*	16,144.04	747.56	24,665.50	192.00	41,749.10
Topsail Beach	5,937.37	255.08	11,976.20	102.00	18,270.65
Watha	317.56	81.80	35.06	0.00	434.42
Perquimans	**88,770.72**	**10,544.70**	**73,504.82**	**13,062.95**	**185,883.19**
Hertford	8,790.50	1,919.74	6,137.25	1,906.30	18,753.79
Winfall	2,264.63	513.72	1,538.24	429.14	4,745.73
Person	**440,976.91**	**25,812.41**	**275,130.37**	**24,283.07**	**766,202.76**
Roxboro	150,001.18	4,516.73	48,143.08	7,713.99	210,374.98
Pitt	**1,596,146.68**	**91,582.91**	**1,137,164.86**	**56,604.64**	**2,881,499.09**
Ayden	12,632.75	3,164.00	17,114.28	3,787.83	36,698.86
Bethel	5,770.34	1,150.92	6,887.53	1,647.33	15,456.12
Falkland	261.48	76.95	287.66	79.20	705.29
Farmville	112,175.94	2,945.39	31,872.32	2,371.78	149,365.43
Fountain	1,968.83	365.02	2,531.13	891.03	5,756.01
Greenville	496,276.33	41,618.88	456,316.34	14,255.69	1,008,467.24
Grifton*	6,552.90	1,350.50	9,335.41	1,490.70	18,729.51
Grimesland	1,086.77	301.01	1,119.00	578.67	3,085.45
Simpson	1,288.92	317.35	1,780.37	525.98	3,912.62
Winterville	38,968.85	3,351.28	23,642.19	1,670.44	67,632.76
Polk	**149,302.97**	**3,081.16**	**813,533.08**	**20,407.57**	**986,324.78**
Columbus	6,704.38	166.83	21,375.32	548.14	28,794.67
Saluda*	3,863.02	97.45	31,703.09	478.13	36,141.69
Tryon	12,736.87	295.85	82,294.74	2,425.56	97,753.02

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Randolph	**2,020,700.50**	**28,320.89**	**965,244.27**	**100,129.90**	**3,114,395.56**
Archdale*	80,001.31	1,981.26	39,727.36	2,830.80	124,540.73
Asheboro	683,500.87	4,706.72	194,083.63	17,800.75	900,091.97
Franklinville	3,360.24	273.07	2,983.51	615.22	7,232.04
Liberty	58,398.69	577.67	18,691.01	2,163.84	79,831.21
Ramseur	52,961.58	344.79	15,633.35	1,418.89	70,358.61
Randleman	98,161.19	774.48	22,435.14	2,317.71	123,688.52
Seagrove	9,528.88	53.36	2,276.38	191.79	12,050.41
Staley	1,639.50	75.40	566.59	30.00	2,311.49
Trinity	13,314.77	1,452.39	5,234.25	0.00	20,001.41
Richmond	**607,401.69**	**41,348.56**	**349,739.32**	**77,737.30**	**1,076,226.87**
Dobbins Heights	2,479.11	831.55	1,565.70	2,113.05	6,989.41
Ellerbe	13,573.43	906.98	3,312.48	1,066.59	18,859.48
Hamlet	32,865.97	5,365.58	30,069.22	7,715.10	76,015.87
Hoffman	1,424.01	554.66	623.63	122.21	2,724.51
Norman	0.00	63.90	0.00	0.00	63.90
Rockingham	119,739.47	8,597.71	52,221.38	11,202.15	191,760.71
Robeson	**1,765,767.60**	**172,309.51**	**752,578.64**	**205,999.05**	**2,896,654.80**
Fairmont	46,631.05	3,637.05	10,557.16	4,803.48	65,628.74
Lumber Bridge	416.47	164.24	318.27	34.96	933.94
Lumberton	314,236.82	29,373.38	133,516.38	21,488.96	498,615.54
Marietta	0.00	229.66	0.00	0.00	229.66
Maxton*	28,893.29	3,638.85	11,653.93	4,083.01	48,269.08
McDonald	223.27	165.64	19.60	0.00	408.51
Orrum	0.00	109.96	0.00	0.00	109.96
Parkton	1,553.48	598.52	1,223.80	487.30	3,863.10
Pembroke	13,232.82	3,348.92	12,170.84	1,883.04	30,635.62
Proctorville	317.80	185.12	134.10	0.00	637.02
Raynham	174.14	100.22	76.98	15.00	366.34
Red Springs	16,034.25	4,878.63	14,114.81	6,038.21	41,065.90
Rennert	626.02	457.94	74.12	0.00	1,158.08
Rowland	10,780.40	1,600.69	5,138.83	2,382.43	19,902.35
Saint Pauls	37,224.36	2,985.64	10,991.47	2,608.78	53,810.25
Rockingham	**1,918,582.27**	**47,927.70**	**1,129,784.08**	**93,919.02**	**3,190,213.07**
Eden	304,638.60	8,293.46	123,085.93	26,971.76	462,989.75
Madison	103,633.93	1,179.20	58,716.11	2,605.55	166,134.79
Mayodan	58,417.58	1,259.90	22,922.49	5,034.60	87,634.57
Reidsville	425,031.18	7,551.58	163,901.05	15,451.45	611,935.26
Stoneville	39,452.28	522.18	11,176.88	2,269.59	53,420.93
Wentworth	0.00	1,448.88	0.00	0.00	1,448.88

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Rowan	**1,622,456.84**	**51,142.62**	**2,196,813.23**	**100,380.40**	**3,970,793.09**
China Grove	18,000.21	1,494.76	40,691.90	1,686.53	61,873.40
Cleveland	106,571.63	317.09	11,579.84	249.08	118,717.64
East Spencer	14,936.63	688.54	15,549.76	2,827.54	34,002.47
Faith	3,677.45	272.91	6,622.26	318.93	10,891.55
Granite Quarry	27,048.85	859.01	18,855.65	998.14	47,761.65
Landis	21,367.55	1,178.06	22,605.92	1,452.13	46,603.66
Rockwell	21,533.25	773.38	14,893.87	805.64	38,006.14
Salisbury	1,038,405.67	10,384.38	491,941.11	0.00	1,540,731.16
Spencer	31,070.64	1,316.47	36,173.07	2,820.71	71,380.89
Rutherford	**1,275,384.58**	**45,118.24**	**504,675.22**	**64,498.55**	**1,889,676.59**
Bostic	922.58	54.26	636.49	148.87	1,762.20
Chimney Rock	780.17	72.46	622.25	0.00	1,474.88
Ellenboro	1,470.82	76.33	895.31	0.00	2,442.46
Forest City	126,385.01	2,147.81	25,194.18	3,473.48	157,200.48
Lake Lure	14,449.74	1,951.56	22,892.09	0.00	39,293.39
Ruth	12,881.44	105.68	1,239.62	0.00	14,226.74
Rutherfordton	77,451.88	2,362.82	27,408.68	2,251.73	109,475.11
Spindale	148,325.48	2,116.28	24,824.31	4,938.96	180,205.03
Sampson	**720,212.64**	**50,803.18**	**416,393.14**	**91,076.05**	**1,278,485.01**
Autryville	774.89	165.43	696.56	180.12	1,817.00
Clinton	271,211.75	7,259.51	48,591.48	9,664.26	336,727.00
Garland	15,553.26	681.87	3,325.52	1,084.75	20,645.40
Harrells*	482.83	156.68	189.10	165.80	994.41
Newton Grove	5,324.60	511.40	3,113.46	335.47	9,284.93
Roseboro	9,376.79	1,069.82	6,442.98	3,040.24	19,929.83
Salemburg	1,766.35	396.36	1,518.02	695.68	4,376.41
Turkey	695.40	220.85	350.25	249.20	1,515.70
Scotland	**1,061,872.82**	**68,982.94**	**383,812.09**	**51,783.54**	**1,566,451.39**
East Laurinburg	0.00	0.00	0.00	0.00	0.00
Gibson	2,406.54	392.96	2,215.12	622.73	5,637.35
Laurinburg	75,874.83	11,229.28	62,917.22	13,362.27	163,383.60
Wagram	2,571.35	535.93	3,021.01	742.87	6,871.16
Stanly	**908,574.80**	**21,938.00**	**495,426.15**	**78,996.00**	**1,504,934.95**
Albemarle	231,190.23	5,912.22	105,240.66	16,515.30	358,858.41
Badin	4,299.56	435.14	5,469.56	0.00	10,204.26
Locust*	9,494.81	917.32	10,725.01	440.78	21,577.92
New London	1,857.15	230.92	1,958.37	109.63	4,156.07
Norwood	40,215.99	835.68	12,613.28	2,390.78	56,055.73
Oakboro	19,946.10	451.69	9,456.36	1,039.83	30,893.98
Red Cross	0.00	0.00	0.00	0.00	0.00
Richfield	1,537.04	194.06	1,587.80	43.81	3,362.71
Stanfield	6,859.74	419.72	7,071.49	350.94	14,701.89

Jurisdiction	Inventory 2002-2003	Foodstamp 2002-2003	Intangible 2002-2003	Homestead 2002-2003	Total Reimbursements 2002-2003
Stokes	**3,170,048.35**	**14,948.60**	**252,027.10**	**42,240.55**	**3,479,264.60**
Danbury	417.90	15.37	273.77	0.00	707.04
King*	35,351.09	1,371.48	30,935.65	1,382.50	69,040.72
Walnut Cove	10,993.13	316.03	5,628.60	1,571.75	18,509.51
Surry	**1,489,875.99**	**46,399.58**	**849,485.40**	**74,751.52**	**2,460,512.49**
Dobson	17,103.99	949.21	11,871.13	516.51	30,440.84
Elkin*	227,741.45	2,683.67	56,862.66	3,387.92	290,675.70
Mount Airy	618,654.91	5,526.45	144,371.31	8,624.27	777,176.94
Pilot Mountain	58,230.78	834.29	20,299.42	1,536.71	80,901.20
Swain	**104,604.32**	**17,864.11**	**74,964.28**	**13,400.82**	**210,833.53**
Bryson City	11,003.19	1,946.09	9,701.41	2,061.25	24,711.94
Transylvania	**574,663.15**	**21,126.10**	**594,765.81**	**21,711.79**	**1,212,266.85**
Brevard	112,273.00	2,608.84	76,555.40	5,097.32	196,534.56
Rosman	1,339.90	68.28	2,051.94	527.08	3,987.20
Tyrrell	**55,148.81**	**6,703.94**	**28,913.48**	**12,301.13**	**103,067.36**
Columbia	5,848.13	314.60	1,356.84	2,139.02	9,658.59
Union	**1,783,701.32**	**42,265.53**	**751,662.68**	**64,467.42**	**2,642,096.95**
Fairview	0.00	0.00	0.00	0.00	0.00
Hemby Bridge	1,399.87	9.74	200.14	0.00	1,609.75
Indian Trail	31,070.23	671.16	13,797.18	111.00	45,649.57
Lake Park	5,489.42	235.97	4,850.93	0.00	10,576.32
Marshville	21,954.10	422.04	8,675.95	2,418.26	33,470.35
Marvin	1,850.76	30.24	621.62	0.00	2,502.62
Mineral Springs	2,318.35	32.83	674.99	0.00	3,026.17
Monroe	579,503.72	8,213.02	168,297.04	7,945.08	763,958.86
Stallings	22,359.48	521.46	10,719.69	196.74	33,797.37
Unionville	8,026.74	40.00	822.27	0.00	8,889.01
Waxhaw	10,442.25	510.27	10,489.77	1,117.19	22,559.48
Weddington	11,128.56	114.40	2,351.71	13.20	13,607.87
Wesley Chapel	5,156.93	38.58	793.05	0.00	5,988.56
Wingate	5,774.58	237.34	4,879.05	579.24	11,470.21
Vance	**865,654.03**	**54,287.54**	**464,954.82**	**48,932.15**	**1,433,828.54**
Henderson	284,186.08	13,652.95	116,933.01	19,253.99	434,026.03
Kittrell	281.16	11.82	101.25	0.00	394.23
Middleburg	412.01	40.35	345.61	0.00	797.97

Jurisdiction	Inventory 2002-2003	Foodstamp 2002-2003	Intangible 2002-2003	Homestead 2002-2003	Total Reimbursements 2002-2003
Wake	**6,935,223.84**	**138,017.00**	**6,820,441.55**	**162,891.40**	**14,056,573.79**
Apex	320,974.72	4,463.79	152,487.82	1,953.76	479,880.09
Cary*	406,697.20	20,801.61	860,402.38	3,325.47	1,291,226.66
Fuquay-Varina	177,718.49	1,748.51	69,949.60	3,388.70	252,805.30
Garner	84,321.19	3,959.70	161,049.27	5,714.79	255,044.95
Holly Springs	32,069.08	2,025.73	86,418.89	1,705.24	122,218.94
Knightdale	21,967.94	1,310.67	37,657.64	498.28	61,434.53
Morrisville*	170,023.26	1,145.26	128,153.56	475.20	299,797.28
Raleigh*	3,359,208.21	61,584.56	1,957,676.43	63,751.63	5,442,220.83
Rolesville	2,886.62	199.41	6,668.92	264.60	10,019.55
Wake Forest	183,264.75	2,788.94	96,385.54	4,043.73	286,482.96
Wendell	29,417.18	933.86	23,274.56	2,122.68	55,748.28
Zebulon	555,574.86	889.62	37,440.81	1,780.68	595,685.97
Warren	**228,209.09**	**26,647.18**	**146,215.63**	**23,544.49**	**424,616.39**
Macon	331.81	152.50	159.30	0.00	643.61
Norlina	3,823.60	1,472.00	2,471.67	1,277.00	9,044.27
Warrenton	17,297.55	1,078.14	4,114.93	941.44	23,432.06
Washington	**151,575.99**	**23,703.85**	**121,577.60**	**18,866.33**	**315,723.77**
Creswell	978.42	480.68	816.26	0.00	2,275.36
Plymouth	30,531.95	7,094.38	14,347.21	5,406.42	57,379.96
Roper	1,828.01	1,058.19	1,277.05	504.73	4,667.98
Watauga	**283,245.39**	**23,350.87**	**387,661.07**	**29,194.99**	**723,452.32**
Beech Mountain*	15,598.92	173.86	39,368.06	0.00	55,140.84
Blowing Rock*	21,540.26	768.87	50,576.12	1,404.00	74,289.25
Boone	162,155.38	7,361.79	71,910.71	3,875.25	245,303.13
Seven Devils*	4,383.87	75.95	10,511.71	0.00	14,971.53
Wayne	**1,105,694.10**	**92,440.03**	**888,196.80**	**80,312.36**	**2,166,643.29**
Eureka	1,050.04	140.55	1,239.91	875.34	3,305.84
Fremont	31,328.20	614.49	6,159.67	1,525.93	39,628.29
Goldsboro	715,982.51	28,340.27	282,660.14	24,480.29	1,051,463.21
Mount Olive*	76,847.74	3,156.74	31,416.11	7,191.59	118,612.18
Pikeville	4,714.02	433.14	4,341.74	599.12	10,088.02
Seven Springs	391.73	53.88	500.68	331.33	1,277.62
Walnut Creek	7,610.40	1,319.52	13,226.86	0.00	22,156.78
Wilkes	**950,576.34**	**46,854.59**	**731,294.98**	**84,475.58**	**1,813,201.49**
North Wilkesboro	197,675.58	2,933.66	60,377.14	2,752.51	263,738.89
Ronda	1,777.31	328.34	1,554.77	420.84	4,081.26
Wilkesboro	120,610.01	2,260.61	46,823.00	971.58	170,665.20

Jurisdiction	Inventory 2002-2003	Foodstamp 2002-2003	Intangible 2002-2003	Homestead 2002-2003	Total Reimbursements 2002-2003
Wilson	**1,390,355.91**	**80,648.03**	**676,924.65**	**53,950.63**	**2,201,879.22**
Black Creek	2,037.50	307.75	2,508.00	355.98	5,209.23
Elm City	37,892.51	826.59	7,223.14	1,217.98	47,160.22
Lucama	2,330.73	342.93	2,996.67	572.86	6,243.19
Saratoga	1,159.79	185.74	1,623.04	463.76	3,432.33
Sims	1,008.53	51.33	448.51	215.87	1,724.24
Stantonsburg	1,944.40	275.93	2,411.21	0.00	4,631.54
Wilson	480,460.16	31,453.89	273,081.45	16,118.37	801,113.87
Yadkin	**389,369.15**	**14,766.27**	**348,489.70**	**54,069.65**	**806,694.77**
Boonville	19,249.68	227.21	5,877.38	921.98	26,276.25
East Bend	3,147.99	171.85	4,445.31	641.36	8,406.51
Jonesville	17,965.26	557.63	14,424.68	4,157.01	37,104.58
Yadkinville	68,834.88	803.12	20,774.82	1,320.46	91,733.28
Yancey	**203,656.79**	**17,891.86**	**142,444.91**	**22,984.00**	**386,977.56**
Burnsville	32,031.14	1,633.56	12,668.47	1,384.96	47,718.13
Totals	**190,174,078.47**	**6,406,639.30**	**128,972,502.46**	**7,890,752.92**	**333,443,973.15**

2010-11 Replacement Revenue Projection

[formerly Article 44]

	09-10 Replacement Revenue Net Collections	Growth	08-09
J	38,745,428.22	-15.2%	45,715,528.50
A	37,468,770.11	-5.5%	39,638,511.76
S	33,731,902.98	-15.1%	39,725,944.44
O	33,556,707.16	-11.4%	37,877,995.37
N	34,549,998.10	-2.7%	35,495,612.68
D	31,518,091.50	-7.9%	34,227,159.89
J	37,345,565.40	-22.1%	47,967,921.87
F	29,088,966.59	-17.5%	35,261,025.20
M	0.00	-100.0%	34,478,320.22
A	0.00	-100.0%	29,811,754.33
M	0.00	-100.0%	36,804,915.06
J	0.00	-100.0%	35,065,902.27
			452,070,591.58

Jul-Feb 69.9%

Avg, Jul-Feb	34,500,679	
Annualized, Averaging	414,008,145	-8.42%
Total July-Feb	276,005,430	
Divided by Jul-Feb as % of Total	69.9%	
Annualized, Percentage	394,967,100	-12.6%
Expected 2009-10 Collections	404,487,623	-10.5%
Cost of Collection (.425%/.42%)	1,707,751	
Expected 2009-10 Net Collections	402,779,872	
Projected Growth, 2010-2011*	1.5%	
Distribution 2010-11	408,821,570	
Rounded	**408,800,000**	

Linked to Hold Harmless Worksheet (J655)

Cost = .425% [July 2009-Nov 2009]
Cost = .42% [Dec 2009-June 2010]

*from FRD and OSBM consensus revenue forecast for 2010-2011

Note: Amelia updated actual 08-09 collections based on Michael's rerun of CORRECTED reports (Karl/Rebecca agree)

2009-10	Article 39			Article 40		2008-09	Article 39			Article 40	
	[excludes food]	Food portion [Actual]	[Distributed] [includes food]	Food portion*	[excludes food]		[excludes food]	Food portion [Actual]	[Distributed] [includes food]	Food portion*	[excludes food]
J	77,490,780.59	10,561,172.50	44,026,045.58	5,280,579.43	38,745,466.15	J	91,430,957.25	13,185,299.42	52,308,228.08	6,592,649.71	45,715,578.37
A	74,937,476.18	9,423,463.64	42,180,524.53	4,711,722.40	37,468,802.13	A	79,276,935.35	11,515,940.62	45,396,526.16	5,757,970.31	39,638,555.85
S	67,463,750.44	10,768,668.13	39,116,258.39	5,384,327.66	33,731,930.73	S	79,451,812.75	9,332,753.74	44,392,359.38	4,666,376.87	39,725,982.51
O	67,113,358.55	8,735,475.32	37,924,475.70	4,367,740.66	33,556,735.04	O	75,755,883.78	13,761,531.03	44,758,810.70	6,880,761.86	37,878,048.84
N	74,881,728.25	11,627,226.74	37,472,746.05	5,813,613.98	31,659,132.07	N	70,991,149.99	7,458,966.68	39,225,120.43	3,729,470.07	35,495,650.36
D	67,806,999.96	9,622,323.66	33,943,845.40	4,811,162.38	29,132,683.02	D	68,454,256.51	8,741,466.50	38,597,910.80	4,370,719.28	34,227,191.52
J	80,399,849.59	11,528,360.41	40,255,386.61	5,764,180.61	34,491,206.00	J	95,935,871.63	15,281,108.80	55,608,548.73	7,640,640.81	47,967,907.92
F	63,461,038.87	10,624,928.84	31,759,878.85	5,312,465.10	26,447,413.75	F	70,521,992.83	11,848,485.21	41,185,292.65	5,924,238.67	35,261,053.98
M					0.00	M	68,956,572.81	7,782,682.56	38,369,689.93	3,891,335.89	34,478,354.04
A					0.00	A	59,623,370.08	12,083,022.58	35,853,258.05	6,041,434.43	29,811,823.62
M					0.00	M	73,609,770.81	9,742,209.68	41,676,045.45	4,871,100.73	36,804,944.72
J					0.00	J	70,131,508.65	10,458,856.71	40,295,229.30	5,229,179.09	35,066,050.21
	573,554,982.43	82,891,619.24	306,679,161.11	41,445,792.22	###########		904,140,082.44	###########	###########	65,595,877.72	452,071,141.94

Effective with Oct 08, Food portion of Art. 40 (Actual: G.S.105-522 calculation)
Corrected Article 39 from reruns

FY 2010-11 Article 44 Hold Harmless Calculation

Jurisdiction	Computed Reimbursements 2002-2003	Art40-1/2% 2008-2009	Art42-1/2% 2008-2009	Sales-1% 2008-2009	Distribution 2008-2009	Local Sales Tax Share 2008-2009	Computed Share of Replacement Revenue Projection 2010-11	Reimbursements Less Replacement Revenue Projection 2010-11	Hold Harmless 2010-2011
Alamance	**4,056,037.27**	5,271,683.73	5,213,609.90	10,777,209.21	**21,262,502.84**	**0.0100746**	**4,118,479.32**	**-62,442.05**	
Alamance	4,445.45	13,463.19	13,314.83	27,525.08	54,303.10	**0.0000257**	10,518.34	-6,072.89	
Burlington*	1,386,731.23	1,824,885.51	1,804,751.01	3,737,522.40	7,367,158.92	**0.0034907**	1,426,995.30	-40,264.07	
Elon	114,103.42	266,341.61	263,408.59	544,444.98	1,074,195.18	**0.0005090**	208,068.20	-93,964.78	
Graham	275,948.74	537,783.18	531,859.35	1,099,395.57	2,169,038.10	**0.0010277**	420,135.80	-144,187.06	
Green Level	9,473.06	89,295.38	88,311.92	182,540.74	360,148.04	**0.0001706**	69,759.53	-60,286.47	
Haw River	172,179.12	74,926.83	74,101.57	153,170.91	302,199.31	**0.0001432**	58,535.05	113,644.07	**113,644.07**
Mebane*	269,152.77	336,491.27	332,909.99	656,853.69	1,326,254.95	**0.0006284**	256,891.37	12,261.40	**12,261.40**
Ossipee	0.00	17,329.31	17,138.44	35,425.05	69,892.80	**0.0000331**	13,538.01	-13,538.01	
Swepsonville	265.19	43,131.20	42,655.63	88,197.98	173,984.81	**0.0000824**	33,700.31	-33,435.12	
Alexander	**883,334.63**	2,036,849.43	2,028,878.18	1,847,795.41	**5,913,523.02**	**0.0028019**	**1,145,430.64**	**-262,096.01**	
Taylorsville	53,445.96	109,953.83	109,523.57	99,774.66	319,252.06	**0.0001513**	61,838.11	-8,392.15	
Alleghany	**272,889.21**	581,393.59	577,841.35	703,866.80	**1,863,101.74**	**0.0008828**	**360,876.89**	**-87,987.68**	
Sparta	17,480.20	94,436.14	93,859.32	114,331.16	302,626.62	**0.0001434**	58,617.82	-41,137.62	
Anson	**873,612.54**	1,046,299.44	1,041,325.48	1,013,239.15	**3,100,864.07**	**0.0014692**	**600,627.53**	**272,985.01**	**272,985.01**
Ansonville	3,840.63	25,331.29	25,210.89	24,530.65	75,072.83	**0.0000356**	14,541.37	-10,700.74	
Lilesville	3,938.66	18,177.29	18,090.86	17,602.85	53,871.00	**0.0000255**	10,434.64	-6,495.98	
McFarlan	558.91	3,479.54	3,463.00	3,369.37	10,311.91	**0.0000049**	1,997.38	-1,438.47	
Morven	3,999.71	23,019.34	22,909.91	22,291.73	68,220.98	**0.0000323**	13,214.19	-9,214.48	
Peachland	3,374.86	22,553.24	22,446.33	21,833.16	66,832.73	**0.0000317**	12,945.29	-9,570.43	
Polkton	10,931.06	120,236.59	119,664.92	116,439.87	356,341.38	**0.0001688**	69,022.19	-58,091.13	
Wadesboro	163,779.64	229,267.77	228,177.92	222,022.02	679,467.71	**0.0003219**	131,610.74	32,168.90	**32,168.90**
Ashe	**538,932.78**	1,336,065.21	1,324,260.04	2,335,453.20	**4,995,778.45**	**0.0023671**	**967,666.43**	**-428,733.65**	
Jefferson	26,449.05	74,285.25	73,628.93	129,848.39	277,762.57	**0.0001316**	53,801.73	-27,352.68	
Lansing	1,435.64	7,726.38	7,658.13	13,504.38	28,888.89	**0.0000137**	5,595.69	-4,160.05	
West Jefferson	65,251.64	59,700.31	59,172.90	104,353.29	223,226.50	**0.0001058**	43,238.26	22,013.38	**22,013.38**
Avery	**316,434.41**	1,040,276.53	1,028,017.86	2,122,164.61	**4,190,459.00**	**0.0019855**	**811,678.61**	**-495,244.20**	
Banner Elk	10,325.64	56,556.02	55,891.65	115,212.46	227,660.13	**0.0001079**	44,097.04	-33,771.40	
Crossnore	1,110.44	16,732.33	16,535.51	34,105.15	67,372.99	**0.0000319**	13,049.93	-11,939.49	
Elk Park	2,723.97	25,581.16	25,279.89	52,175.04	103,036.09	**0.0000488**	19,957.76	-17,233.79	
Grandfather Village	63.92	4,582.86	4,528.80	9,354.45	18,466.11	**0.0000087**	3,576.83	-3,512.91	
Newland	13,716.82	39,735.71	39,267.56	81,051.71	160,054.98	**0.0000758**	31,002.14	-17,285.32	
Sugar Mountain	18,346.72	13,821.64	13,658.60	28,208.66	55,688.90	**0.0000264**	10,786.76	7,559.96	**7,559.96**
Beaufort	**1,421,486.18**	2,203,695.87	2,182,255.06	3,983,235.71	**8,369,186.64**	**0.0039655**	**1,621,084.89**	**-199,598.71**	
Aurora	5,782.26	27,095.57	26,831.97	48,973.49	102,901.03	**0.0000488**	19,931.60	-14,149.34	
Bath	2,781.85	14,039.42	13,902.77	25,379.24	53,321.43	**0.0000253**	10,328.19	-7,546.34	
Belhaven	22,138.10	92,639.74	91,738.28	167,455.52	351,833.54	**0.0001667**	68,149.04	-46,010.94	
Chocowinity	18,706.57	33,855.51	33,526.19	61,190.55	128,572.25	**0.0000609**	24,904.04	-6,197.47	
Pantego	1,309.68	8,179.30	8,099.73	14,784.33	31,063.36	**0.0000147**	6,016.87	-4,707.19	
Washington	221,909.53	471,928.10	467,336.93	852,995.03	1,792,260.06	**0.0008492**	347,155.09	-125,245.56	
Washington Park	3,661.75	20,956.12	20,752.25	37,878.17	79,586.54	**0.0000377**	15,415.66	-11,753.91	
Bertie	**475,430.14**	886,266.69	883,068.34	624,662.49	**2,393,997.52**	**0.0011343**	**463,709.72**	**11,720.42**	**11,720.42**

FY 2010-11 Article 44 Hold Harmless Calculation

Jurisdiction	Computed Reimbursements 2002-2003	Art40-1/2% 2008-2009	Art42-1/2% 2008-2009	Sales-1% 2008-2009	Distribution 2008-2009	Local Sales Tax Share 2008-2009	Computed Share of Replacement Revenue Projection 2010-11	Reimbursements Less Replacement Revenue Projection 2010-11	Hold Harmless 2010-2011
Askewville	1,152.92	7,515.63	7,488.59	5,292.41	20,296.63	0.0000096	3,931.39	-2,778.47	
Aulander	18,733.43	37,827.57	37,691.52	26,636.68	102,155.77	0.0000484	19,787.25	-1,053.82	
Colerain	2,848.34	9,440.84	9,406.86	6,648.59	25,496.29	0.0000121	4,938.55	-2,090.21	
Kelford	1,994.48	11,103.81	11,063.83	7,821.74	29,989.38	0.0000142	5,808.85	-3,814.37	
Lewiston-Woodville	11,677.08	25,271.69	25,180.81	17,794.95	68,247.45	0.0000323	13,219.31	-1,542.23	
Powellsville	1,979.91	11,110.29	11,070.29	7,823.99	30,004.57	0.0000142	5,811.79	-3,831.88	
Roxobel	1,877.70	11,666.67	11,624.67	8,217.09	31,508.43	0.0000149	6,103.08	-4,225.38	
Windsor	14,201.37	127,722.93	127,254.32	90,461.80	345,439.05	0.0001637	66,910.45	-52,709.08	
Bladen	**851,264.62**	1,719,359.50	1,710,030.37	1,840,873.24	**5,270,263.11**	0.0024971	**1,020,833.24**	**-169,568.62**	
Bladenboro	27,696.49	37,927.36	37,721.69	40,597.96	116,247.01	0.0000551	22,516.68	5,179.81	**5,179.81**
Clarkton	15,561.05	30,925.10	30,757.41	33,101.49	94,784.00	0.0000449	18,359.36	-2,798.31	
Dublin	6,989.43	7,173.33	7,134.50	7,676.27	21,984.10	0.0000104	4,258.25	2,731.18	**2,731.18**
East Arcadia	1,880.16	3,658.73	3,638.89	3,916.36	11,213.98	0.0000053	2,172.11	-291.95	
Elizabethtown	94,660.87	132,499.11	131,781.30	141,778.94	406,059.35	0.0001924	78,652.41	16,008.46	**16,008.46**
Tar Heel	533.73	1,355.41	1,348.05	1,452.50	4,155.96	0.0000020	805.00	-271.27	
White Lake	15,834.13	58,317.32	58,001.15	62,419.33	178,737.80	0.0000847	34,620.94	-18,786.81	
Brunswick	**1,304,098.37**	4,644,015.91	4,588,559.26	8,764,548.68	**17,997,123.85**	0.0085274	**3,485,985.77**	**-2,181,887.40**	
Bald Head Island	39,726.01	11,739.20	11,599.04	22,157.48	45,495.72	0.0000216	8,812.38	30,913.63	**30,913.63**
Belville	1,965.71	65,701.17	64,917.95	124,234.67	254,853.79	0.0001208	49,364.37	-47,398.66	
Boiling Spring Lakes	13,845.60	192,886.48	190,583.67	364,126.04	747,596.19	0.0003542	144,807.01	-130,961.41	
Bolivia	1,365.16	8,035.14	7,939.22	15,171.14	31,145.50	0.0000148	6,032.78	-4,667.62	
Calabash	4,296.80	67,677.75	66,870.08	127,815.75	262,363.58	0.0001243	50,818.99	-46,522.19	
Carolina Shores	4,686.47	133,205.86	131,614.44	251,265.96	516,086.26	0.0002445	99,964.27	-95,277.80	
Caswell Beach	5,224.34	22,949.87	22,675.94	43,334.26	88,960.07	0.0000422	17,231.28	-12,006.94	
Holden Beach	15,156.92	43,824.56	43,301.52	82,755.66	169,881.74	0.0000805	32,905.55	-17,748.63	
Leland	14,007.18	478,642.20	472,924.37	902,971.29	1,854,537.86	0.0008787	359,218.10	-345,210.92	
Navassa	3,761.12	87,901.31	86,852.03	165,964.66	340,718.00	0.0001614	65,996.00	-62,234.88	
Northwest	2,166.13	39,258.02	38,789.38	74,113.63	152,161.03	0.0000721	29,473.11	-27,306.98	
Oak Island	62,527.11	388,517.82	383,880.43	733,607.39	1,506,005.64	0.0007136	291,708.51	-229,181.40	
Ocean Isle Beach	14,800.48	23,935.77	23,650.10	45,201.96	92,787.83	0.0000440	17,972.71	-3,172.23	
St James	6,420.56	13,685.04	13,521.69	25,840.20	53,046.93	0.0000251	10,275.02	-3,854.46	
Sandy Creek	916.35	89,384.82	88,317.65	168,731.55	346,434.02	0.0001641	67,103.17	-66,186.82	
Shallotte	31,039.25	137,796.11	136,151.19	260,163.89	534,111.19	0.0002531	103,455.64	-72,416.39	
Southport	22,529.74	114,569.15	113,199.29	214,580.58	442,349.02	0.0002096	85,681.60	-63,151.86	
Sunset Beach	13,258.92	152,613.41	150,790.03	287,859.14	591,262.58	0.0002802	114,525.69	-101,266.77	
Varnamtown	1,392.76	27,376.75	27,049.93	51,687.73	106,114.41	0.0000503	20,554.02	-19,161.26	
Buncombe	**6,480,548.19**	10,619,574.49	10,456,718.81	28,506,558.71	**49,582,852.01**	0.0234933	**9,604,041.08**	**-3,123,492.89**	
Asheville	2,364,227.98	2,724,496.01	2,682,724.74	7,313,649.32	12,720,870.07	0.0060274	2,463,992.16	-99,764.18	
Biltmore Forest	53,689.25	138,908.20	136,778.27	372,881.58	648,568.05	0.0003073	125,625.57	-71,936.32	
Black Mountain	106,922.38	182,903.63	180,098.86	490,978.27	853,980.76	0.0004046	165,413.36	-58,490.98	
Montreat	23,116.97	55,225.10	54,378.24	148,243.96	257,847.30	0.0001222	49,944.20	-26,827.23	
Weaverville	72,011.24	174,336.29	171,659.92	467,928.71	813,924.92	0.0003857	157,654.67	-85,643.43	

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Woodfin	61,211.29	72,253.02	71,144.05	193,935.58	337,332.65	**0.0001598**	65,340.26	-4,128.97	
Burke	**2,400,239.96**	3,925,801.00	3,902,950.87	4,804,229.22	**12,632,981.09**	**0.0059857**	**2,446,968.35**	**-46,728.39**	
Connelly Springs	5,006.43	81,804.74	81,328.41	100,120.34	263,253.49	**0.0001247**	50,991.37	-45,984.94	
Drexel	57,938.13	85,015.43	84,520.54	104,040.44	273,576.41	**0.0001296**	52,990.88	4,947.25	**4,947.25**
Glen Alpine	8,319.55	55,396.59	55,074.15	67,792.11	178,262.85	**0.0000845**	34,528.95	-26,209.40	
Hildebran	16,230.85	77,772.53	77,319.80	95,177.35	250,269.68	**0.0001186**	48,476.44	-32,245.59	
Morganton	588,325.35	758,006.64	753,593.71	927,673.00	2,439,273.35	**0.0011558**	472,479.51	115,845.84	**115,845.84**
Rutherford College	6,709.13	57,570.32	57,235.24	70,452.34	185,257.90	**0.0000878**	35,883.87	-29,174.74	
Valdese	249,034.29	202,423.55	201,245.36	247,717.03	651,385.94	**0.0003086**	126,171.39	122,862.90	**122,862.90**
Cabarrus	**3,807,195.59**	6,706,132.02	6,614,760.18	15,723,219.76	**29,044,111.96**	**0.0137616**	**5,625,752.31**	**-1,818,556.72**	
Concord	1,672,283.30	2,383,983.84	2,351,463.27	5,594,095.08	10,329,542.19	**0.0048943**	2,000,799.54	-328,516.24	
Harrisburg	37,769.00	160,406.98	158,194.35	379,325.24	697,926.57	**0.0003307**	135,186.16	-97,417.16	
Kannapolis*	710,763.98	1,046,653.89	1,034,716.13	2,151,738.50	4,233,108.52	**0.0020057**	819,939.69	-109,175.71	
Midland	8,257.70	26,297.36	25,939.10	61,646.42	113,882.88	**0.0000540**	22,058.75	-13,801.05	
Mount Pleasant	22,001.00	33,814.66	33,354.72	79,188.76	146,358.14	**0.0000693**	28,349.11	-6,348.11	

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Caldwell	**2,349,858.90**	3,174,792.37	3,152,480.17	4,449,147.15	**10,776,419.69**	**0.0051061**	**2,087,358.29**	**262,500.61**	**262,500.61**
Cajah Mountain	1,113.44	114,269.91	113,466.51	160,113.11	387,849.53	**0.0001838**	75,125.22	-74,011.78	
Cedar Rock	2,682.04	12,848.64	12,758.31	18,004.61	43,611.56	**0.0000207**	8,447.42	-5,765.38	
Gamewell	1,519.15	154,164.04	153,080.53	216,040.29	523,284.86	**0.0002479**	101,358.62	-99,839.47	
Granite Falls	127,453.95	195,533.26	194,158.70	273,991.11	663,683.07	**0.0003145**	128,553.30	-1,099.35	
Hudson	63,924.04	124,894.61	124,016.83	175,024.43	423,935.87	**0.0002009**	82,115.03	-18,190.99	
Lenoir	1,157,766.42	754,181.24	748,878.50	1,056,723.58	2,559,783.32	**0.0012129**	495,821.91	661,944.51	**661,944.51**
Rhodhiss*	19,220.87	38,049.72	37,808.80	49,424.87	125,283.39	**0.0000594**	24,267.00	-5,046.13	
Sawmills	18,936.71	203,163.62	201,735.69	284,704.53	689,603.84	**0.0003267**	133,574.08	-114,637.37	
Camden	**119,313.43**	508,328.71	505,300.37	579,605.41	**1,593,234.49**	**0.0007549**	**308,604.46**	**-189,291.03**	
Carteret	**1,209,747.97**	3,022,867.96	2,979,783.10	7,255,840.86	**13,258,491.92**	**0.0062821**	**2,568,127.81**	**-1,358,379.84**	
Atlantic Beach	53,109.11	200,002.01	197,144.59	480,375.56	877,522.16	**0.0004158**	169,973.26	-116,864.15	
Beaufort	55,846.81	108,197.03	106,658.60	259,539.57	474,395.20	**0.0002248**	91,888.84	-36,042.03	
Bogue	1,495.99	2,305.37	2,272.35	5,540.73	10,118.45	**0.0000048**	1,959.91	-463.92	
Cape Carteret	13,805.72	39,628.95	39,063.62	95,144.71	173,837.28	**0.0000824**	33,671.73	-19,866.01	
Cedar Point	3,760.66	10,876.26	10,720.34	26,146.90	47,743.50	**0.0000226**	9,247.76	-5,487.10	
Emerald Isle	74,353.67	304,725.46	300,385.03	731,312.69	1,336,423.18	**0.0006332**	258,860.93	-184,507.26	
Indian Beach	10,679.03	61,621.81	60,737.20	148,195.43	270,554.44	**0.0001282**	52,405.54	-41,726.51	
Morehead City	169,903.92	294,778.55	290,577.69	707,535.61	1,292,891.85	**0.0006126**	250,429.05	-80,525.13	
Newport	24,163.43	48,738.21	48,043.66	116,982.21	213,764.08	**0.0001013**	41,405.42	-17,241.99	
Peletier	1,283.01	1,853.25	1,826.70	4,453.61	8,133.56	**0.0000039**	1,575.44	-292.43	
Pine Knoll Shores	27,315.87	145,622.51	143,549.84	349,409.77	638,582.12	**0.0003026**	123,691.33	-96,375.46	
Caswell	**433,661.06**	1,267,284.10	1,264,601.94	601,688.67	**3,133,574.71**	**0.0014847**	**606,963.48**	**-173,302.42**	
Milton	1,194.57	3,416.81	3,409.54	1,622.65	8,449.00	**0.0000040**	1,636.54	-441.97	
Yanceyville	17,843.42	41,304.59	41,217.06	19,616.25	102,137.90	**0.0000484**	19,783.79	-1,940.37	
Catawba	**4,208,711.72**	6,049,626.65	5,978,426.91	14,861,757.74	**26,889,811.30**	**0.0127409**	**5,208,471.11**	**-999,759.39**	
Brookford	17,987.09	17,193.17	16,990.88	42,246.28	76,430.33	**0.0000362**	14,804.31	3,182.78	**3,182.78**
Catawba	14,475.59	29,233.17	28,889.13	71,817.96	129,940.26	**0.0000616**	25,169.02	-10,693.43	
Claremont	128,536.49	43,676.20	43,162.26	107,310.63	194,149.09	**0.0000920**	37,606.06	90,930.43	**90,930.43**
Conover	471,727.79	312,272.59	308,597.13	767,109.37	1,387,979.09	**0.0006576**	268,847.14	202,880.65	**202,880.65**
Hickory*	1,813,258.11	1,601,678.35	1,582,859.48	3,929,921.40	7,114,459.23	**0.0033710**	1,378,048.17	435,209.94	**435,209.94**
Long View*	190,211.63	197,790.45	195,652.97	446,422.63	839,866.05	**0.0003979**	162,679.39	27,532.24	**27,532.24**
Maiden*	119,247.14	134,446.94	132,864.82	330,317.47	597,629.23	**0.0002832**	115,758.89	3,488.25	**3,488.25**
Newton	490,287.83	533,135.37	526,858.53	1,309,403.68	2,369,397.58	**0.0011227**	458,944.79	31,343.04	**31,343.04**
Chatham	**1,582,131.13**	2,954,360.94	2,934,980.02	3,583,903.43	**9,473,244.39**	**0.0044886**	**1,834,937.37**	**-252,806.24**	
Goldston	8,229.01	17,628.07	17,512.47	21,384.95	56,525.49	**0.0000268**	10,948.81	-2,719.80	
Pittsboro	41,350.80	124,887.99	124,069.14	151,505.57	400,462.70	**0.0001897**	77,568.35	-36,217.55	
Siler City	172,869.43	418,646.22	415,900.35	507,861.14	1,342,407.71	**0.0006361**	260,020.11	-87,150.68	
Cherokee	**487,985.33**	1,371,777.27	1,357,468.35	2,817,956.21	**5,547,201.83**	**0.0026284**	**1,074,475.39**	**-586,490.06**	
Andrews	29,021.06	97,364.49	96,349.06	200,006.59	393,720.14	**0.0001866**	76,262.34	-47,241.28	
Murphy	42,970.96	83,017.90	82,152.22	170,533.39	335,703.51	**0.0001591**	65,024.70	-22,053.74	
Chowan	**441,952.25**	803,272.07	798,233.48	951,395.19	**2,552,900.74**	**0.0012096**	**494,488.77**	**-52,536.52**	

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Edenton	131,690.97	135,040.11	134,193.26	159,923.63	429,157.00	**0.0002033**	83,126.35	48,564.62	**48,564.62**
Clay	**167,232.03**	571,453.66	567,655.39	758,397.07	**1,897,506.12**	**0.0008991**	**367,540.91**	**-200,308.88**	
Hayesville	4,380.98	7,929.74	7,877.10	10,524.26	26,331.10	**0.0000125**	5,100.25	-719.27	

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Cleveland	**2,688,473.76**	4,703,753.23	4,671,836.20	6,429,643.00	**15,805,232.43**	**0.0074888**	**3,061,423.36**	**-372,949.60**	
Belwood	0.00	0.00	0.00	0.00	0.00	**0.0000000**	0.00	0.00	
Boiling Springs	27,464.50	73,252.96	72,755.66	100,148.70	246,157.32	**0.0001166**	47,679.89	-20,215.39	
Casar	694.49	632.17	627.88	864.45	2,124.50	**0.0000010**	411.51	282.98	**282.98**
Earl	692.00	1,671.79	1,660.46	2,284.97	5,617.22	**0.0000027**	1,088.04	-396.04	
Fallston	1,537.72	1,860.69	1,848.05	2,543.96	6,252.70	**0.0000030**	1,211.13	326.59	**326.59**
Grover	14,562.49	13,136.10	13,046.96	17,956.59	44,139.65	**0.0000209**	8,549.71	6,012.78	**6,012.78**
Kings Mountain*	172,819.18	257,752.45	255,934.99	363,550.56	877,238.00	**0.0004157**	169,918.22	2,900.96	**2,900.96**
Kingstown	4,223.40	7,730.55	7,678.07	10,567.43	25,976.05	**0.0000123**	5,031.48	-808.08	
Lattimore	1,695.15	2,740.60	2,722.00	3,746.54	9,209.14	**0.0000044**	1,783.78	-88.63	
Lawndale	19,060.45	5,318.04	5,281.94	7,269.14	17,869.12	**0.0000085**	3,461.19	15,599.26	**15,599.26**
Mooresboro	0.00	0.00	0.00	0.00	0.00	**0.0000000**	0.00	0.00	
Patterson Springs	0.00	0.00	0.00	0.00	0.00	**0.0000000**	0.00	0.00	
Polkville	1,278.97	1,280.95	1,272.27	1,750.90	4,304.12	**0.0000020**	833.69	445.28	**445.28**
Shelby	309,659.31	722,309.11	717,402.45	987,689.72	2,427,401.28	**0.0011501**	470,179.92	-160,520.61	
Waco	952.73	1,560.31	1,549.71	2,132.97	5,242.99	**0.0000025**	1,015.55	-62.82	
Columbus	**1,758,826.75**	2,046,358.66	2,034,189.04	3,047,496.87	**7,128,044.57**	**0.0033774**	**1,380,679.61**	**378,147.14**	**378,147.14**
Boardman	684.36	7,340.91	7,297.27	10,931.64	25,569.82	**0.0000121**	4,952.79	-4,268.43	
Bolton	3,754.75	18,114.07	18,006.34	26,975.87	63,096.28	**0.0000299**	12,221.55	-8,466.80	
Brunswick	6,158.28	39,379.02	39,144.97	58,637.52	137,161.51	**0.0000650**	26,567.75	-20,409.47	
Cerro Gordo	1,332.06	9,094.71	9,040.64	13,544.06	31,679.41	**0.0000150**	6,136.20	-4,804.14	
Chadbourn	31,732.47	79,358.91	78,886.91	118,185.33	276,431.15	**0.0001310**	53,543.84	-21,811.37	
Fair Bluff	13,761.39	45,602.12	45,330.91	67,912.67	158,845.70	**0.0000753**	30,767.91	-17,006.52	
Lake Waccamaw	21,032.82	49,491.88	49,197.72	73,695.91	172,385.51	**0.0000817**	33,390.53	-12,357.71	
Sandyfield	1,804.57	12,912.91	12,836.11	19,230.88	44,979.90	**0.0000213**	8,712.46	-6,907.89	
Tabor City	78,807.20	95,998.42	95,427.47	142,965.64	334,391.53	**0.0001584**	64,770.58	14,036.62	**14,036.62**
Whiteville	216,148.31	191,324.84	190,187.07	284,925.24	666,437.15	**0.0003158**	129,086.76	87,061.55	**87,061.55**
Craven	**1,954,095.67**	4,206,764.88	4,165,841.60	7,394,664.24	**15,767,270.72**	**0.0074708**	**3,054,070.30**	**-1,099,974.63**	
Bridgeton	8,925.41	15,203.18	15,055.27	26,721.84	56,980.29	**0.0000270**	11,036.90	-2,111.49	
Cove City	1,644.07	1,974.15	1,954.95	3,470.57	7,399.67	**0.0000035**	1,433.29	210.78	**210.78**
Dover	2,734.57	4,199.47	4,158.61	7,383.56	15,741.64	**0.0000075**	3,049.11	-314.54	
Havelock	151,717.24	331,176.11	327,954.56	582,159.99	1,241,290.66	**0.0005881**	240,434.06	-88,716.82	
New Bern	470,852.51	1,116,790.71	1,105,922.25	1,962,353.73	4,185,066.69	**0.0019830**	810,634.14	-339,781.63	
River Bend	23,510.79	58,528.20	57,958.58	102,840.25	219,327.03	**0.0001039**	42,482.95	-18,972.16	
Trent Woods	20,841.42	118,957.95	117,800.92	209,135.05	445,893.92	**0.0002113**	86,368.24	-65,526.82	
Vanceboro	9,385.72	19,576.27	19,385.90	34,417.33	73,379.50	**0.0000348**	14,213.38	-4,827.66	
Cumberland	**5,227,184.47**	10,799,460.67	10,685,969.10	21,599,364.34	**43,084,794.11**	**0.0204144**	**8,345,387.89**	**-3,118,203.42**	
Eastover	0.00	127,213.48	125,877.10	254,411.94	507,502.52	**0.0002405**	98,301.63	-98,301.63	
Falcon*	1,176.87	11,114.54	10,997.98	22,220.40	44,332.92	**0.0000210**	8,587.15	-7,410.28	
Fayetteville	1,378,751.07	6,214,584.93	6,149,214.51	12,431,817.78	24,795,617.22	**0.0117486**	4,802,832.36	-3,424,081.29	
Godwin	534.09	4,164.46	4,120.72	8,329.32	16,614.50	**0.0000079**	3,218.18	-2,684.09	
Hope Mills	82,560.24	442,081.40	437,435.24	884,192.99	1,763,709.63	**0.0008357**	341,624.96	-259,064.72	

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Linden	661.83	4,901.42	4,849.93	9,802.22	19,553.57	0.0000093	3,787.46	-3,125.63	
Spring Lake	63,352.97	286,259.75	283,253.94	572,433.84	1,141,947.53	0.0005411	221,191.61	-157,838.64	
Stedman	4,663.45	26,782.88	26,499.46	53,642.90	106,925.24	0.0000507	20,711.08	-16,047.63	
Wade	3,052.52	20,136.21	19,923.89	40,300.69	80,360.79	0.0000381	15,565.63	-12,513.11	
Currituck	**267,894.63**	1,307,006.48	1,287,433.08	3,813,800.30	**6,408,239.86**	0.0030363	**1,241,255.72**	**-973,361.09**	
Dare	**463,208.34**	2,253,418.48	2,177,596.58	9,432,048.66	**13,863,063.72**	0.0065686	**2,685,231.45**	**-2,222,023.11**	
Duck	0.00	83,412.91	80,607.28	349,045.36	513,065.55	0.0002431	99,379.17	-99,379.17	
Kill Devil Hills	56,615.63	226,455.70	218,836.45	947,829.12	1,393,121.27	0.0006601	269,843.17	-213,227.54	
Kitty Hawk	30,470.62	112,082.03	108,311.38	469,081.61	689,475.02	0.0003267	133,549.12	-103,078.50	
Manteo	39,572.03	62,094.94	60,005.75	259,894.46	381,995.15	0.0001810	73,991.25	-34,419.22	
Nags Head	47,563.98	195,964.62	189,374.78	819,881.79	1,205,221.19	0.0005711	233,447.52	-185,883.54	
Southern Shores	16,054.92	72,849.63	70,388.50	305,840.44	449,078.57	0.0002128	86,985.09	-70,930.17	
Davidson	**3,609,985.93**	6,534,296.63	6,494,195.55	8,292,964.95	**21,321,457.13**	0.0101025	**4,129,898.58**	**-519,912.65**	
Denton	49,702.48	71,460.32	71,021.79	90,693.52	233,175.63	0.0001105	45,165.38	4,537.10	**4,537.10**
Lexington	404,678.29	882,652.92	877,235.33	1,120,211.00	2,880,099.25	0.0013646	557,866.08	-153,187.79	
Midway	0.00	186,210.58	185,067.79	236,328.08	607,606.45	0.0002879	117,691.44	-117,691.44	
Thomasville*	923,286.17	1,109,134.07	1,102,326.73	1,407,603.87	3,619,064.67	0.0017148	701,001.34	222,284.83	**222,284.83**
Wallburg	0.00	122,049.49	121,300.56	154,898.82	398,248.87	0.0001887	77,139.54	-77,139.54	
Davie	**2,559,199.32**	1,872,584.75	1,860,413.62	2,504,286.79	**6,237,285.16**	0.0029553	**1,208,142.34**	**1,351,056.98**	**1,351,056.98**
Bermuda Run	24,165.78	71,350.18	70,886.63	95,420.84	237,657.65	0.0001126	46,033.53	-21,867.75	
Cooleemee	7,735.12	45,034.45	44,741.84	60,227.09	150,003.38	0.0000711	29,055.18	-21,320.06	
Mocksville	318,680.69	211,240.72	209,868.34	282,504.81	703,613.87	0.0003334	136,287.77	182,392.92	**182,392.92**
Duplin	**1,068,678.87**	2,522,795.87	2,508,619.21	2,796,968.70	**7,828,383.78**	0.0037092	**1,516,333.09**	**-447,654.22**	
Beulaville	18,456.74	51,889.49	51,598.07	57,518.52	161,006.08	0.0000763	31,186.37	-12,729.63	
Calypso	7,577.47	21,319.12	21,199.40	23,633.39	66,151.91	0.0000313	12,813.42	-5,235.95	
Faison*	44,004.43	36,956.09	36,748.42	40,971.54	114,676.05	0.0000543	22,212.39	21,792.04	**21,792.04**
Greenevers	2,352.75	27,988.67	27,831.40	31,029.18	86,849.25	0.0000412	16,822.42	-14,469.67	
Kenansville	10,317.68	59,043.90	58,712.12	65,459.24	183,215.26	0.0000868	35,488.21	-25,170.53	
Magnolia	6,188.91	47,684.06	47,416.14	52,865.55	147,965.75	0.0000701	28,660.50	-22,471.59	
Rose Hill	33,700.56	66,428.74	66,055.80	73,629.35	206,113.89	0.0000977	39,923.61	-6,223.05	
Teachey	2,031.52	19,049.96	18,942.40	21,146.20	59,138.56	0.0000280	11,454.95	-9,423.43	
Wallace*	57,042.11	168,834.94	167,886.94	187,109.82	523,831.70	0.0002482	101,464.54	-44,422.43	
Warsaw	90,725.73	151,983.60	151,129.22	168,516.93	471,629.75	0.0002235	91,353.19	-627.46	
Durham	**9,735,561.86**	8,972,440.56	8,836,945.06	22,000,182.94	**39,809,568.56**	0.0188625	**7,710,987.09**	**2,024,574.77**	**2,024,574.77**
Durham*	3,826,248.12	7,826,670.79	7,708,499.07	19,184,254.04	34,719,423.90	0.0164507	6,725,042.22	-2,898,794.10	
Edgecombe	**1,712,050.65**	1,920,293.59	1,908,939.65	2,366,144.78	**6,195,378.02**	0.0029355	**1,200,025.06**	**512,025.59**	**512,025.59**
Conetoe	1,921.92	12,670.18	12,595.25	15,612.46	40,877.89	0.0000194	7,917.92	-5,996.00	
Leggett	440.67	2,392.81	2,378.68	2,946.20	7,717.69	0.0000037	1,494.89	-1,054.22	
Macclesfield	4,148.59	15,152.48	15,062.90	18,671.20	48,886.58	0.0000232	9,469.18	-5,320.59	
Pinetops	12,337.79	47,723.55	47,441.41	58,801.34	153,966.30	0.0000730	29,822.78	-17,484.99	
Princeville	15,288.31	84,260.85	83,761.07	103,954.05	271,975.97	0.0001289	52,680.88	-37,392.57	
Speed	495.61	2,234.69	2,221.50	2,752.42	7,208.61	0.0000034	1,396.28	-900.67	

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Tarboro	436,862.96	386,427.47	384,142.51	476,161.15	1,246,731.13	0.0005907	241,487.86	195,375.10	195,375.10
Forsyth	**13,680,594.34**	12,331,848.14	12,184,008.43	29,333,687.67	**53,849,544.24**	**0.0255149**	**10,430,485.82**	**3,250,108.52**	**3,250,108.52**
Bethania	2,583.39	6,068.16	5,995.47	14,409.73	26,473.36	0.0000125	5,127.81	-2,544.42	
Clemmons	76,862.17	98,894.44	97,708.57	235,358.79	431,961.80	0.0002047	83,669.63	-6,807.46	
Kernersville*	1,361,551.33	690,507.69	682,228.40	1,643,044.56	3,015,780.65	0.0014289	584,147.14	777,404.19	777,404.19
Lewisville	51,057.52	114,502.23	113,129.11	272,555.65	500,186.99	0.0002370	96,884.63	-45,827.11	
Rural Hall	46,217.85	42,707.00	42,194.79	101,682.61	186,584.40	0.0000884	36,140.81	10,077.04	10,077.04
Tobaccoville	5,893.00	4,841.65	4,783.60	11,524.78	21,150.03	0.0000100	4,096.69	1,796.31	1,796.31
Walkertown	31,905.75	43,466.09	42,945.05	103,361.47	189,772.61	0.0000899	36,758.35	-4,852.60	
Winston-Salem	7,644,735.77	5,640,671.28	5,573,091.73	13,397,546.88	24,611,309.89	0.0116613	4,767,132.62	2,877,603.15	2,877,603.15
Franklin	**936,424.25**	2,949,871.98	2,935,396.09	2,834,654.89	**8,719,922.96**	**0.0041317**	**1,689,021.40**	**-752,597.15**	
Bunn	4,024.98	13,709.85	13,642.62	13,177.11	40,529.58	0.0000192	7,850.45	-3,825.47	
Centerville	0.00	0.00	0.00	0.00	0.00	0.0000000	0.00	0.00	
Franklinton	21,948.94	63,935.71	63,622.11	61,446.22	189,004.04	0.0000896	36,609.48	-14,660.54	
Louisburg	39,042.07	101,690.81	101,192.23	97,739.38	300,622.42	0.0001424	58,229.61	-19,187.54	
Youngsville	22,392.29	48,959.39	48,719.33	47,054.75	144,733.47	0.0000686	28,034.41	-5,642.12	

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Gaston	**6,156,737.65**	8,809,395.93	8,733,810.05	14,635,922.50	**32,179,128.48**	**0.0152471**	**6,232,995.06**	**-76,257.41**	
Belmont	203,473.03	326,954.88	324,147.86	542,917.29	1,194,020.03	**0.0005657**	231,277.89	-27,804.86	
Bessemer City	106,985.90	93,319.31	92,518.25	154,979.87	340,817.43	**0.0001615**	66,015.25	40,970.65	**40,970.65**
Cherryville	97,135.56	110,440.79	109,493.22	183,487.03	403,421.04	**0.0001911**	78,141.38	18,994.18	**18,994.18**
Cramerton	61,098.87	120,759.71	119,723.10	200,546.18	441,028.99	**0.0002090**	85,425.92	-24,327.05	
Dallas	21,132.45	55,903.17	55,423.29	92,837.59	204,164.05	**0.0000967**	39,545.93	-18,413.48	
Dellview	0.00	0.00	0.00	0.00	0.00	**0.0000000**	0.00	0.00	
Gastonia	1,454,569.59	1,915,277.63	1,898,842.96	3,181,817.91	6,995,938.50	**0.0033148**	1,355,091.09	99,478.50	**99,478.50**
High Shoals*	18,027.97	8,449.63	8,377.17	14,043.10	30,869.90	**0.0000146**	5,979.40	12,048.57	**12,048.57**
Lowell	86,937.14	69,351.69	68,756.37	115,174.17	253,282.23	**0.0001200**	49,059.96	37,877.18	**37,877.18**
McAdenville	253.47	17,263.91	17,115.71	28,667.74	63,047.36	**0.0000299**	12,212.07	-11,958.60	
Mount Holly	410,181.26	395,635.38	392,238.32	656,896.42	1,444,770.12	**0.0006846**	279,847.39	130,333.87	**130,333.87**
Ranlo	54,651.09	44,911.32	44,525.82	74,591.20	164,028.34	**0.0000777**	31,771.77	22,879.32	**22,879.32**
Spencer Mountain	1,632.09	203.40	201.64	339.09	744.13	**0.0000004**	144.14	1,487.95	**1,487.95**
Stanley	62,939.75	86,616.72	85,873.39	143,879.94	316,370.05	**0.0001499**	61,279.87	1,659.88	**1,659.88**
Gates	**233,023.67**	639,939.34	638,397.59	399,105.87	**1,677,442.80**	**0.0007948**	**324,915.35**	**-91,891.68**	
Gatesville	2,238.31	16,173.00	16,134.07	10,083.93	42,391.00	**0.0000201**	8,211.00	-5,972.69	
Graham	**160,278.42**	437,742.44	435,014.86	574,211.29	**1,446,968.59**	**0.0006856**	**280,273.22**	**-119,994.80**	
Robbinsville	53,922.62	22,733.73	22,593.06	29,720.75	75,047.54	**0.0000356**	14,536.47	39,386.15	**39,386.15**
Lake Santeetlah	2,547.04	7,723.60	7,675.81	10,099.43	25,498.84	**0.0000121**	4,939.04	-2,392.00	
Granville	**1,859,896.06**	2,439,166.71	2,427,139.63	2,356,016.20	**7,222,322.54**	**0.0034221**	**1,398,940.96**	**460,955.10**	**460,955.10**
Butner	0.00	332,567.53	330,929.14	321,232.93	984,729.60	**0.0004666**	190,739.00	-190,739.00	
Creedmoor	38,872.70	122,491.86	121,888.04	118,316.43	362,696.33	**0.0001719**	70,253.13	-31,380.43	
Oxford	189,341.39	412,776.29	410,743.34	398,709.00	1,222,228.63	**0.0005791**	236,741.81	-47,400.42	
Stem	1,912.14	11,644.92	11,587.30	11,247.60	34,479.82	**0.0000163**	6,678.63	-4,766.49	
Stovall	2,827.98	17,386.78	17,301.13	16,794.20	51,482.11	**0.0000244**	9,971.92	-7,143.94	
Greene	**444,793.39**	1,110,111.11	1,107,475.46	583,881.93	**2,801,468.50**	**0.0013274**	**542,635.56**	**-97,842.17**	
Hookerton	4,478.46	10,377.91	10,353.27	5,457.70	26,188.88	**0.0000124**	5,072.70	-594.24	
Snow Hill	17,703.50	45,964.30	45,855.25	24,171.66	115,991.21	**0.0000550**	22,467.13	-4,763.63	
Walstonburg	2,233.54	7,161.52	7,144.52	3,766.92	18,072.96	**0.0000086**	3,500.67	-1,267.13	
Guilford	**15,944,810.53**	15,271,742.50	15,080,621.53	38,336,489.95	**68,688,853.98**	**0.0325460**	**13,304,813.03**	**2,639,997.50**	**2,639,997.50**
Gibsonville*	142,242.10	153,739.77	151,973.82	337,042.66	642,756.25	**0.0003045**	124,499.85	17,742.25	**17,742.25**
Greensboro	7,845,580.08	7,113,065.77	7,024,048.75	17,857,508.04	31,994,622.56	**0.0151596**	6,197,256.85	1,648,323.23	**1,648,323.23**
High Point*	3,348,261.79	2,756,538.22	2,722,565.55	6,817,843.71	12,296,947.48	**0.0058265**	2,381,879.70	966,382.09	**966,382.09**
Jamestown	46,346.66	67,769.03	66,920.96	170,208.07	304,898.06	**0.0001445**	59,057.79	-12,711.13	
Oak Ridge	1,209.81	33,199.52	32,784.01	83,244.31	149,227.84	**0.0000707**	28,904.96	-27,695.15	
Pleasant Garden	1,429.91	8,664.60	8,556.18	21,758.05	38,978.83	**0.0000185**	7,550.08	-6,120.17	
Sedalia	187.49	4,000.37	3,950.33	10,045.56	17,996.26	**0.0000085**	3,485.82	-3,298.33	
Stokesdale	990.91	0.00	0.00	0.00	0.00	**0.0000000**	0.00	990.91	**990.91**
Summerfield	2,129.16	22,850.52	22,564.53	57,372.60	102,787.65	**0.0000487**	19,909.64	-17,780.48	
Whitsett	208.03	0.00	0.00	0.00	0.00	**0.0000000**	0.00	208.03	**208.03**
Halifax	**1,598,780.65**	2,423,305.08	2,405,106.40	3,549,457.80	**8,377,869.28**	**0.0039696**	**1,622,766.69**	**-23,986.04**	

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Enfield	27,399.93	50,206.57	49,828.67	73,589.21	173,624.45	**0.0000823**	33,630.50	-6,230.57	
Halifax	3,835.37	6,093.80	6,047.94	8,932.09	21,073.83	**0.0000100**	4,081.93	-246.56	
Hobgood	2,931.09	5,255.43	5,215.80	7,706.29	18,177.52	**0.0000086**	3,520.93	-589.84	
Littleton	17,563.12	20,082.83	19,931.77	29,429.03	69,443.63	**0.0000329**	13,451.01	4,112.11	**4,112.11**
Roanoke Rapids	509,742.16	685,434.19	680,273.67	1,004,742.59	2,370,450.45	**0.0011232**	459,148.73	50,593.43	**50,593.43**
Scotland Neck	35,106.19	46,768.15	46,416.05	68,556.25	161,740.45	**0.0000766**	31,328.61	3,777.58	**3,777.58**
Weldon	31,910.44	50,318.14	49,939.12	73,768.96	174,026.22	**0.0000825**	33,708.33	-1,797.89	

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Harnett	**1,314,667.26**	5,275,893.09	5,249,092.73	5,317,275.08	**15,842,260.90**	**0.0075063**	**3,068,595.66**	**-1,753,928.40**	
Angier	33,525.60	136,353.24	135,645.00	140,127.79	412,126.03	**0.0001953**	79,827.50	-46,301.90	
Coats	21,139.83	63,378.44	63,056.53	63,872.38	190,307.35	**0.0000902**	36,861.93	-15,722.10	
Dunn	242,082.65	402,829.39	400,783.93	405,919.51	1,209,532.83	**0.0005731**	234,282.67	7,799.98	**7,799.98**
Erwin	106,259.66	131,079.47	130,414.05	132,071.55	393,565.07	**0.0001865**	76,232.31	30,027.35	**30,027.35**
Lillington	74,463.21	138,870.90	138,165.26	139,976.13	417,012.29	**0.0001976**	80,773.96	-6,310.75	
Haywood	**1,258,142.03**	2,632,778.82	2,605,793.90	5,209,418.42	**10,447,991.14**	**0.0049504**	**2,023,742.73**	**-765,600.70**	
Canton	289,632.70	189,095.16	187,157.71	374,169.51	750,422.38	**0.0003556**	145,354.43	144,278.27	**144,278.27**
Clyde	11,205.28	63,112.93	62,465.81	124,875.94	250,454.68	**0.0001187**	48,512.28	-37,307.00	
Maggie Valley	20,721.83	68,386.37	67,679.49	135,218.85	271,284.71	**0.0001285**	52,546.99	-31,825.16	
Waynesville	192,598.64	456,623.82	451,939.30	903,441.78	1,812,004.90	**0.0008586**	350,979.60	-158,380.96	
Henderson	**3,292,947.34**	5,207,463.37	5,158,931.33	8,841,940.53	**19,208,335.23**	**0.0091013**	**3,720,593.57**	**-427,646.23**	
Flat Rock	1,017.78	64,373.56	63,793.30	107,562.83	235,729.69	**0.0001117**	45,660.09	-44,642.31	
Fletcher	128,997.01	207,767.61	205,845.35	351,530.40	765,143.36	**0.0003625**	148,205.84	-19,208.83	
Hendersonville	445,699.99	554,412.62	549,264.87	939,657.05	2,043,334.54	**0.0009682**	395,787.42	49,912.57	**49,912.57**
Laurel Park	49,736.34	92,273.79	91,418.58	156,254.71	339,947.08	**0.0001611**	65,846.67	-16,110.33	
Mills River	0.00	75,481.84	74,828.87	123,694.66	274,005.37	**0.0001298**	53,073.97	-53,073.97	
Hertford	**597,249.79**	1,135,013.19	1,126,605.84	1,726,128.55	**3,987,747.58**	**0.0018895**	**772,414.05**	**-175,164.26**	
Ahoskie	91,324.97	167,887.68	166,642.47	255,485.51	590,015.66	**0.0002796**	114,284.16	-22,959.19	
Cofield	34,121.13	10,131.50	10,056.41	15,412.01	35,599.92	**0.0000169**	6,895.59	27,225.54	**27,225.54**
Como	819.45	1,292.52	1,282.95	1,964.73	4,540.20	**0.0000022**	879.42	-59.97	
Harrellsville	674.18	2,053.72	2,038.54	3,121.41	7,213.67	**0.0000034**	1,397.26	-723.08	
Murfreesboro	48,673.90	76,608.63	76,041.37	116,485.35	269,135.35	**0.0001275**	52,130.66	-3,456.76	
Winton	26,174.32	17,030.97	16,904.86	25,895.90	59,831.73	**0.0000283**	11,589.22	14,585.10	**14,585.10**
Hoke	**699,313.31**	2,222,866.83	2,217,391.54	1,117,877.17	**5,558,135.54**	**0.0026335**	**1,076,593.21**	**-377,279.90**	
Raeford	241,602.03	211,366.50	210,844.22	106,360.10	528,570.82	**0.0002504**	102,382.49	139,219.54	**139,219.54**
Hyde	**136,658.56**	314,560.45	311,685.24	557,779.75	**1,184,025.44**	**0.0005610**	**229,341.97**	**-92,683.41**	
Iredell	**2,976,539.13**	6,268,653.16	6,188,514.55	14,880,188.11	**27,337,355.82**	**0.0129529**	**5,295,159.07**	**-2,318,619.94**	
Harmony	1,972.52	25,197.74	24,875.69	59,819.98	109,893.41	**0.0000521**	21,286.00	-19,313.48	
Love Valley	419.20	2,230.14	2,201.68	5,295.99	9,727.81	**0.0000046**	1,884.25	-1,465.05	
Mooresville	533,132.62	1,152,864.09	1,138,125.43	2,736,571.50	5,027,561.02	**0.0023821**	973,822.61	-440,689.99	
Statesville	1,192,247.57	1,116,538.17	1,102,268.78	2,650,751.28	4,869,558.23	**0.0023073**	943,217.98	249,029.59	**249,029.59**
Troutman	65,686.55	89,232.58	88,091.92	211,824.73	389,149.23	**0.0001844**	75,376.97	-9,690.42	
Jackson	**628,479.60**	2,133,510.12	2,110,459.63	4,181,965.54	**8,425,935.29**	**0.0039924**	**1,632,076.93**	**-1,003,597.33**	
Dillsboro	2,986.80	8,730.30	8,636.00	17,111.59	34,477.89	**0.0000163**	6,678.26	-3,691.46	
Forest Hills	1,236.36	2,035.92	2,013.97	3,989.76	8,039.65	**0.0000038**	1,557.25	-320.89	
Sylva	58,806.41	105,954.19	104,809.18	207,696.12	418,459.49	**0.0001983**	81,054.28	-22,247.87	
Webster	1,410.09	2,554.11	2,526.52	5,005.98	10,086.61	**0.0000048**	1,953.74	-543.65	
Johnston	**2,434,626.71**	7,694,460.83	7,632,388.24	11,611,028.64	**26,937,877.71**	**0.0127637**	**5,217,781.42**	**-2,783,154.71**	
Benson	39,301.23	96,949.08	96,167.30	146,387.83	339,504.21	**0.0001609**	65,760.89	-26,459.66	
Clayton	160,160.75	589,890.70	585,129.02	888,550.84	2,063,570.56	**0.0009778**	399,707.07	-239,546.32	
Four Oaks	9,498.64	29,989.55	29,747.65	45,274.34	105,011.54	**0.0000498**	20,340.40	-10,841.76	

FY 2010-11 Article 44 Hold Harmless Calculation

Jurisdiction	Computed Reimbursements 2002-2003	Art40-1/2% 2008-2009	Art42-1/2% 2008-2009	Sales-1% 2008-2009	Distribution 2008-2009	Local Sales Tax Share 2008-2009	Computed Share of Replacement Revenue Projection 2010-11	Reimbursements Less Replacement Revenue Projection 2010-11	Hold Harmless 2010-2011
Kenly*	26,015.78	52,952.67	52,521.48	80,888.03	186,362.18	**0.0000883**	36,097.76	-10,081.98	
Micro	2,922.09	8,807.64	8,736.57	13,278.58	30,822.79	**0.0000146**	5,970.28	-3,048.19	
Pine Level	9,101.82	29,851.29	29,610.45	45,044.76	104,506.50	**0.0000495**	20,242.58	-11,140.76	
Princeton	8,106.67	24,219.01	24,023.60	36,542.61	84,785.22	**0.0000402**	16,422.63	-8,315.96	
Selma	149,542.63	155,932.01	154,673.64	235,055.47	545,661.12	**0.0002585**	105,692.83	43,849.80	**43,849.80**
Smithfield	156,998.43	437,956.65	434,423.97	661,099.33	1,533,479.95	**0.0007266**	297,030.20	-140,031.77	
Wilson's Mills	3,356.98	24,431.81	24,234.72	36,872.46	85,538.99	**0.0000405**	16,568.63	-13,211.65	

FY 2010-11 Article 44 Hold Harmless Calculation

Jurisdiction	Computed Reimbursements 2002-2003	Art40-1/2% 2008-2009	Art42-1/2% 2008-2009	Sales-1% 2008-2009	Distribution 2008-2009	Local Sales Tax Share 2008-2009	Computed Share of Replacement Revenue Projection 2010-11	Reimbursements Less Replacement Revenue Projection 2010-11	Hold Harmless 2010-2011
Jones	**162,143.43**	513,289.87	511,943.13	276,494.34	**1,301,727.34**	**0.0006168**	**252,140.45**	**-89,997.02**	
Maysville	7,909.36	19,995.45	19,943.00	10,775.86	50,714.31	**0.0000240**	9,823.20	-1,913.84	
Pollocksville	2,833.57	6,583.28	6,566.00	3,546.88	16,696.16	**0.0000079**	3,233.99	-400.42	
Trenton	2,914.69	5,539.39	5,524.86	2,986.72	14,050.97	**0.0000067**	2,721.63	193.06	**193.06**
Lee	**1,667,214.22**	2,104,060.61	2,082,743.31	4,323,854.44	**8,510,658.36**	**0.0040325**	**1,648,487.52**	**18,726.70**	**18,726.70**
Broadway*	13,322.32	41,037.49	40,623.02	84,099.81	165,760.32	**0.0000785**	32,107.25	-18,784.93	
Sanford	759,815.43	1,016,657.11	1,006,355.58	2,089,173.90	4,112,186.59	**0.0019484**	796,517.49	-36,702.06	
Lenoir	**1,821,627.86**	2,314,010.18	2,294,073.75	4,483,874.23	**9,091,958.16**	**0.0043079**	**1,761,083.44**	**60,544.42**	**60,544.42**
Kinston	591,754.06	611,900.88	606,627.82	1,185,686.68	2,404,215.38	**0.0011392**	465,688.89	126,065.17	**126,065.17**
La Grange	30,359.19	45,709.45	45,315.70	88,571.49	179,596.64	**0.0000851**	34,787.30	-4,428.11	
Pink Hill	17,776.84	14,539.85	14,414.56	28,173.93	57,128.34	**0.0000271**	11,065.58	6,711.26	**6,711.26**
Lincoln	**1,720,613.68**	3,579,232.03	3,551,521.05	5,598,217.80	**12,728,970.88**	**0.0060312**	**2,465,561.26**	**-744,947.58**	
Lincolnton	499,297.46	543,356.81	539,149.83	849,781.74	1,932,288.38	**0.0009156**	374,278.13	125,019.33	**125,019.33**
Macon	**586,253.51**	1,660,443.88	1,639,345.03	4,064,387.72	**7,364,176.63**	**0.0034893**	**1,426,417.64**	**-840,164.13**	
Franklin	60,615.94	106,949.18	105,590.28	261,784.06	474,323.52	**0.0002247**	91,874.96	-31,259.02	
Highlands*	34,671.58	167,595.32	165,480.19	406,194.15	739,269.66	**0.0003503**	143,194.19	-108,522.61	
Madison	**331,467.72**	990,840.80	986,946.47	829,506.15	**2,807,293.42**	**0.0013301**	**543,763.83**	**-212,296.11**	
Hot Springs	7,267.57	32,250.97	32,124.22	26,999.41	91,374.60	**0.0000433**	17,698.97	-10,431.40	
Mars Hill	26,151.00	90,602.09	90,246.03	75,846.93	256,695.05	**0.0001216**	49,721.02	-23,570.02	
Marshall	20,834.10	41,304.21	41,141.87	34,580.51	117,026.59	**0.0000554**	22,667.68	-1,833.58	
Martin	**931,536.41**	1,178,056.16	1,167,877.72	2,051,721.78	**4,397,655.66**	**0.0020837**	**851,811.95**	**79,724.46**	**79,724.46**
Bear Grass	516.00	991.10	982.53	1,726.40	3,700.03	**0.0000018**	716.68	-200.68	
Everetts	1,700.66	2,736.64	2,713.01	4,765.77	10,215.42	**0.0000048**	1,978.69	-278.03	
Hamilton	3,940.94	6,782.73	6,724.12	11,813.60	25,320.45	**0.0000120**	4,904.49	-963.55	
Hassell	398.49	528.78	524.21	920.80	1,973.79	**0.0000009**	382.32	16.17	
Jamesville	5,603.81	9,601.23	9,518.32	16,720.64	35,840.19	**0.0000170**	6,942.13	-1,338.32	
Oak City	3,408.09	6,267.13	6,213.01	10,914.26	23,394.40	**0.0000111**	4,531.42	-1,123.33	
Parmele	2,446.06	4,935.15	4,892.48	8,595.49	18,423.12	**0.0000087**	3,568.50	-1,122.44	
Robersonville	38,870.10	39,089.22	38,751.39	68,082.51	145,923.12	**0.0000691**	28,264.85	10,605.25	**10,605.25**
Williamston	174,427.03	205,342.55	203,567.82	357,649.67	766,560.04	**0.0003632**	148,480.25	25,946.78	**25,946.78**
McDowell	**1,215,168.40**	2,481,977.46	2,465,438.19	3,033,973.24	**7,981,388.89**	**0.0037817**	**1,545,969.70**	**-330,801.30**	
Marion	230,836.88	271,287.71	269,486.47	332,211.39	872,985.57	**0.0004136**	169,094.53	61,742.35	**61,742.35**
Old Fort	147,953.42	59,077.10	58,683.24	72,198.96	189,959.30	**0.0000900**	36,794.51	111,158.91	**111,158.91**
Mecklenburg	**25,254,438.28**	30,329,698.33	29,859,654.42	95,927,763.53	**156,117,116.28**	**0.0739711**	**30,239,389.97**	**-4,984,951.69**	
Charlotte	12,946,699.48	12,589,387.56	12,394,307.13	39,815,276.17	64,798,970.86	**0.0307029**	12,551,355.01	395,344.47	**395,344.47**
Cornelius	181,845.53	375,430.75	369,612.97	1,187,365.39	1,932,409.11	**0.0009156**	374,301.51	-192,455.98	
Davidson*	150,146.59	154,615.11	152,235.74	483,955.46	790,806.31	**0.0003747**	153,176.67	-3,030.08	
Huntersville	205,168.33	484,763.78	477,248.86	1,533,450.16	2,495,462.80	**0.0011824**	483,363.22	-278,194.89	
Matthews	269,510.54	336,855.51	331,636.78	1,065,229.60	1,733,721.89	**0.0008215**	335,816.43	-66,305.89	
Mint Hill	94,289.87	189,856.55	186,916.82	599,898.57	976,671.94	**0.0004628**	189,178.26	-94,888.39	
Pineville	114,953.05	140,685.11	138,506.28	444,812.23	724,003.62	**0.0003430**	140,237.20	-25,284.15	
Mitchell	**438,041.83**	794,852.04	787,564.55	1,509,793.17	**3,092,209.76**	**0.0014651**	**598,951.22**	**-160,909.39**	

FY 2010-11 Article 44 Hold Harmless Calculation

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Bakersville	5,390.47	11,220.47	11,117.63	21,312.07	43,650.17	0.0000207	8,454.90	-3,064.43	
Spruce Pine	78,046.41	83,278.41	82,514.99	158,182.43	323,975.83	0.0001535	62,753.09	15,293.32	15,293.32

REVENUE LAWS STUDY COMMITTEE
Wednesday, November 10, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, November 10, 2009, in room 544 of the Legislative Office Building. Sixteen members of the committee were present. Representative Luebke presided as chair.

Welcome and Introduction

Representative Luebke introduced Greg Roney, the new staff attorney with the Research Division. He also commented on Martha Walston's pending retirement on April Fool's Day.

Budget Outlook

Barry Boardman, a fiscal analyst with the Fiscal Research Division, was recognized. He gave a brief outline of State's current tax collections and stated that they are currently on target with previous estimates of revenue.

Department-Initiated Tax Refunds

Jonathan Tart, a fiscal analyst with the Fiscal Research Division, was recognized to explain the Department of Revenue's tax refund process and the policy of refunding mistaken overpayments.

Secretary Hoyle, Department of Revenue, was recognized. He described the history of the "backlogged" tax returns, the inconsistency of policy regarding the handling of the returns, the Department's interpretation of the law, an idea of how large the return situation was, is currently and how it is being handled, the impact of the flagged returns on the Department, and how the problem may be fixed. A copy of his comments is attached.

Delay of Tax Refunds: Current Status, Effect, and Alternatives

Cindy Avrette, a staff attorney with the Research Division, was recognized. She described citizens' concerns about not receiving timely tax refunds.

Secretary Hoyle commented that the State had to have funds in the bank in order to issue refunds.

Vance Holloman, Deputy Treasurer with the State Treasurer's Office, and Tony Solari, Director of Government Relations with the State Treasurer's Office were recognized. They explained the options available to state and local governments in the form of Tax Anticipation Notes, borrowing from retirement systems, and borrowing from the escheats fund. They described the pros and cons of each option such as some

constitutional prohibitions and possible legal challenges. A copy of their powerpoint is attached.

David McCoy, Office of the State Controller, discussed cash management during the 2009-2010 fiscal year. He explained the legal authority for delaying the payment of tax refunds, other options/tools available to the Governor to meet short term cash flow needs of the State, the process for making the determination to delay tax refunds, and why the delay of tax refunds was chosen in 2009 and 2010 instead of using other available options. A copy of his handouts is attached.

Charlie Perusse, Office of State Budget and Management, was recognized to answer questions.

Industry-Specific Apportionment Formulas: Publishers

Lennie Collins, Director of Corporate Income Tax, Department of Revenue, was recognized. He explained the apportionment formula and the factors involved, and the industries that had specific formulas. He explained that the formula's numerator was based on sales/service taking place in North Carolina and that there is an issue of the service being performed outside of the State. He gave examples of this. He also provided recommendations to the formulas and language to update the General Statutes. A copy of his powerpoint is attached.

Overview of 2010 Finance Law Changes

Trina Griffin, a staff attorney with the Research Division, was recognized to give a brief overview of the enacted Revenue Laws Committee recommendations such as small business relief, economic incentives, renewable energy, and tax administration. A copy of her powerpoint is attached.

IRC Update

Jonathan Tart was recognized. He explained the proposal to update the reference to the IRC used in defining and determining certain State tax provisions. By doing so, North Carolina would conform to the changes made by the federal Small Business Jobs Act of 2010. Mr. Tart also explained the costs to adopt the proposed changes.

The meeting adjourned at 11:58 a.m.

Paul Luebke

Representative Paul Luebke, Presiding Chair

DeAnne Mangum

DeAnne Mangum, Committee Clerk

REVENUE LAWS STUDY COMMITTEE AGENDA

Sen. Daniel Clodfelter Rep. Paul Luebke

Wednesday, November 10, 2010
Room 643, Legislative Office Building
9:30 a.m.

I. **Welcome and Introductions**

II. **Budget Outlook**

– *Barry Boardman, Fiscal Research Division*

III. **Department-Initiated Tax Refunds**

– *Jonathan Tart, Fiscal Research Division*

– *David Hoyle, Secretary, Department of Revenue*

IV. **Delay of Tax Refunds: Current Status, Effect, and Alternatives**

– *Cindy Avrette, Research Division*

– *David Hoyle, Secretary, Department of Revenue*

– *Vance Holloman and Tony Solari, State Treasurer's Office*

– *David McCoy, Office of State Controller*

– *Charlie Perusse, Office of State Budget and Management*

V. **Industry-Specific Apportionment Formulas: Publishers**

– *Lennie Collins, Director of Corporate Income Tax, Department of Revenue*

VI. **Overview of 2010 Finance Law Changes**

– *Trina Griffin, Research Division*

VII. **IRC Update**

– *Jonathan Tart, Fiscal Research Division*

VIII. **Adjournment**

Next Meeting Date: Wednesday, December 8, 2010
in Room 544, LOB, at 9:30 a.m.

VISITOR REGISTRATION SHEET

Revenue Laws — Nov. 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Loretta Bonith	News 14 Carolina
Mitch Kokai	John Locke Foundation
[signature]	Misc Chamber
Michael Flaser	NC DOR
Erica Nelson	NCCCD
Michelle Frazier	MFS
Anthony Sottili	DST
Tom Bean	NC EDF, NCSEA
Christine Wilson	American Cancer Society

VISITOR REGISTRATION SHEET

Revenue Laws — Nov. 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dick Carlton	atty.
Brittany Suttle	Revenue
Dana P. Powell	Revenue
Beth Stevenson	Revenue
Tenisha Jacobs	DOJ
Matt Gentile	EY
Bill Spencer	Revenue
Forrest Gilliam	Governor's Office
Will Culpepper	Moore + Van Allen
	NMRS
	SDAL,PK

VISITOR REGISTRATION SHEET

Revenue Laws — Nov. 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Beatrice Williams	CUCA
Mitch Kennedy	SCANA
Jim Johnson	BSA
David Heinen	NC Center for Nonprofits
Marcus Trathen	Brooks Pierce
Pam Melton	CenturyLink
Lori Ann Harris	LAHA
John Goodman	NC Chamber
Stan Pace	Frontier Communications
Herb Crenshaw	AT&T North Carolina

VISITOR REGISTRATION SHEET

Revenue Laws — Nov. 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Patrick Butler	NCAEC
Elizabeth Roberson	NCBeverage
Daniel Baum	Troutman Sanders
Cameron Hanby	Electricities of NC
Rita Harris	NC Commerce Dept.
Butch Gunnells	NC Bev Assoc
Dave [illegible]	[illegible]
Melanie Soles	DCR
Cam Cover	BPMHL
Matthew Eisley	Smith Anderson
Fred Baggett	Smith Moore Leatherwood

VISITOR REGISTRATION SHEET

Revenue Laws — Name of Committee

Nov. 10, 2010 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jeff Smith	Dept. of State Treasurer
Dora Fazzini	Dept of State Treasurer
Tom Newsome	Office of the State Controller
John Barfield	Off. of State Controller
Vance Holloman	State Treasurer
Anne Godwin	Office of State Controller
Amber Young	office of State Controller
Jim Ahler	NC ASSN of CPAs
Rebecca Trantham	NC Assoc. County Commissioners
Jay Stem	NCAA
Fred Bone	Bone & Asso.

VISITOR REGISTRATION SHEET

Revenue Laws — Nov. 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Michael Haley	NC Dept. of Commerce
Drew Reese	Raleigh Chamber
Amy Fuller	K&L Gates
L. Andrews	NCFB
CHARLES BRITT	McGUIREWOODS
Sandy Sands	[illegible]
Mason Goff	Smith Anderson
Amy McConkey	NC Beverage Assn
Michelle Jones	Time Warner Cable
[illegible]	TWC

VISITOR REGISTRATION SHEET

Revenue Laws — Nov. 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
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DAVID MCCOY	STATE CONTROLLER
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[illegible]	DLC & Assoc.

Masthead
Published Sun, Aug 15, 2010 02:00 AM
Modified Mon, Aug 16, 2010 08:45 AM

Sunday's best: State stalls refunds on overpaid taxes

The N.C. Department of Revenue is sifting through a backlog of 230,000 unresolved tax returns from as far back as 1994 that include cases in which taxpayers are owed money - but are now unlikely to get it.

E-mail correspondence obtained by The News & Observer outlined the problem, and it revealed a debate within the department over how to deal with longstanding cases where its computer system flagged returns to indicate taxpayers who mistakenly overpaid their taxes.

The e-mail messages also show that the department knew about overpayments but did not refund them.

North Carolina law gives taxpayers up to three years to claim a refund from a filed return, just as it gives the Revenue Department up to three years to collect an unpaid tax.

In the past, department policy allowed for overpayments to be refunded in a timely manner, after they were flagged by Revenue Department computers.

But that policy changed last year. Top revenue officials now say that an overpayment flagged by a computer is not considered to have been discovered until it is later verified by an agency employee.

The new policy makes no provision for conducting this review quickly. As a result, the Revenue Department can hold on to overpayments until it doesn't have to pay them back.

Revenue Secretary Kenneth Lay, when asked about overpayments in a June 22 interview, said that he did not know how many there were and that he could only speak about actions taken after he took office in early 2009.

The department later declined to produce records pertaining to the matter, saying that doing so would expose information about individual taxpayers, and it received an opinion in support from an assistant attorney general.

The N&O won release of the records after appealing to the Attorney General's Office.

On Tuesday, Lay released the e-mail correspondence reflecting the backlog and the internal debate. In a letter accompanying the e-mail records, Lay wrote that it would be the department's "final response."

Chrissy Pearson, a spokeswoman for Gov. Bev Perdue, said the governor and her staff did not know about the backlog or the policy change regarding overpayments.

"She was incensed," Pearson said.

Pearson said Revenue Department officials told the Governor's Office that they can't say how much money the state could capture in overpaid taxes under the new policy or how many taxpayers stand to lose money as a result of what it has already captured.

The backlog involves 230,000 tax returns that have been flagged by computer for a variety of reasons from 1994 to this year, including underpayment of taxes. Some are flagged over questions as simple as conflicting information about a taxpayer's residence.

Pearson said she thinks that some taxpayers who overpaid their taxes are now out of luck because the statute of limitations has expired.

"It is the governor's strong feeling that if we as a state have the opportunity to process these accounts in accordance with the law and pay people back the money that they are owed, that we should be doing it if we can," Pearson said.

"Unfortunately, the 'if we can' is the big question here."

That's because Revenue Department officials told Pearson they would need $1 million for additional staff and resources to close out the backlogged returns. They told Pearson a minority of those returns would likely involve overpayments. They denied that the policy change was an attempt to hold on to money at a time of tight state budgets.

Too much? Too late.

Taxpayers who overpay their taxes are already in a difficult position. If they don't know they've paid more than they owed, how can they request a refund?

In the case of basic errors, the Revenue Department can come to the rescue. Its computer system processes every return shortly after it is received and flags errors.

In the past, the department regarded that flag as a "discovered" overpayment eligible for a refund.

The flagged returns still had to be reviewed by department employees before any refunds would be paid. But since the flagging happened well before the three-year statute of limitations had expired, there was little question the taxpayer should get the refund - even if the actual review took place after the three years was up.

But starting last year, the department took a different approach, the e-mail correspondence shows.

Lay now contends that a computer-flagged overpayment has not actually been "discovered" as such until a Revenue Department employee confirms what the computer system found. The three-year statute of limitations could expire before the review takes place.

Nancy Pomeranz, the department's personal taxes division director, learned of the policy change last year when her staff was told not to take up a backlog of flagged overpayments that had run past the statute of limitations.

In October, she asked John Sadoff, the assistant secretary for tax compliance, for an explanation. Sadoff told her that just because the computer flagged the return did not necessarily mean the overpayment existed.

Pomeranz then cited two cases as clear examples in which a refund should be made. In one, a taxpayer sent a $4,000 payment with a tax return that showed he only owed $1,000. In the other, a taxpayer failed to claim credit on the return for a $150 estimated tax payment and should have been credited with the payment.

"My folks were told not to process any refunds in any situation where the statute has run now because no refund is 'discovered' until someone actually looks at it or handles it," Pomeranz wrote in an Oct. 12 e-mail message to Sadoff. "I do not agree and, as I mentioned in my earlier e-mail, this is contrary to our long-standing position."

In December, Pomeranz again asked if her staff could move forward with thosecases. She still had not received a clarification, and she again expressed concern that in some cases she was convinced the taxpayers were owed refunds.

Alan Woodard, the department's examinations director, replied with a reiteration of the new policy: "The Agency has determined that a refund is discovered when a [Department of Revenue] employee takes a specific action to identify, review, and approve an overpayment of tax."

On Friday, Pomeranz told the governor's staff that it is unlikely those two taxpayers got a refund. She has declined to be interviewed by a News & Observer reporter.

Sadoff and Woodard could not be reached for comment.

This internal debate took place as a struggling economy caused state revenues to drop, and the department was under the gun to help close the gap. In October 2009, three months into the fiscal year, budget forecasters knew revenue was down at least $45 million. While lawmakers were in session this spring fashioning a new budget, the revenue shortfall grew to $800 million.

Pro sees a problem

Jack Cummings, a Raleigh tax attorney who has handled major cases, reviewed the correspondence at The N&O's request. He said it appeared that the department had found a way to run out the clock on people who had overpaid their taxes.

It's particularly troubling, he said, because the state moves quickly when the computer system reports those who underpay their taxes.

"If the department thinks there's an assessment to be made, they will do everything they can to get it within three years," Cummings said.

Cummings represented a Greensboro company that won a lawsuit in 1996 that invalidated the state's intangibles tax, which was levied on stocks, bonds and mutual funds of companies that did not exclusively do business in North Carolina.

Not ASAP anymore

Until 2007, state law required the Revenue Department to return overpayments it discovers to the taxpayer "as soon as possible together with any applicable interest." That language was repealed in favor of a new law that largely dealt with how tax disputes would be settled.

The new language lays out a procedure for the department to take the initiative on refunding money to taxpayers.

The department can only do so, according to the new law, when the statute of limitations has not expired, the amount shown due on the return is not correct, and that correction shows that the taxpayer overpaid.

Under this language, Cummings said, the department may not have an obligation to address situations in which the return is correct, but the taxpayer accidentally paid more than what the return indicated was owed.

Such accidental overpayments can easily happen, Cummings said. There are cases where someone writes the wrong number on a check to the Revenue Department, forgets having made estimated tax payments earlier in the year, or loses track of a prior year's refund that was applied to this year's taxes.

State Sen. Dan Clodfelter, a Charlotte Democrat and a Finance Committee co-chairman, said the 2007 law, which sailed through the legislature, did not intend to give the Revenue Department a means to capture taxes that were overpaid. He said he would be troubled to find Revenue officials applying the law that way.

"If there's a glitch in the statutory language, I know how to fix it, and we will fix it," Clodfelter said. "And we will do it retroactively. We're not going to let this kind of thing catch people."

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Published on HamptonRoads.com | PilotOnline.com (http://hamptonroads.com)

8/16/2010

Report: N.C. tax policy change could affect refunds

RALEIGH, N.C.

A change in policy could mean that thousands of North Carolinians who overpay their taxes won't get refunds, the News & Observer of Raleigh reported Sunday.

The change comes in how the state's Revenue Department decides an overpayment has been discovered. In previous years, a computer system would flag returns on which filers had mistakenly paid too much. After the return was checked by a department employee, the refund was made. The computer typically flags returns quickly after they are filed.

Now the department says overpayments are not "discovered" until an employee looks at the flagged return. If that review happens after the three-year window for obtaining refunds, the taxpayer could be out of luck.

The newspaper based its report on the tax agency's e-mail correspondence that was released after an appeal to the state attorney general's office. The agency would not comment on the issue beyond the release of e-mails.

"It is the governor's strong feeling that if we as a state have the opportunity to process these accounts in accordance with the law and pay people back the money that they are owed, that we should be doing it if we can," said Chrissy Pearson, a spokeswoman for Gov. Beverly Perdue. "Unfortunately, the 'if we can' is the big question here."

Pearson said she was told the Revenue Department thinks it would take $1 million to hire new staff to get through the backlog of 230,000 tax returns, some dating as far back as 1994, awaiting a review. Some of those returns simply have conflicting information about a taxpayer, like two different addresses, and some involve people who underpaid. Pearson said she was told that a minority of the returns involve overpayment.

Until 2007, state law required the Revenue Department to return overpayments "as soon as possible together with any applicable interest." A new law dealing with tax disputes changed that requirement to overpayments found on returns that are less than three years old.

E-mails obtained by the newspaper showed that personal taxes division director Nancy Pomeranz questioned the change in policy after her staff was told not to review returns after the three-year statutory requirement had expired.

"My folks were told not to process any refunds in any situation where the statute has run now because no refund is 'discovered' until someone actually looks at it or handles it," Pomeranz wrote in an Oct. 12 e-mail message to assistant secretary for tax compliance John Sadoff. "I do not agree and, as I mentioned in my earlier e-mail, this is contrary to our long-standing position."

She asked again in December if her staff could process those returns that she felt would result in a taxpayer refund.

Alan Woodard, the department's examinations director, replied to the second e-mail by repeating the new policy: "The Agency has determined that a refund is discovered when a (Department of Revenue) employee takes a specific action to identify, review, and approve an overpayment of tax."

State Sen. Dan Clodfelter, D-Charlotte, said the law change was not meant to give the Revenue Department a means to capture overpaid taxes.

"If there's a glitch in the statutory language, I know how to fix it, and we will fix it," Clodfelter said. "And we will do it retroactively. We're not going to let this kind of thing catch people."

Source URL (retrieved on 09/28/2010 - 15:30): http://hamptonroads.com/2010/08/report-nc-tax-policy-change-could-affect-refunds

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N.C. to refund overpaid taxes

Perdue orders Revenue Dept. to fix problem. Work to clear backlog by Dec. 22 is to start immediately.

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By Benjamin Niolet
ben.niolet@newsobserver.com
Posted: Wednesday, Aug. 18, 2010

RALEIGH The state's tax collectors are promising that anyone included in a huge backlog of tax returns who overpaid but didn't get a refund will get their money.

Gov. Bev Perdue, a Democrat, said she learned last week of a 15-year backlog of returns flagged for several reasons, including the possibility that the taxpayer paid more than due. Those taxpayers had three years to claim a refund but haven't been told they are owed money.

On Sunday, The (Raleigh) News & Observer reported that officials within the state Department of Revenue were debating how to handle older cases in which taxpayers were owed money. E-mail messages also show that the department knew about overpayments but did not refund them.

The returns in the backlog were flagged for errors, some as simple as an unchecked box. It's unclear how many taxpayers would have overpaid or still owe money.

Perdue said she ordered Revenue Secretary Ken Lay, whom she appointed, to come up with a plan to fix the problem.

"I told the department and the Secretary that the two purposes of the department are to have a fair and equitable system for collecting taxes and an equally fair and equitable system for paying refunds," Perdue said in a statement released late Tuesday. "Any further delays in processing this backlog simply is not acceptable."

The Revenue Department will assign 80 people to process returns six days a week with a goal of clearing the backlog by Dec. 22. Anyone who mistakenly overpaid since 1994 but has not had their return processed will get a refund regardless of the three-year statute of limitations.

"If the state owes anyone money, we will get it to them, even if we have to ask the legislature to change the law in order to do it," said a spokesman for Perdue, Mark Johnson.

For cases in which returns in the backlog show that the taxpayer owes money, the Revenue Department will adhere to the statute of limitations and not seek payment for returns more than three years old.

In its own news release, the Revenue Department said that the team handling the backlog "will be reminded of Governor Perdue's commitment to customer service and the timely and accurate response to citizens' needs."

That last point suggests tension between Perdue and Lay.

The Sunday N&O story reported that last year a change in policy allowed department employees to delay taking action on returns that were flagged by a computer. The change meant that an overpayment was not considered "discovered" until an employee verified what the computer had found.

But nothing required employees to review a return quickly, meaning the department could give itself a chance to run out the statute of limitations on overpayments.

A spokeswoman for Perdue said last week that she was "incensed" after learning of the backlog and the policy change on overpayments.

The drama over unpaid refunds comes as the Revenue Department is facing pressure to boost collections.

The state budget includes cuts meant to close an $800 million revenue shortfall, and next year's budget deficit is expected to be more than $3 billion. Department officials deny they have been trying to hold on to money to close the gap.

It's unclear how much tax money is wrapped up in the backlog. The computers have set 230,000 flags that could have been for arithmetic errors, wrong addresses, overpayments, underpayments or a host of other problems. Many returns have multiple flags, meaning the backlog affects about 150,000 taxpayers, Johnson said.

The Revenue Department told Perdue's office that it can't say how much money the state stands to collect or repay.

A core team will begin processing the backlog immediately. By Aug. 25, the staff will grow to include 80 people from across the Revenue Department.

A department official says that because no new employees will be hired, clearing the backlog would not cost more money. It would, however, divert workers from other duties.

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TheSunNews.com

Tuesday, Sep 28, 2010

Posted on Sun, Sep. 26, 2010

NC newspaper: Officials OK'd tax policy change

The Associated Press

A new policy making it harder for North Carolina residents to get refunds after inadvertently overpaying their taxes had the approval of lawyers for Gov. Beverly Perdue and Attorney General Roy Cooper, The News & Observer of Raleigh reported Sunday.

A newly released document shows Perdue's attorney and Cooper's office approved the change in how the state handles overpayments, according to the newspaper.

Cooper, Perdue's chief legal counsel Eddie Speas and Revenue Department chief Kenneth Lay say they didn't discuss the change with the governor.

Typically, the state's computer system flags overpayments within the three-year statute of limitations. Now the department says overpayments are not "discovered" until an employee reviews those returns.

Taxpayers could be out of luck if that review doesn't happen within three years.

About 100 taxpayers have received refunds totaling $32,000 since the Revenue Department began an effort to reduce its backlog of 150,000 flagged returns, Lay said.

About 68,000 of those returns have been reviewed and 3,300 overpayments totaling nearly $1 million were found.

The bulk of those overpayments, however, were more than three years old. Those refunds - about $917,000 - have been put on hold until legislators take action on the 2007 law covering the three-year limit.

"The governor says she would get a legislative change if that's required, and it looks like that's going to be required," Lay said of the older refunds.

Perdue and lawmakers have said they were unaware of the backlog of unprocessed returns and didn't know about the policy change.

Lay said it was not a set policy that required the department to refund old overpayments that had been flagged by the computer system.

"What we had was inconsistent practice," he said.

Legislators say the 2007 law governing refunds was not intended to let revenue officials keep overpayments.

"That's an unintended consequence, and we would change it so quick your head will pop off your shoulders," said Rep. Pryor Gibson, D-Wadesboro and House finance committee co-chairman.

Revenue correspondence obtained by the News & Observer through an open records request shows the practice of giving the money back despite the time limit was in place at least as far back as 1999.

In a case from that year, the computer system had discovered the overpayment, but the return was not audited by a staffer until the statute of limitations had expired.

"The overpayment was discovered at the time the payment was posted, and the system reflected an overpayment," department supervisor Gregory Radford wrote in an e-mail message. "Can't penalize the taxpayer for our workload."

After the number of returns and change in policy were reported, Perdue said she would see to it that the backlog was cleared by year-end and that everyone who overpaid would get their money back.

But a report from Lay indicates the governor's lawyers were told of the change months ago after an attorney general gave an opinion on the issue.

"It is our understanding that this legal opinion was later shared with lawyers in the governor's office, who agreed with the guidance offered," Lay's report said. "It is that guidance that has now become agency policy."

Information from: The News & Observer, http://www.newsobserver.com

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Revenue Laws – November 10, 2010

Background

Let me start by giving you some history on how we got to this problem of 240,000 "backlogged" items.

In 1994 the Department launched ITAS, the same computer system we use today for processing returns and tax information. That system – now very antiquated—generates flagged items that require a human being – an employee of Revenue – to review.

A flagged return essentially means a taxpayer's account is out of balance – either over or underpaid or maybe lacking information. We call these "review items".

In 2009, ITAS generated 910,000 review items. We worked 898,000. Imagine how time consuming and costly it is to have employees review each of these cases. It costs the State millions and millions of dollars each year.

The 240,000 review items that received media attention, is the accumulated left-over balance of review items for a number of years.

Many of those items are generated through taxpayer error.

The Department has to help the taxpayer by correcting the situation, and we take our due responsibility for not being able to do that as quickly as would be ideal.

By the way, we have processed 80 percent of those items, but I'll get down into the numbers and what they mean in a few minutes.

A Question of Policy

You have asked about our policy on this issue. The Department has no written or long-standing policy regarding refunds that are out of statute. We have searched but can find no written document.

A series of e-mails last fall raised the question of how the Department would process out of statute refunds. If there had been an agency-wide written policy, the question would have been unnecessary.

In actuality a few of our administrative staff had a long-practiced way of doing things—that practice was not shared among the entire agency.

What we had was inconsistency among different divisions—not a policy change.

DOR's Interpretation of the law

The Department of Revenue interpreted and still interprets the law to mean that a refund is "discovered" when a human body reviews an account and verifies that a refund is in fact due the taxpayer.

When a refund is "discovered" out of statute, the Department is prohibited by law from issuing the refund. We will work with the General Assembly to get statutory authority to make these refunds.

By the numbers

240,000 review items were part of the "backlog".

We have processed 80 percent of those items.

Of those we have completed so far:

- 14,000 were refunds less than $1 each – but still had to be reviewed
- 36,000 were returns filed late and out of statute by the taxpayer
- And some of them were assessments where the taxpayer owed the state money

But let's talk about the specific refunds that were part of media coverage—unrequested individual refunds that were out of statute and not yet discovered by the Department.

There are 7 thousand of those refunds worth $2.3 million waiting for legislative action by the General Assembly to be sent out. We will send those as soon as the law allows.

A total of $20 million in individual income refunds have already gone out the door during this process.

Of the 20% of review items left to process, most are sales and corporate tax issues—which are generally more complicated and time consuming.

We are on track to complete those by the deadline given by the Governor of Dec. 22nd.

The Impact on Revenue

As I mentioned earlier, we worked 898,000 of the 910,000 cases our computer system flagged in 2009. To put it into perspective, we are getting about a million flagged returns a year.

Review items tend to come at us like a tsunami—more are created than can be processed with the resources available. Since August 17th alone, 37,000 review items have been generated.

A large number of these items require an employee at the level of auditor or above to verify and correct returns, which as I said earlier are many times the taxpayer's error.

The Fix

How do we fix this problem from happening again in the future? It is not an easy fix.

It's a complex and very technical situation, but we are doing everything we can—with the resources we have available—to reduce the number of returns flagged.

We are constantly evaluating ITAS—our 16 year old IT system—and the way it generates these new review items. We are adjusting tolerance levels in order to reduce the number of returns that are flagged for human review.

That's the first thing.

We are also in the process of implementing TIMS, a new tax computer system that should also resolve some but not all of these issues.

Improvements to our e-services will simplify and speed up the filing of tax return—while reducing common errors that can cause frustrating delays in

processing refunds. As more taxpayers file returns electronically, that will reduce the number of human errors that require a DOR employee to manually correct the issue.

Most importantly, we must continue to prioritize our resources in order to complete the large volume of work DOR handles each and every day. During the past two years, we lost 200 full-time temporary employees and currently have 150 frozen vacancies.

I was a legislator for 18 years, and I know now more than ever the citizens of North Carolina are facing tough and uncertain times. But what is certain—DOR is working tirelessly to correct the problems that caused this backlog of refunds, and is committed to efficiently serving the taxpayers of this State.

I have discovered in my first two weeks as Secretary that we have a lot of talented and dedicated people at DOR, and we will get it right.

North Carolina Revenue Laws Study Committee

Vance Holloman, Deputy Treasurer
Anthony Solari, Director of Government Relations
NC Department of State Treasurer

Local Government Authority for Tax Anticipation Notes

- Authority found in NC Constitution Article 5 Section 4 and NC GS 159-169
  - Backed by GO pledge
  - Limited to 50% of uncollected taxes
  - Must be repaid no later than 30 days after fiscal year end
  - Can not be renewed
- Current staff recalls one Tax Anticipation Note (TAN) authorized by the LGC in early 1980's

Local Government Alternatives to Issuing Tax Anticipation Notes

- Maintain at least 8% General Fund Balance available for appropriation
- Offer early payment discounts for property taxes
- Schedule discretionary expenditures after bulk of taxes are collected
- Work with vendors if cash flow difficulties occur
- Appeal to civic minded tax payers for early payments

State Government Authority for Tax Anticipation Notes

- Authority found in NC Constitution Article 5 Section 3 and NC GS 142-19
- Budget Director may authorize and direct the State Treasurer to borrow
- Budget Director must have consent of Governor and Council of State authorize
- Carries GO pledge
- Limited to 50% of anticipated taxes to be collected during the fiscal year

Other Facts To Consider

- Borrowing for cash flows will be noted by the rating agencies
  - This will highlight a lower level of reserves.
- Taxable vs. tax exempt borrowing
  - To qualify as a tax exempt borrowing, the General Fund must be out of cash.
- Rates in current market would be .60% to 1.00% for a taxable borrowing
  - There would be interest costs of $500 to $833 per $1 million borrowed per month.

Borrowing From Retirement System

- Constitutional Prohibition. Article 5 Section 6:
- Retirement funds. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.
- Language seems very clear.
- Would possibly draw legal challenges.

Borrowing From Escheats Fund

- Similar Constitutional Prohibitions. Article 9 Section 10 states that the Escheat funds shall be used

  to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State.

- Principal of the Escheats Fund has been drawn down significantly over the last few years.
- Not a lot of room to borrow from it without forcing a liquidation of assets that will cost the State money.

Costs of Borrowing From Retirement System or Escheats Fund

Cost of borrowing funds would be high - perhaps in the area of 15% because:

- Any lending from the funds would have to match the return we are getting from other current investments. (fiduciary responsibility)
- State has not made its Actuarial Required Contribution to the fund.
- Current economic conditions and the projected State budget deficit.

State would not be wise to borrow from the pool when it could probably get a better rate from other forms of borrowing.

State of North Carolina
Office of the State Controller

DAVID T. MCCOY
STATE CONTROLLER

November 10, 2010

MEMORANDUM

TO: Senator Dan Clodfelter
Representative Paul Leubke

FROM: David McCoy

SUBJECT: Cash Management during FY 2009-10

Fiscal Staff asked the Office of State Budget and Management and the Office of the State Controller the following questions:

1. *What is the legal authority for delaying the payment of tax refunds?*
2. *What other options/tools are available to the Governor to meet the short term cash flow needs of the State?*
3. *What is the process for making the determination to delay tax refunds?*
4. *Why was the delay of tax refunds chosen in 2009 and 2010 instead of other available options to meet the short-term cash flow needs of the State?*

The Office of the State Controller is responsible for authorizing the release of cash for all payments involving state funds. To provide the reader with a more complete understanding of the issues involved in the questions posed above, the following information is provided.

The State began fiscal year 2009-10 with a Unreserved Fund Balance of $92.2 million and restricted reserves of $194.4 million (including the Savings Reserve Fund ($150 million), JDIG reserve ($3.1 million), and the Disaster Reserve ($41.3 million)).

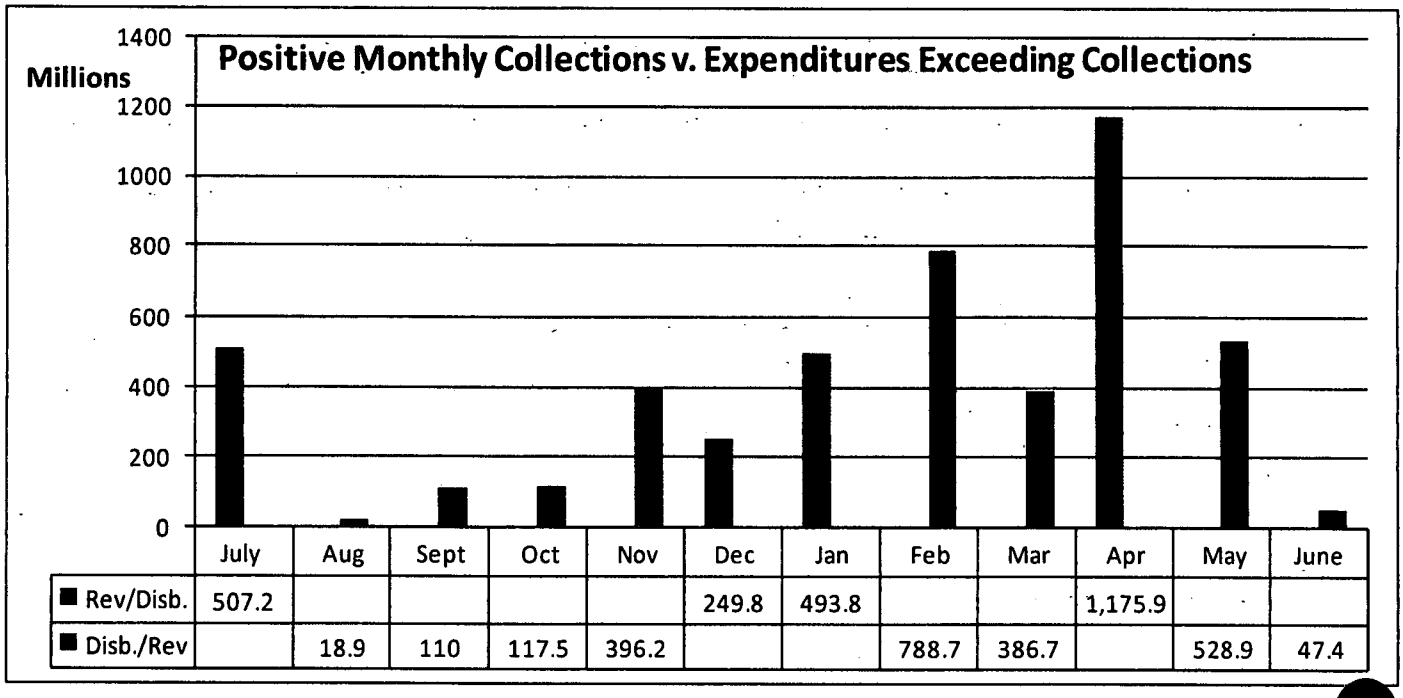
The State ended fiscal year 2009-10 with a positive General Fund balance and all restricted reserves intact. This was accomplished in large measure because of the fiscal constraint exercised by the state's departments, agencies, and institutions. For the fiscal year, total appropriation expenditures were $18.514 million compared to total tax and non-tax collections of $18.657 million. Adding the difference to the Beginning Unreserved Fund Balance resulted in the General Fund Unreserved Fund Closing Balance of $236.9 million. Ending the year with a balanced budget is required but does not occur without management of spending and concurrent management of the state's cash. As a result of

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the state agencies' combined efforts, appropriation spending for the fiscal year of $18.514 million was $500 million below the authorized appropriation amount of $19.014 billion.

With regard to revenue, collections in the **tax** categories grew by 5.8 percent compared to the previous year and General Fund **tax** collections ended the year $966 million over the previous year. However, in the major categories, Individual Income tax did not meet projections and reflected a negative 4.5 percent change over the prior year. **Non-tax** revenues declined by $1.41 billion or 60.7 percent with Investment Earnings for the year declining by $72.5 million or 64 percent due to lower rates of return on investment and lower cash availability for investment. When the **tax** categories were added to the **non-tax** collections, the total **tax and non tax** collections for the year was $443 million less than the previous year's tax collections.

The General Fund receives revenues and makes expenditures for programs funded with general purpose revenue, federal revenue, and program revenue, and while the General Fund ending unreserved cash balance describes the state's fiscal year status at June 30th as positive, there were peaks and valleys during the fiscal year. Generally, the state's cashflow issues are attributable to the uneven distribution of both revenues and expenditures, and during economic downturns, due to the timing of revenue collections and payments of large aid amounts, the state experiences cashflow problems, especially during the tax season. It is the combined responsibility of the centralized business agencies to ensure that there is sufficient cash on hand for the state's use to meet its daily obligations during the low points typically experienced during late November and December and late February until mid April because of the variance between income and expenditures. In the month of November, the state collects 6.93% of its annual revenue, but expends 9.02% of annual costs or approximately $450 million more during the month than it collects. Even more dramatic is the February-March experience when the state collects 12.59% of its revenue but expends 18.89% of annual costs (a differential of $1.6 billion).

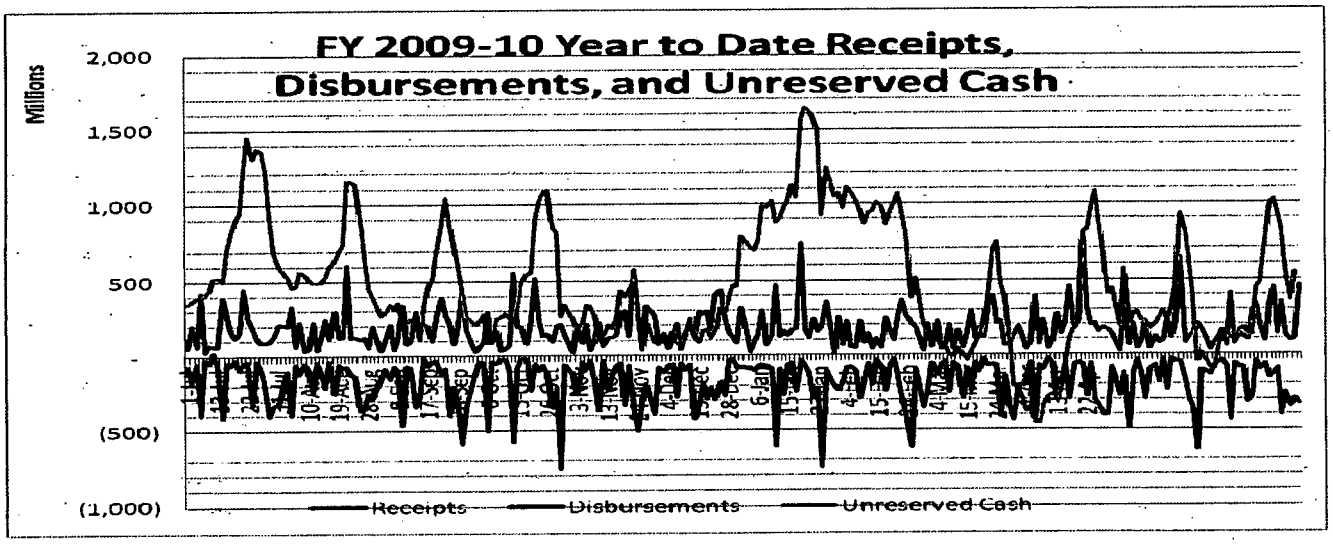


	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
Rev/Disb.	507.2					249.8	493.8			1,175.9		
Disb./Rev		18.9	110	117.5	396.2			788.7	386.7		528.9	47.4

Historical % Averages	Rev.	Exp.		Rev.	Exp.		Rev.	Exp.		Rev.	Exp.
July	6.92	4.28	**October**	8.12	8.74	**January**	9.52	6.95	**April**	14.68	8.56
August	6.84	6.94	**November**	6.93	9.02	**February**	4.90	9.06	**May**	6.10	8.89
September	8.90	9.48	**December**	9.56	8.23	**March**	7.69	9.73	**June**	9.86	10.11

On the revenue side, over half of all general fund revenues were received during the last half of fiscal year 2009-10. The state's individual income tax and federal and program revenue receipts contributed to this imbalance, with a major portion of the annual individual income tax receipts, federal receipts, and program revenues and transfers being collected in the second half of the fiscal year. It would be difficult for the state to modify the timing of these revenues because income tax filing deadlines coincide with federal deadlines, and payments under other federal programs are not subject to direct state control.

North Carolina's Cashflow Management



Routinely and even during robust economic times, North Carolina and most, if not all, other state governments must manage time specific general fund cashflow issues. To manage this annual inevitability, the state, in 1991, developed cashflow management procedures involving the State Controller's Office, Office of State Budget and Management, the Department of Revenue, the Office of the State Treasurer and the various state departments, agencies, and institutions (see attachments).

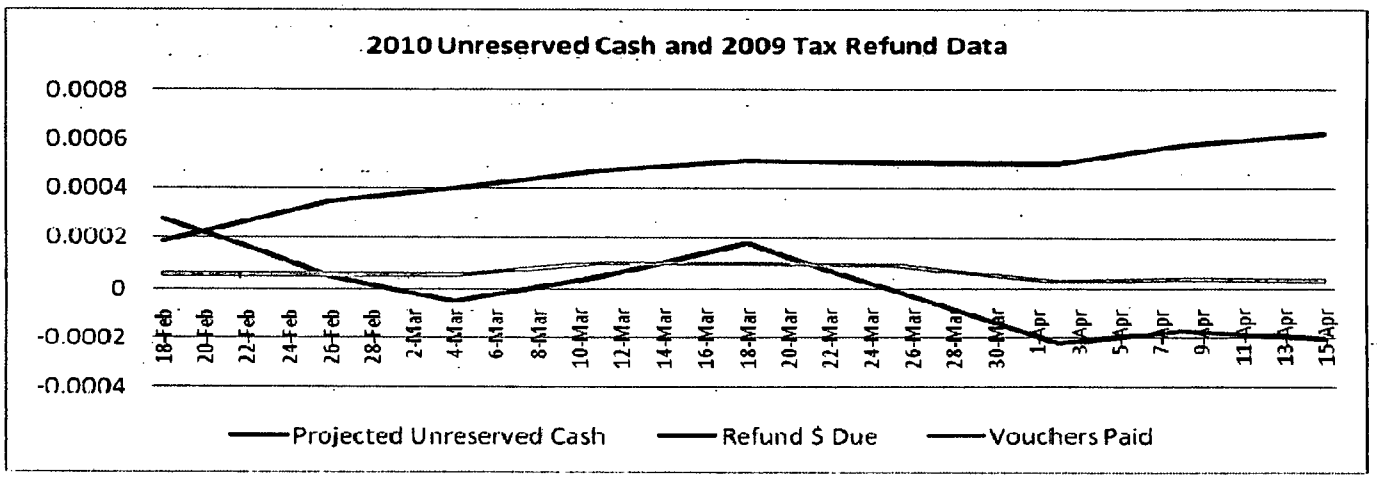
There are two primary tools used by North Carolina and other state governments to manage cashflow when revenue is insufficient to meet daily cash requirements. The primary tool has been the temporary borrowing of cash from other state fund accounts. The analogy that best describes this process is that of borrowing from a savings account, making a short term loan to cover immediate operating expenses, and when revenues are sufficient, replacing the funds. This process occurs as a seamless transaction with no felt impact by the agencies or citizens. Unlike an annual revenue short fall's impact on the Appropriations Budget,[i] in the daily management of cashflow, funds may be reallocated between the general fund and certain reserve funds, on a short term basis. The State Controller determines the accounts receivable balances and anticipated monies to be used for this purpose. In no case is borrowing made from retirement trust assets or from a number of specific restricted reserve funds. Further, the State Controller will not temporarily reallocate balances if such borrowing would cause cashflow problems for the fund or account from which it is made.

However, when there are significant economic downturns, additional measures are necessary. The second cashflow tool is the scheduling of payments contingent upon sufficient cash being available to meet requirements. This is commonly used by state governments, and it typically involves delays of days and not weeks. But during economic events of historic proportions, as in the most recent economic crisis, the timeframe may be extended. With regard to what gets paid in what order, the first priority is the constitutionally mandated debt service payments on state bond debt. The distribution to local governments of the Local Government Sales Tax[ii] collections is the second priority, and state payroll is the third priority. The State Controller's Office in consultation with OSBM and the state agencies determine the priority of payments for all other items.

Payment and Refund Schedule Management

Historically during economic downturns, the general fund experiences a negative cash balance in December, March and early April. This general trend held true in FY 2009-10, when the general fund's lowest cash balance of the year, occurred in the first week of April (negative $461.8M). Without managing tax refunds and other payments, negative cash balances would have occurred on a continuum more similar to the prior year's experience where the state's unreserved cash fund was negative from November to Mid-January and from late February to late April. Because the beginning credit balance for FY 2008-09 was $599 million, the state had much more cash flexibility and utilized fund account borrowing as its primary cashflow tool with delayed payments necessary but not to the same degree.

During the 2009-10 fiscal year, reserved cash was meager, and by late February, 2010, facing the looming prospect of insufficient cash to pay refunds, the Office of the State Controller, OSBM, and the Department of Revenue began discussions on managing the payment of tax refunds. All three agencies recognized sufficient cash would not be available to cover all the checks the department was capable of processing (which are being processed much more quickly due to electronic filings).



Consistent with procedures established in March of 1991[iii] to avoid the cost and time expense of external borrowing as well avoiding exposing the state bond rating to the possibility of a downgrade from the use of short term borrowing, the two agencies and OSBM agreed to implement a scheduling management process for tax refunds. The "Daily Cash Sheet" was modified to include daily information on the tax refund liability and was shared with Fiscal Research and legislative staff as well as appropriate Executive Branch agency staff. It was the hope of the agencies that sufficient revenues would be realized in a timely manner so that all refunds could be processed without the requirement of paying any interest.[iv]

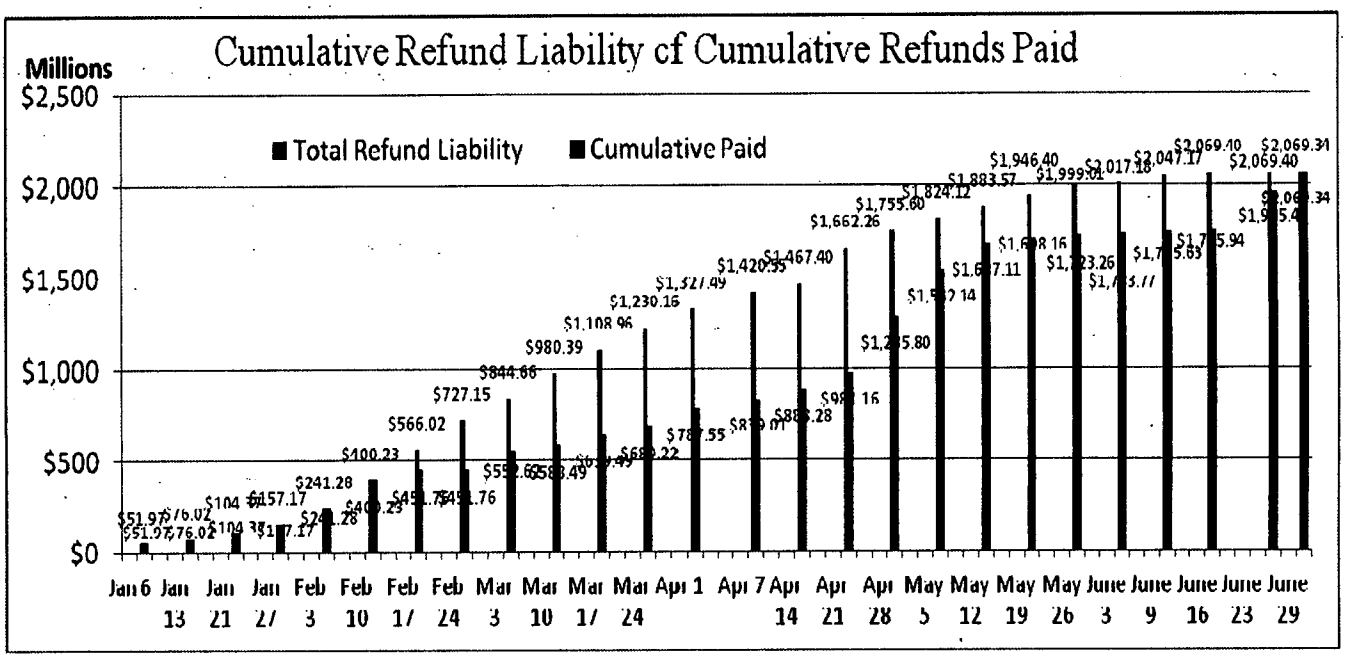
Short-Term Borrowing from Investors—Operating Notes

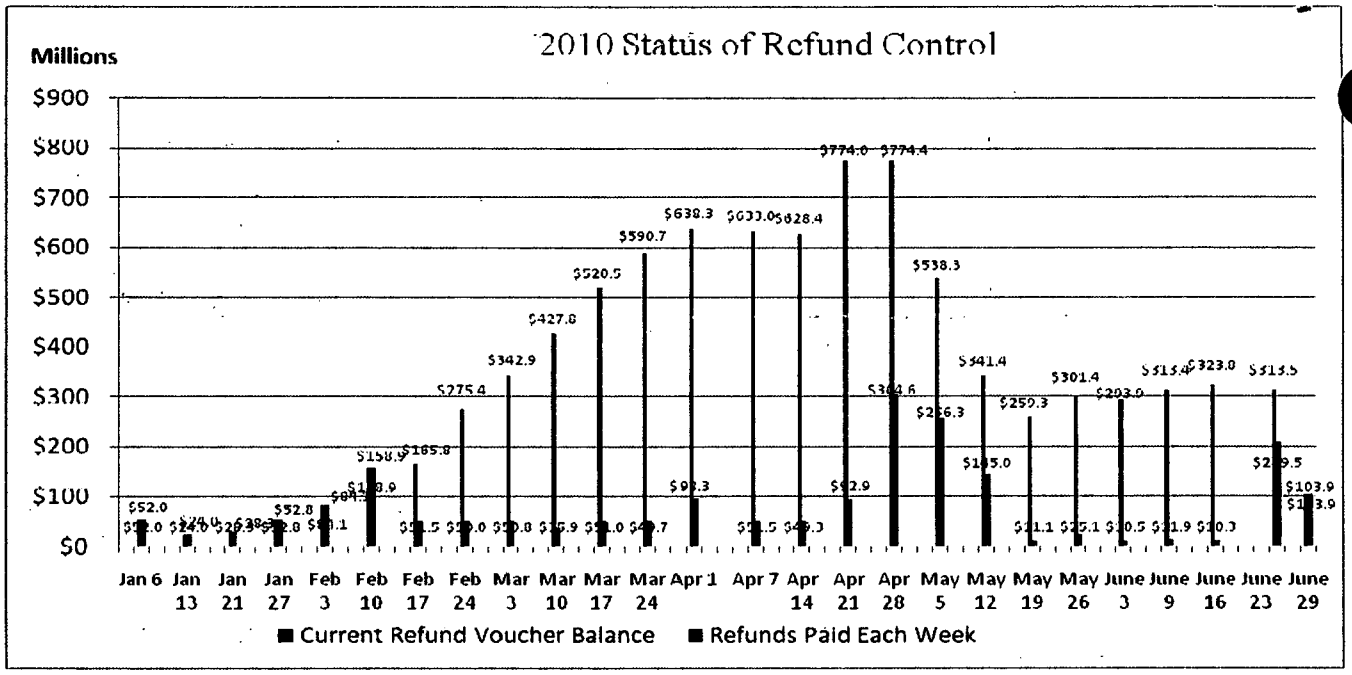
In 1927, under G.S. § 142-19, the General Assembly authorized the Governor, with the consent of the Council of State to authorize the State Treasurer to borrow money on a short term in anticipation of tax revenues to meet operating expenses. The statute states, "*The Director of the Budget by and with the consent of the Governor and Council of State shall have authority to authorize and direct the State Treasurer to borrow, in the name of the State and pledge the credit of the State for the payment thereof, in anticipation of the collection of taxes, such sums as may be necessary to make the payment on appropriations to the various institutions, departments and agencies of the State as even as possible so as to preserve the best interest of the State in the conduct of the various institutions, departments and agencies of the State during each fiscal year.*"[v] There is no evidence that the authority under this statute has been used in recent history. Whether it was used prior to the 1970's is unknown. The use of short term debt could expose the state to a potential downgrade in its bond rating; this outcome should be considered if its use in the future is contemplated.

Cashflow Management Alternatives

An alternative to temporary fund borrowing, delaying payments, or issuing operating notes would be to create additional fund capacity in the Savings Reserve Fund. Under the provisions of State Budget Act, the State Controller is required to transfer into the Saving Reserve Fund, 25 % of the amount of any unreserved fund balance, as determined on a cash basis, remaining in the General Fund at the end of each fiscal year.[vi] In the absence of an unreserved fund balance, no amounts are transferred to the Savings Reserve Account under this statutory mandate. During the 2008-09 legislative session, over $600 million was transferred from the Savings Reserve Fund to the General Fund to address the 2007-09 biennium budget shortfall. This left a balance of $150 million in the Savings Reserve Fund on June 30, 2008.

A second alternative would be to fund a "tax refund account" with general funds that would be used exclusively to manage tax refunds. It would have a set minimum balance and be funded either by the General Fund by appropriation or by a percentage of each tax payment being escrowed until a cash threshold is achieved.





c: Revenue Study Laws Committee Members
Fiscal Research Division

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[i] **North Carolina Const., Art. III Sec. 5 (3)** Budget. . . . The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

[ii] **G.S. 143-6-2 (c) Local Governments Funds**. – In exercising the powers contained in Section 5(3) of Article III of the North Carolina Constitution, the Governor shall not withhold from distribution funds that have been collected by the State on behalf of local governments or funds that the General Assembly has appropriated to local governments unless the Governor has exhausted all other sources of revenue of the State including any appropriated surplus remaining in the treasury at the beginning of the fiscal period.

In accordance with Section 19 of Article I of the North Carolina Constitution and the Due Process Clause of the United States Constitution, the State is prohibited from taking local tax revenue. This subsection does not authorize the Governor to withhold revenues from taxes levied by units of local governments and collected by the State. (2006-203, s. 3; 2007-393, s. 6.)

[iii] Memos dated January 25 and March 5, 1991 discussing the schedule of payments for Individual income tax refunds and temporary borrowings and repayment plan signed by the State Controller, State Budget Officer and State Treasurer.

[iv] **G.S. § 105-241.21. Interest on taxes.**

(a) Rate. – The interest rate set by the Secretary applies to interest that accrues on overpayments and assessments of tax. On or before June 1 and December 1 of each year, the Secretary must establish the interest rate to be in effect . . . The rate established by the Secretary may not be less than five percent (5%) per year and may not exceed sixteen percent (16%) per year.

(1) Franchise, income, and gross premiums. – Interest on an overpayment of a tax levied under Article 3 of this Chapter and payable on an annual basis or of a tax levied under Article 4 or 8B of this Chapter accrues **from a date 45 days after the latest of the following dates**:

a. The date the final return was filed.

b. **The date the final return was due to be filed.**

c. The date of the overpayment. The date of an overpayment of a tax levied under Article 4 or Article 8B of this Chapter is determined in accordance with section 6611(d), (f), (g), and (h) of the Code.

(2) All other taxes. – Interest on an overpayment of a tax that is not included in subdivision (1) of this subsection accrues from a date that is 90 days after the date the tax was paid.

[v] See also, **G.S. § 143C-2-4. Director of the Budget may direct State Treasurer to borrow money for certain payments.**

The Director of the Budget, by and with the consent of the Governor and Council of State, may authorize and direct the State Treasurer to borrow in the name of the State, in anticipation of the collection of taxes, such sum as may be necessary to make the payments on the appropriations as even as possible and to preserve the best interest of the State in the conduct of the various State agencies during each fiscal year. (2006-203, s. 3.)

[vi] **G.S. § 143C-4-2. Savings Reserve Account and appropriation of General Fund unreserved fund balance.**

(a) Creation and Source of Funds. – The Savings Reserve Account is established as a reserve in the General Fund. The Controller shall reserve to the Savings Reserve Account one fourth of any unreserved fund balance, as determined on a cash basis, remaining in the General Fund at the end of each fiscal year.

(b) Use of Funds. – The Savings Reserve Account is a component of the unappropriated General Fund balance. Funds reserved to the Savings Reserve Account shall be available for expenditure only upon an act of appropriation by the General Assembly.

(c) Goal for Savings Reserve Account Balance. – The General Assembly recognizes the need to establish and maintain sufficient reserves to address unanticipated events and circumstances such as natural disasters, economic downturns, threats to public safety, health, and welfare, and other emergencies. It is a goal of the General Assembly and the State to accumulate and maintain a balance in the Savings Reserve Account equal to or greater than eight percent (8%) of the prior year's General Fund operating budget. (2006-203, s. 3.)

State of North Carolina
Office of the State Controller

January 25, 1991

M-E-M-O-R-A-N-D-U-M

TO: Betsy Y. Justus, Secretary
N.C. Department of Revenue

FROM: Fred W. Talton
State Controller

SUBJECT: Individual Income Tax Refunds

Representatives from the Department of Revenue, Office of State Budget and Management, State Treasurer, and the Office of the State Controller met on January 16th to determine the best approach to processing Individual Income Tax Refunds for the current year. Several objectives were identified during the course of the meeting; objectives include:

-process refunds in a timely manner to avoid taxpayer discontent.

-process refunds within the constraints of continuing revenue shortfalls.

-process refunds on a schedule which does not impose an undue burden on DOR employees.

-release refund checks on a schedule which does not adversely impact the clearing operations of the State Treasurer.

The purpose of this memo is to document the agreement reached at the meeting. It must be understood by all parties that the agreement may have to be modified if revenues fall significantly below projections.

Please review the procedures/responsibilities as outlined herein and let us know if there are omissions, inaccuracies, etc. We appreciate the opportunity to work with you in an effort to better serve the tax paying public.

200 West Jones Street • Raleigh, North Carolina 27603-1337 • Telephone 919-733-0178
State Courier 56-50-10
An Equal Opportunity / Affirmative Action Employer

A calendar has been developed which coordinates anticipated tax refund requirements with projected funds availability. The calendar shows projected amounts by date during the months of February thru June as follows:

February	6	$ 4 million
February	20	$40 million
March	6	$54 million
March	20	$59 million
April	3	$57 million
April	17	$62 million
May	1	$54 million
May	17	$83 million
May	29	$49 million
June	19	$92 million
June	28	$34 million

The method of processing agreed upon at the meeting eliminates the concern of the State Treasurer that exceptionally large numbers of checks would be released in a single day. The following details responsibilities of The Department of Revenue and the Office of the State Controller.

The Department of Revenue will send a letter to the Office of the State Controller at least five working days prior to the dates specified in the above calendar requesting that the appropriate amount be reserved for Individual Income Tax Refunds.

The Office of the State Controller will honor the request from the Department of Revenue if actual and projected revenues are determined to be sufficient. The requested amount will be reserved by making appropriate entries to record the amount in Budget Code 19936 (Reserve for Income Tax Refunds). The Department of Revenue will be notified of this action at least one day prior to the dates specified in the above calendar.

The Department of Revenue will then write Individual Income Tax Refund checks against Budget Code 19936. The Department of Revenue expects to write approximately 25,000 refund checks per day. Checks may be written and released daily provided the amount of those checks does not exceed the balance currently reserved in Budget Code 19936.

If it is determined that revenues are not sufficient the Office of the State Controller will communicate that fact to the Department of Revenue and then the two offices will mutually decide the appropriate action to be taken.

cc: Marvin K. Dorman, OSBM
Douglas Chappell, Treasurer

State of North Carolina
Office of the State Controller

March 5, 1991

M E M O R A N D U M

TO: Marvin Dorman, Acting State Budget Officer

Harlan E. Boyles
State Treasurer

FROM: Fred W. Talton
State Controller

SUBJECT: Additional Temporary Borrowings for the General Fund in accordance with Executive Directive No. 15

After reviewing our revised cash flow projections for the General Fund for the month of March, 1991 it is our opinion that it will be necessary for the General Fund to make additional temporary borrowings in accordance with the Governor's Executive Directive No. 15 Concerning the Administration of the Budget for Fiscal Year 1990-91 beginning about March 7, 1991 and extending through mid-April, 1991. We expect this additional borrowing to be up to approximately $190 million unless certain disbursements can be re-scheduled and or additional revenue sources can be made available to the General Fund. We need $133.1 million to help meet this month's cash flow needs on or before March 22, 1991, and the remaining $56.9 million during the period subsequent to March 22, 1991 and prior to mid-April, 1991.

As you are aware, we have analyzed the cash available in three of the State's larger funds-the Highway Trust Fund, the Capital Improvement Fund and the Employment Security Reserve Fund-and currently have outstanding temporary borrowings from these funds to enable the General Fund to meet cash flow requirements as follows:

	Advanced	Repaid	Balance
Highway Trust Fund	120,000,000	66,115,066	53,884,934
Capital Improve. Fund	125,000,000	80,000,000	45,000,000
Employment Security Res.	100,000,000	100,000,000	-0-
Total	345,000,000	246,115,066	98,884,934

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...yments were made to the Highway Trust Fund in the amount of ...proximately $66.1 million by deducting from the advance earned highway use tax collections for the period ended February 28, 1991. The Employment Security Reserve Fund was repaid on January 7, 1991 from accumulated General Fund cash balance.

In order to meet additional cash flow needs in the month of March, 1991, we are requesting herewith your concurrence to transfer cash from the Highway Trust Fund in the amount of $33.1 million and $125 million from the Employment Security Reserve Trust Fund as the Office of the State Controller determines it is needed to maintain a positive cash book balance in the General Fund and, at the same time, to honor General Fund requisitions for cash disbursements presented to OSC by agencies which are within available allotment balances made by the Office of State Budget and Management. We will maintain subsidiary records in our ledger to document and report on these transactions. We expect to repay temporary borrowings from these funds from April, 1991 General Fund tax collections and earned Highway Trust Fund Use Taxes.

Please sign below to record your approval of this proposed action. Thank you for your assistance in this matter.

We the undersigned do hereby agree that the proposed action outlined above is acceptable and in accordance with the Governor's Executive Directive No. 15 in meeting the State's General Fund temporary borrowing requirements.

Marvin K. Dorman
Acting State Budget Officer — 3/5/91 Date

Harlan E. Boyles, State Treasurer — 3/6/91 Date

Fred W. Talton, State Controller — 3/5/91 Date

cc: Edward Renfrow
State Auditor

Industry-Specific Apportionment – Publishers

Revenue Laws Study Committee
Lennie Collins, Director
Corporate, Excise & Insurance Tax Division
NC Department of Revenue
November 10, 2010

Apportionment

- Income of a multistate business is generally apportioned by use of a 3-factor formula
  - Property
  - Payroll
  - Sales (double weighted)
- Numerator consists of property, payroll and sales in NC
- Denominator consists of property, payroll and sales everywhere

Current Industry-Specific Formulas

- Railroads – railway operating revenue
- Telephone Companies – operating revenue from local service
- Motor Carriers – vehicle miles
- Public Utilities – sales factor only
- Air/Water Carriers – revenue ton miles

Numerator: Sourcing Sales to NC

- Sales of tangible personal property received by a purchaser in NC
- Receipts are from real or tangible personal property located in NC
- Receipts from intangible property received from sources in NC
- Receipts from services and the income producing activity is in NC

Issue:

•When the benefit of the service is received in NC but some or all of the service is performed outside NC

Example 1:

•New York publisher sells periodicals in NC that contain advertising, some of which is solicited from NC advertisers

•Advertising layout and printing are performed in NY.

•Receipts from sales of magazines in NC are sourced to NC

•Receipts from sales of advertising is sourced to NY

Example 2:

- Virginia publisher of a free publication distributes material containing a substantial amount of advertising to a specific region in NC
- 100% of the advertising was solicited from businesses within that region
- Advertising layout and printing are performed in VA
- 100% of receipts from sales of advertising is sourced to VA

Recommendation

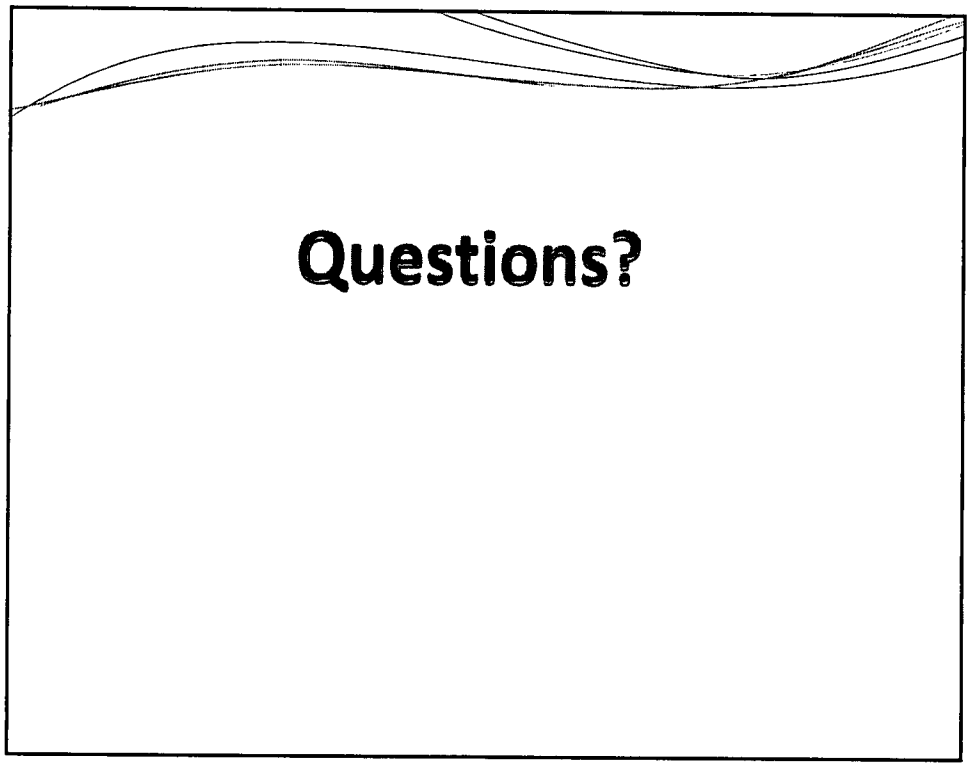
- Adopt Industry-Specific apportionment formula
- 3-factor formula
- Payroll Factor – unchanged
- Property Factor – modify to assign outer-jurisdictional property to the numerator based on the percentage of uplinks or downlinks located in NC, or exclude from the factor altogether

Recommendation

- Sales of tangible personal property – unchanged
- Sales of advertising and the sale, rental or other use of the publisher's customer lists – source to NC based on a "circulation factor" determined for each publication containing advertising

Recommendation

- Circulation Factor – ratio of NC circulation to total circulation everywhere as determined by reference to rating statistics from sources such as the Audit Bureau of Circulations
- Limited regional or local geographic area publications may be specifically sourced to the numerator if approved by the Secretary of Revenue


Questions?

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Revenue Laws Study Committee
Lennie Collins, Director
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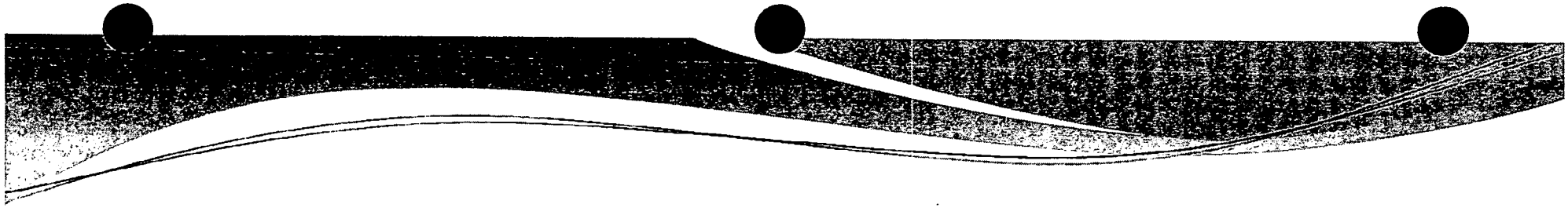
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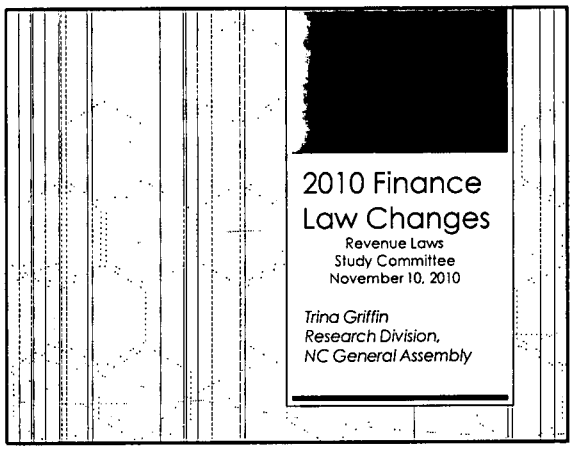
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Questions?



2010 Revenue Laws Recommendations - Enacted

- ✔ IRC Update
- ✔ Modernize Sales Tax on Accommodations
- ✔ Modernize Admissions Tax & Restore Amenities Exclusion
- ✔ Give Taxpayers Notice of Revised Interpretations
- ✔ Improve Tax & Debt Collection Process
- ✔ Construction of Wills & Trusts
- ✔ Economic Incentives Alignment & Changes
- ✔ Technical, Clarifying, & Administrative Changes (included Annual Reports for LLCs)

Overview

- Small Business Relief
- Economic Incentives
- Renewable Energy
- Sales/Admissions Tax Changes
- Tax Administration
- Other Changes

Small Business Relief

- Unemployment Insurance Refundable Tax Credit
- Extension of 5-year Carryback Period for NOLs
- Lower Sales Tax Compliance Burden on Small Retailers
- Relieve Annual Report Compliance Burden on Small Business



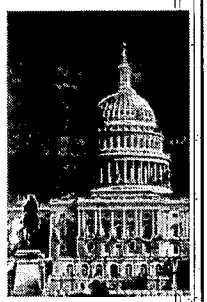
Unemployment Insurance Tax Credit



Unemployment Insurance Tax Credit

- Refundable income tax credit = 25% of the amount paid in unemployment insurance tax on wages paid to employees.
- Available to businesses with gross receipts of ≤ $1M for the taxable year; could potentially benefit up to 125,000 businesses.
- Temporary credit - applies to 2010 and 2011 taxable years only.
- GF loss for FY 2010-2011 = $34.1 M.

IRC Update



- Updates the Code reference to May 1, 2010.
- Extends increased expensing limits.
- Extends 5-year carryback period for NOLs for small business (<$15M annual gross receipts).
- Does not conform to 5-year carryback for NOLs incurred by large businesses.
- GF loss of $7.7M in FY 10-11 and $1M in FY 11-12; will reach $10M in FY 13-14.

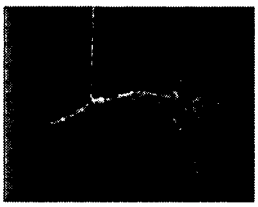
Lower Sales Tax Compliance Burden

- Increases the threshold for requiring retailers to submit a pre-payment of 65% of the amount of sales tax revenue to be remitted for the following month.
- GF loss of $7M in FY 10-11 and $12 M in FY 11-12.
- **10/1/2010:** From $10,000 to $15,000, relieving 2,133 retailers from the pre-payment requirement.
- **10/1/2011**: From $15,000 to $20,000, relieving an additional 1,000+ retailers.

Relieve Annual Report Compliance Burden

- Provides that the first annual report of a LLC is due April 15 following its year of organization.
- Also conforms due date for filing annual reports to the due date for filing corporate income tax returns.

Economic Incentives



- Datacenters
- Film Industry
- Interactive Digital Media Industry
- Eco-Industrial Parks
- Sales Tax Refunds
- Sunset Extensions

Big Data = Big Business

Google myspace.com DELL amazon.com. INTUIT. YAHOO!

Best Investment Ever



Purchase Price (1976):	$6,000
Sale Price (2010):	$1,700,000

Internet Datacenters

- **Expanded sales tax exemption** for electricity and business property to include Internet datacenter engaged in software publishing.

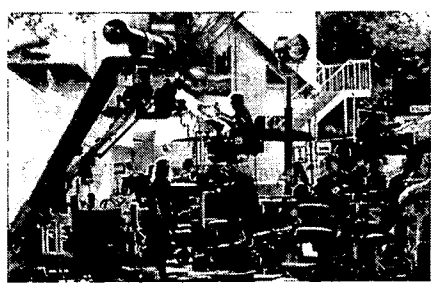
Datacenters

- **Extended sunset** on 1% excise tax for datacenters on purchases on M&E through 7/1/2015.
- **Modified investment threshold** to qualify for 1% excise tax by allowing threshold to be met through construction of 2 facilities.
- **Provided contractors with option** to elect to pay 1% excise tax rather than sales tax on purchases of M&E.

Modified Apportionment Formula

- Allows Sec. of Revenue to apply written decision granting corporation request for an alternative apportionment formula for 15 years instead of 3 years.
- Time limited; corporation must have submitted letter of commitment by September 15, 2010.
- Microsoft was considering locating a datacenter in NC, but announced on August 27, 2010 that it was locating in Virginia.

Lights... Camera...Incentives!



Film Incentives

- Increased credit from 15% to 25% and eliminated alternative credit.
- Increased cap from $7.5M to $20M.
- No add back required when computing NC taxable income.
- Expanded "qualifying expenses" to include employee fringe contributions , per diems, stipends, and living allowances.
- Clarified that purchases of cameras, film, props, building materials, and chemicals used to develop and edit film do not qualify for 1% privilege tax.

Interactive Digital Media

- New credit = to % of taxpayer's expenses paid in developing the media, platform, or engine that exceeds $50,000.
  - 20% for expenses paid to a "participating community college" or to a research university.
  - 15% for all other allowable expenses.



Eco-Industrial Parks



- Has at least 100 developable acres.
- Located in a county that is not subject to motor vehicles emissions inspections.
- Each building meets certain energy-efficiency and water usage standards.
- Each business in the park is in a "clean industry."

Eco-Industrial Park Incentives

- A development tier one designation.
- Priority for selection for grants under JDIG and NC Green Business Fund.
- No cap or matching fund requirement.
- Increased cap of $5M for tax credit for installation of renewable energy property in nonresidential property.
- Increased credit amount of 35% for qualified research expenses.

Sales Tax Refunds

Paper-from-pulp manufacturing — CLEARWATER PAPER

Turbine Manufacturing — SIEMENS

Sunset Extensions

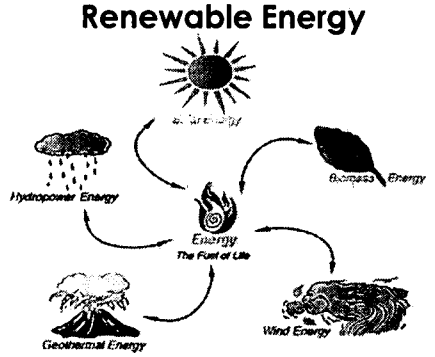
- Article 3J – from 1/1/2011 to 1/1/2013
- Oyster Shell Recycling – from 1/1/2011 to 1/1/2013
- Mill Rehabilitation – from 1/1/2011 to 1/1/2014
- Qualified Business Ventures – 1/1/2011 to 1/1/2013
- Passenger Air Carriers Sales Tax Refund – 1/1/2011 to 1/1/2013
- Motorsports Aviation Fuel Sales Tax Refund – 1/1/2011 to 1/1/2013

Economic Incentive Alignment



- Provides uniformity with regard to sunset and reporting features across various economic incentives.
- Creates a single, unified economic incentives report.
- Deletes obsolete credits.

Renewable Energy



Renewable Energy Credits

- **Constructing renewable fuel facilities** and **biodiesel producers** - extended sunset to 2013.
- **Investing in renewable energy property** – amended definitions, expanded to include "combined heat and power equipment," and allow when cost provided by grants under ARRTA.
- **Constructing renewable energy property facility** - reinstated and expanded.

Other Renewable Energy Changes

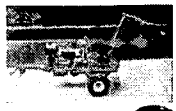
- Clarified local government authority to finance energy programs.
- Clarified that real property donated for conservation purposes may only be used for those purposes.
- Clarified Sec. of Administration is responsible for making allocation of federal §179D deduction.

Sales Tax Changes

Online Travel Companies



Woodchippers



Cities/Cable Television System



Modernize Sales Tax on Accommodations

- Online travel companies will be required to collect sales tax and local occupancy tax on ***sales price*** of accommodations.
- OTCs will be required within 3 days of completed rental to:
  - Notify retailers of the sales price charged to the consumer.
  - Send the portion of the sales price owed to the retailer and the sales and occupancy tax ***on the sales price*** that is due.
- Effective 1/1/2011

Wood Chipper Exemption

A wood chipper that meets all of the following is exempt from sales tax:

- Is designed to be towed by a motor vehicle.
- Is assigned a 17-digit VIN by NHTSA
- Is sold to a person who purchases a MV in this State that is to be registered in another state and who uses the MV to tow the wood chipper to the state where the MV is to be registered.



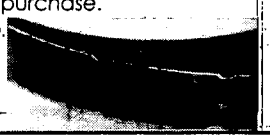
Jointly-Operated Cable TV

MI-CONNECTION

- Cities that jointly operate a cable television system may obtain a refund of State and local sales and use tax.
- Time limited: only for purchases made between 7/1/2007 to 6/30/2010.
- Request must be made in writing before January 1, 2011.

Modernize Admissions Tax

- Extends tax to Internet resale of tickets by a person engaged in the business of reselling.
  - Effective January 1, 2011.
- Restores the Department of Revenue's pre-2009 interpretation to exclude from tax charges for amenities bundled with a ticket purchase.
  - Effective August 1, 2010.



Tax Administration

- Give Taxpayers Notice of Revised Interpretations
- Improve Tax and Debt Collection Process
- Fair Tax Penalties
- Mailbox Rule

Give Taxpayers Notice of Revised Interpretations

- A revised interpretation that **expands scope** of tax or **increases amount of tax** due may not become effective until the sooner of:
  - For a tax that is payable monthly or quarterly, the first day of a month that is at least 90 days after issuance of revised interpretation.
  - For a tax payable annually, the first day of a tax year that begins after issuance of revised interpretation.

Improve Tax and Debt Collection Process

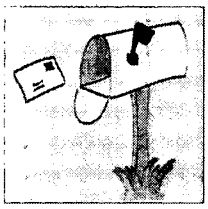
- **Expanded Setoff Debt Collection Act**
  - Allows setoff against a business entity's tax refund.
  - Allows community colleges to submit debts for setoff.
  - Allows setoff against any type of tax refund, not just income.
- **Streamlined Garnishment Process**
  - Authorizes use of electronic process for sending notices.
  - Provides for a data match between the Department of Revenue and financial institutions holding accounts of delinquent taxpayers.
- **Expanded Statewide Accounts Receivable**
  - Allows for collection by setoff against payments the State owes to individuals and businesses of (1) overdue tax debts, and (2) accounts receivable submitted to Dept. of Revenue under the Setoff Debt Collection Act.

Fair Tax Penalties

- Penalty for understatement of tax does not apply to a taxpayer who complies with Secretary's request to file a consolidated or combined return.
- Failure to pay penalty does not apply to a taxpayer who has requested a hearing on the tax liability used as the basis for the penalty.
- Adds 2 circumstances under which consolidated or combined return required:
  - Permanent rule adopted by the Department of Revenue.
  - Written advice provided by the Secretary upon request of corporation.

Mailbox Rule

- A return, report, payment, or any other document submitted to the Department of Revenue is considered **filed** when it is **mailed** rather than when it is received.



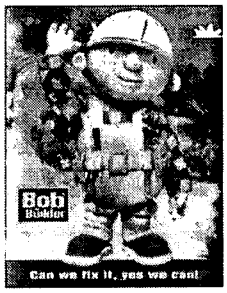
Construction of Wills & Trusts

- There is **no federal estate tax** or generation-skipping transfer tax in effect for the year 2010 because Congress took no action prior to sunset.
- There is **no NC estate tax** for the year 2010 because NC estate tax is tied to federal tax.
- This act addresses confusion and ambiguity in formula clauses caused by the repeal by putting people who die in 2010 in the position they would have been if they had died on December 31, 2009.



Homebuilder Property Tax Deferral Change

- Modification to allow residences constructed by a builder and owned by **either** *the builder* **or** *a business entity of which the builder is a member* to qualify for the deferral program.



2010 Finance Law Changes

- Available online: **www.ncleg.net**
  - NCGA website (under "Legislative Publications")
  - Revenue Laws website
  - Legislative Library website
- Trina Griffin
  - 733-2578
  - trina.griffin@ncleg.net

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: November 10, 2010

TO: Revenue Laws Study Committee

FROM: Jonathan Tart
Fiscal Research Division

RE: 2011 IRC Update

FISCAL IMPACT					
	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
REVENUES:					
($ millions)					
Bonus Depreciation	-299.6	-18.8	81.3	60.3	46.9
Section 179 expensing	-69.7	-44.9	17.4	24.5	17.6
Increased Start-up Expense Deduction	-2.5	-.8	.2	.2	.2
Increase to Capital Gain Exclusion for Small Business Stock	Insignificant Impact				
Deduction for health insurance costs in computing self-employment tax	2.8	1.2	.1	0	0
Allow rollovers from elective deferral	1.6	4.3	4.7	3.9	4.4

accounts into Roth accounts					
Source rules for income on guarantees	1.4	1.9	1.9	1.9	1.9
Allow 457 plan deferrals to be treated as Roth contributions	Insignificant Impact				
Permit partial annuitization of non-qualified annuity contract	Insignificant Impact				
TOTAL	-366	-57.1	105.6	90.8	71
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue					
EFFECTIVE DATE: Effective when it becomes law					

BILL SUMMARY: This proposal would update the reference to the Internal Revenue code used in defining and determining certain State tax provision. By doing so, North Carolina would conform to the changes made by the federal Small Business Jobs Act of 2010.

CURRENT LAW: North Carolina's tax law tracks many provisions of the federal Internal Revenue Code by reference to the Code.[1] The General Assembly determines each year whether to update its reference to the Internal Revenue Code.[2] Updating the Internal Revenue Code reference makes recent amendments to the Code applicable to the State to the extent that State law tracks federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made. Maintaining conformity with federal tax law simplifies tax reporting because a taxpayer will not need to account for differing federal and State treatment of the same asset.

North Carolina income tax law conforms to the Code as of May 1, 2010.[3] After the last update to the statutory reference to the Code, Congress enacted the Small Business Jobs Act of 2010 in September 2010, as P. L. 111-240 (2010 Jobs Act). The 2010 Jobs Act contains several tax law changes that may

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[1] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[2] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

[3] Part 31 of S.L. 2010 31 updated the reference to the Internal Revenue Code used in defining and determining certain State tax provisions from May 1, 2009, to May 1, 2010. However, S.L. 2010 31 did not conform to the five year carryback of net operating losses incurred by large businesses. S.L. 2010 31 incorporated tax changes made by five federal acts: the Worker, Homeownership, and Business Assistance Act (WHBA), P.L. 111-92; Acceleration of Income Tax Benefits for Haiti Relief, P.L. 111-126; the Patient Protection and Affordable Care Act, P.L. 111-148; the Health Care and Education Reconciliation Act, P.L. 111-152; and the Hiring Incentives to Restore Employment Act (HIRE), P.L. 111-147.

affect a taxpayer's federal taxable income for the 2010 tax year. Since North Carolina's definition of the Code does not incorporate these changes, a taxpayer whose taxable income is affected by the changes will have to make appropriate adjustments on the 2010 State tax return.

The 2010 Jobs Act enhances existing business tax incentives and partially offsets this revenue loss with changes which are expected to increase revenue. The incentives in the 2010 Jobs Act are not limited to small businesses, and the accelerated deduction for depreciation represents a major benefit to large businesses.

BILL ANALYSIS:

The 2010 Jobs Act's significant business tax incentives are described below. The federal law changes which increase revenue are listed separately. The business tax incentives available at the federal level under the 2010 Jobs Act include the following:

- ***Extension of Bonus Depreciation*** – Bonus depreciation allows a business to claim more of a deduction up front and spread the remainder out over the normal depreciation schedule. However, over the life of the asset the taxpayer still receives the same benefit. The federal Economic Stimulus Act of 2008[4] provided a 50% first year bonus depreciation for qualified property acquired and placed in service in 2008. The federal American Recovery and Reinvestment Act of 2009 extended the 50% bonus depreciation provided to qualified property for an additional year through 2009. The 2010 Jobs Act extends the bonus depreciation for 2010 and is retroactive to the beginning of 2010.[5]

  North Carolina decoupled from the extension of the bonus depreciation provisions in 2008 and 2009. The State delayed the impact of the bonus depreciation deduction in a manner similar to what it has done in the past: State tax law provides that a taxpayer may deduct the same amount of an asset's basis under State law as under federal law, it is just that the timing of the deduction differs. Under State tax law, a taxpayer must add back 85% of the accelerated depreciation amount[6] in the year that it is claimed for federal purposes. Then, in subsequent tax years, the taxpayer may deduct from federal taxable income the total amount of the addback, divided into five equal installments. This means that for State tax purposes, a taxpayer may deduct a greater depreciation amount in the outlying tax years, which will be the normal depreciation amount plus 20% of the accelerated depreciation amount the taxpayer had to add back.

  The 2010 Jobs Act also allows taxpayers using the percentage of completion accounting method to benefit from bonus depreciation at the federal level for assets with a depreciable life of seven years or less. The percentage of completion accounting method might prevent taxpayers from receiving benefit from the bonus depreciation because the accounting method spreads expenses, including depreciation, throughout the life of a long-term contract. Under this accounting method, taxpayers could not deduct the bonus depreciation in the first year. Construction contractors use the percentage of completion accounting method. This provision is new.

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[4] Congress has authorized bonus depreciation several times to encourage business investment, specifically after September 11, 2001. The Jobs Creation and Worker Assistance Act of 2002 provided a 30% bonus depreciation allowance. The Jobs and Growth Tax Relief Reconciliation Act of 2003 extended the sunset and increased the amount to 50%.

[5] The property may be placed in service during 2011 for property with a recovery period of 10 years or longer and for transportation property (i.e., tangible personal property used to transport people or property).

[6] The accelerated depreciation amount for property placed in service in 2008 is 50%.

- ***Enhanced section 179 expensing*** –Section 179 allows the expensing of the purchase price of some business assets[7] in the year of purchase rather than taking depreciation[8] throughout the life of the asset. In other words, expensing trades a smaller yearly deduction over time for a larger deduction in year one.

  Prior to the Emergency Economic Stabilization Act of 2008 (EESA), the section 179 expensing deduction was limited to $128,000 of the cost of the property with a phase-out at $510,000. The EESA increased the deduction limit from $128,000 to $250,000 with a phaseout at $800,000 for the 2008 tax year. The American Recovery and Reinvestment Act of 2009 extended the temporary increase through 2009. The federal HIRE Act of 2010 extended the 2008 and 2009 increase through 2010. North Carolina conformed to those changes.

  The 2010 Jobs Act expands the section 179 expensing deduction in three ways. The expansion is effective for tax years 2010 and 2011. The first year expensing is enhanced as follows:

  - ***Increase limit on expensing*** – The 2010 Jobs Act increases the maximum deduction from $250,000 to $500,000.
  - ***Increase phase-out threshold*** – The 2010 Jobs Act increases the phase-out threshold from $800,000 to $2 million.
  - ***Expansion of eligible property*** – The 2010 Jobs Act expands the definition of qualified property to include qualified leasehold improvement property, qualified restaurant property, qualified retail improvement property, and computer software.[9]

- ***Increase in amount allowed as a deduction for start-up expenditures*** – Under the 2010 Jobs Act, a taxpayer may take a deduction of up to $10,000 for start-up and organization expenses of the taxpayer's trade or business in 2011. However, the amount of the deduction is reduced by the amount by which those expenses exceed $60,000.

- ***Modification to exclusion for gain from certain small business stock*** – The American Recovery and Reinvestment Tax Act of 2009 (ARRTA) temporarily increased from 50% to 75% the exclusion for qualified small business stock sold by an individual. The increased exclusion percentage is applicable to stock acquired after February 17, 2009 and before January 1, 2011. North Carolina conformed to ARRTA's temporary increase of the exclusion. When the stock is issued, the gross assets of the issuing corporation may not exceed $50 million and the corporation must have at least 80% of the value of its assets used in the active conduct of one or more qualified trades or businesses. The 2010 Jobs Act increases the exclusion percentage to 100% for stock acquired after September 27, 2010 and before January 1, 2011.

The federal law changes in the Jobs Act which increase revenue include:

- ***Deduction for health insurance costs in computing self-employment taxes*** – The 2010 Jobs Act allows self-employed individuals to deduct the cost of health insurance for the individual and immediate family to determine income subject to federal self-employment taxes. Health insurance costs were already deductible for regular income tax purposes. The reduction in self-employment taxes affects North Carolina taxable income because self-employment taxes were deductible in

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[7] The business asset must be newly purchased tangible personal property that is used more than 50% for business purposes and is eligible to be depreciated under the Code.

[8] Generally, taxpayers take the Section 179 expensing deduction first and claim Section 168(k) depreciation on any remaining basis.

[9] Qualified real property is limited to a maximum deduction of $250,000.

determining State taxable income. Self-employed taxpayers with health insurance costs will have larger State taxable incomes because less self-employment taxes were imposed and deducted at the federal level.

- ***Allow participants in governmental 457 plans to treat elective deferrals as Roth contributions*** – The 2010 Jobs Act gives participants the option to move retirement savings from government 457(b) plans to Roth accounts starting in 2011. The conversion will be taxable while the earrings and distributions from Roth accounts are generally tax free.
- ***Allow rollovers from elective deferral plans to Roth designated accounts*** – The 2010 Jobs Act allows retirement plans to offer participants the option starting September 27, 2010 to rollover distributions into Roth accounts within the same retirement plan. The rollover will be taxable while the earnings and distributions from the Roth account are generally tax free.
- ***Permit partial annuitization of a nonqualified annuity contract*** – The 2010 Jobs Act allows the owner of an annuity contract to begin receiving benefits based on a portion of the value of the annuity and leaving the balance of the annuity to accumulate earnings tax free. This option starts in 2011.
- ***Source rules for income on guarantees*** – The 2010 Jobs Act clarifies the federal tax treatment of guarantee fees as income sourced to the United States if connected to the United States by a domestic payer or by the conduct of a trade or business in the United States.

Bill Analysis by Greg Roney, Research Division

ASSUMPTIONS AND METHODOLOGY: The methodology used begins with the Joint Tax Committee estimates of the nationwide federal impact by federal fiscal year (Federal fiscal years run from October through September). Fiscal Research adjusted these numbers back to an approximate calendar year tax impact. The next step was to prorate the national numbers to the state impact.

SOURCES OF DATA: US Joint Committee on Taxation, NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

REVENUE LAWS STUDY COMMITTEE
Wednesday, December 1, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, December 1, 2010 in room 544 of the Legislative Office Building. Sixteen members of the committee were present. Senator Clodfelter presided as chair.

Approval of Minutes from November 10th Meeting

Senator Brunstetter motioned for the approval of the November 10, 2010 minutes and the motion carried. A copy of the minutes is attached.

Industry-Specific Apportionment Formulas: Broadcasters

Lennie Collins, the Department of Revenue's Director of Corporate, Excise and Insurance Tax, was recognized. He outlined the apportionment formula used for taxing North Carolina broadcasters. He cited the problem with the formula is that some or all of some broadcasters' services are performed outside of the State. Some of his recommendations included the adoption of an industry-specific apportionment formula and consider the "audience factor" – a ratio of NC audience for a station to the total audience for that station elsewhere as determined by rating statistics from sources such as Neilson or Arbitron. Representation Gibson noted that he needs to be recused from the vote on this issue. Charles Marshall with the Association of Broadcasters was recognized. He offered to compile comments for any proposed bill draft. Mr. Collins will work with Revenue staff to prepare a bill draft. A copy of his presentation is attached.

Status of Rulemaking for Forced Combinations

Secretary Hoyle, Department of Revenue, was recognized to provide an update on rulemaking in regards to Senate Bill 897 and the gross underpayment of owed corporate taxes. He said that a rough draft has been completed and Revenue's senior management is currently reviewing it. Senator Clodfelter requested that the staff circulate copies to the Revenue Laws Committee membership.

IRC Update Follow-Up

Jonathan Tart, a fiscal analyst in the Fiscal Research Division, was recognized. He discussed the federal government's passage of the 2010 Job Creation Act and its significant impact on North Carolina if the State does not decouple from the federal changes. Barry Boardman, a fiscal analyst in the Fiscal Research Division, was recognized to answer questions. A copy of Mr. Tart's fiscal memo and a copy of North Carolina's 2010 Individual Income Tax Return are attached.

Department-Initiated Tax Refunds Follow-Up

Trina Griffin, an attorney with the Research Division, was recognized. She explained when the Department of Revenue (DOR) must initiate a refund and when the DOR

knows that a refund must be issued. She offered a summary, observations and options for the Committee on the DOR's refund policy. A copy of her power point is attached.

Business Entity Changes for Present-Use Value Taxation

Martha Walston, an attorney with the Fiscal Research Division, was recognized to present the proposed bill draft on business entity changes. The draft makes changes to the business entity ownership requirements for qualification of land at its present-use value so that the requirements are met when the current owner of the land shares members in common with the prior owner of the land. Senator Hartsell moved to include the draft in the Committee's final report to the session. The motion carried. A copy of the proposed bill draft is attached.

Delay of Tax Refunds Follow Up: Distribution of Proposed Legislation

Rodney Bizzell, a fiscal analyst with the Fiscal Research Division, was recognized. He gave a history of borrowing using tax anticipation notes. Draft legislation was distributed. It makes changes to the State Controller's authority to withhold approval of the DOR's refund fund request. A copy of Mr. Bizzell's power point presentation and the proposed bill draft is attached.

Revenue Laws Technical, Clarifying, and Administrative Changes

Cindy Avrette, a staff attorney with the Research Division, was recognized. She explained the Revenue Laws technical bill. It includes several technical, administrative, and clarifying changes to the revenue laws and related statutes. A copy of the proposed bill draft is attached.

The meeting adjourned at 11:15 a.m.

Senator Dan Clodfelter, Presiding Chair
Revenue Laws Study Committee

DeAnne Mangum, Committee Clerk

REVENUE LAWS STUDY COMMITTEE
State Legislative Building
Raleigh, North Carolina 27603

Senator Daniel G. Clodfelter, Co-Chair *Representative Paul Luebke, Co-Chair*

November 17, 2010

NOTICE

TO: Members, Revenue Laws Study Committee

FROM: Senator Dan Clodfelter, Co-Chair
Representative Paul Luebke, Co-Chair

SUBJECT: Revenue Laws Study Committee Meeting

There will be a meeting of the **Revenue Laws Study Committee** as follows:

DAY: **Wednesday**

DATE: **December 1, 2010**

TIME: **9:30 am**

LOCATION: **Room 544, Legislative Office Building**

Please advise DeAnne Mangum, Committee Clerk, at (919) 733-2405 or e-mail deanne.mangum@ncleg.net if you will be unable to attend.

REVENUE LAWS STUDY COMMITTEE AGENDA

Sen. Daniel Clodfelter Rep. Paul Luebke

Wednesday, December 1, 2010
Room 544, Legislative Office Building
9:30 a.m.

I. **Approval of Minutes from November 10, 2010 Meeting**

II. **Industry-Specific Apportionment Formulas: Broadcasters**
– *Lennie Collins, Director of Corporate, Excise, and Insurance Tax, Department of Revenue*

III. **Status of Rulemaking for Forced Combinations**
– *Department of Revenue*

IV. **IRC Update Follow-Up**
– *Jonathan Tart, Fiscal Research Division*

V. **Department-Initiated Tax Refunds Follow-Up**
– *Trina Griffin, Research Division*

VI. **Business Entity Changes for Present-Use Value Taxation**
– *Martha Walston, Fiscal Research Division*

VII. **Delay of Tax Refunds Follow Up: Distribution of Proposed Legislation**
– *Rodney Bizzell, Fiscal Research Division*

VIII. **Revenue Laws Technical, Clarifying, and Administrative Changes: Part I**
– *Cindy Avrette, Research Division*

IX. **Adjournment**

Next Meeting Date: Wednesday, January 5, 2011
in Room 544, LOB, at 9:30 a.m.

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Dec. 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Roberson	TWC
Charlie Marshall	Brooks Pierce
Joe Lanier	Nelson Mullins
Jim Johnson	BSA
Kim Crouch	NCBA
Christa Wagner Vinson	Commerce
Michael Haley	Commerce
A. Solari	DST
Vance Holloman	DST
Dora Fazzini	DST
Maeve Goff	Smith Anderson

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Dec. 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	WM
[signature]	WM
[signature]	CenturyLink
W. Gardner Culpepper	NCNA
Will Culpepper	MVA
Steve Brewer	CenturyLink
Lucius Pullen	Attorney
Matthew Eisley	Smith Anderson
[signature]	CAPA
John Goodman	NC Chamber
[signature]	Bode & Asso.

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Dec. 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
John Bowdish	AstraZeneca
Butch Gunnells	NC Beverage A
Ken Melton	K. M. A.

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Dec. 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
	NCAOO
Doug Heron	William Mullen
	DOR
David Rice	Manning Fulton
	SEANC
Mac Boxley	NC Aggregates
Christine Weasun	American Cancer Society
	Misc

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Dec. 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Michael Houser	NC DOR
Lennie Collins	NC DOR
Eric Wayne	NC DOR
Lee Harris	NC DOR
Bill Wilkes	NC DOR
David Baker	NC DOR
Bill Spencer	NC DOR
Edwin McLenaghan	NC Justice Center
Erica Nelson	NC CCP
Debra Dew	ESC NC
LocKhart Taylor	ESC NC

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Dec. 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Kevin D Carlson	ESC NC
Rebecca Troutman	NCACC
Karl Knapp	NCLM
Cam Cover	BDMHL
[illegible]	DUKE
RLamm	RL+A
M. Soles	DCR
Leann Killian	Nelson Mullins
Patrick Bafflin	NCAEC
Mary Tate	Brad Ford
[illegible]	MWC

Industry-Specific Apportionment – Broadcasters

Revenue Laws Study Committee
Lennie Collins, Director
Corporate, Excise & Insurance Tax Division
NC Department of Revenue
December 1, 2010

Apportionment

- Income of a multistate business is generally apportioned by use of a 3-factor formula
  - Property
  - Payroll
  - Sales (double weighted)
- Numerator consists of property, payroll and sales in NC
- Denominator consists of property, payroll and sales everywhere

Current Industry-Specific Formulas

- Railroads – railway operating revenue
- Telephone Companies – operating revenue from local service
- Motor Carriers – vehicle miles
- Public Utilities – sales factor only
- Air/Water Carriers – revenue ton miles

Numerator: Sourcing Sales to NC

- Sales of tangible personal property received by a purchaser in NC
- Receipts are from real or tangible personal property located in NC
- Receipts from intangible property received from sources in NC
- Receipts from services and the income producing activity is in NC

Issue:

•When the benefit of the service is received in NC but some or all of the service is performed outside NC

Example:

•Non-NC based direct-to-home satellite services business

•Has taxable nexus in North Carolina

•Provides programming services to subscribers in NC

• Argued that none of the receipts from subscribers was includible in the NC sales factor numerator because the service to beam the programming to the satellite was done outside NC

Recommendation

- Adopt Industry-Specific apportionment formula
- 3-factor formula
- Payroll Factor – unchanged
- Property Factor
  - Modify to assign outer-jurisdictional property to the numerator based on the percentage of uplinks or downlinks located in NC, or exclude from the factor altogether.
  - Clarify that mobile or movable property is sourced based on the number of days in NC.

Recommendation

- Sales of tangible personal property – unchanged
- NC sales numerator includes gross receipts from:
  - Programming in release to or by TV and radio stations in NC
  - Programming in release to or by independent or unaffiliated TV or radio stations or a network of stations for broadcast multiplied by an audience factor.
  - Programming in release to or by a cable television system (and direct-to -home satellite services) multiplied by a ratio of subscribers in NC to subscribers everywhere.
  - Sales, rental or licensing of audio or video material intended for home viewing to the extent the purchaser is in NC.

Recommendation

•Audience Factor – ratio of NC audience for a station to the total audience for that station everywhere as determined by the taxpayer's books and records or by reference to rating statistics from sources such as Neilson or Arbitron.

Questions?

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: December 1, 2010

TO: Revenue Laws Study Committee

FROM: Jonathan Tart
Fiscal Research Division

RE: 2011 IRC Update

FISCAL IMPACT					
	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
REVENUES:					
($ millions)					
Bonus Depreciation	0	-318.4	81.3	60.3	46.9
Section 179 expensing	0	-114.6	17.4	24.5	17.6
Increased Start-up Expense Deduction	0	-3.3	.2	.2	.2
Increase to Capital Gain Exclusion for Small Business Stock	Insignificant Impact				
Deduction for health insurance costs in computing self-employment tax	0	4	.1	0	0
Allow rollovers from	0	5.9	4.7	3.9	4.4

elective deferral accounts into Roth accounts					
Source rules for income on guarantees	0	3.3	1.9	1.9	1.9
Allow 457 plan deferrals to be treated as Roth contributions	Insignificant Impact				
Permit partial annuitization of non-qualified annuity contract	Insignificant Impact				
TOTAL	0	-423.1	105.6	90.8	71
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue					
EFFECTIVE DATE: Effective when it becomes law					

BILL SUMMARY: This proposal would update the reference to the Internal Revenue code used in defining and determining certain State tax provision. By doing so, North Carolina would conform to the changes made by the federal Small Business Jobs Act of 2010.

CURRENT LAW: North Carolina's tax law tracks many provisions of the federal Internal Revenue Code by reference to the Code.[1] The General Assembly determines each year whether to update its reference to the Internal Revenue Code.[2] Updating the Internal Revenue Code reference makes recent amendments to the Code applicable to the State to the extent that State law tracks federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made. Maintaining conformity with federal tax law simplifies tax reporting because a taxpayer will not need to account for differing federal and State treatment of the same asset.

North Carolina income tax law conforms to the Code as of May 1, 2010.[3] After the last update to the statutory reference to the Code, Congress enacted the Small Business Jobs Act of 2010 in

[1] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[2] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

[3] Part 31 of S.L. 2010 31 updated the reference to the Internal Revenue Code used in defining and determining certain State tax provisions from May 1, 2009, to May 1, 2010. However, S.L. 2010 31 did not conform to the five year carryback of net operating losses incurred by large businesses. S.L. 2010 31 incorporated tax changes made by five federal acts: the Worker, Homeownership, and Business Assistance Act (WHBA), P.L. 111-92; Acceleration of Income Tax Benefits for Haiti Relief, P.L. 111-126; the Patient Protection and Affordable Care Act, P.L. 111-148;

September 2010, as P. L. 111-240 (2010 Jobs Act). The 2010 Jobs Act contains several tax law changes that may affect a taxpayer's federal taxable income for the 2010 tax year. Since North Carolina's definition of the Code does not incorporate these changes, a taxpayer whose taxable income is affected by the changes will have to make appropriate adjustments on the 2010 State tax return.

The 2010 Jobs Act enhances existing business tax incentives and partially offsets this revenue loss with changes which are expected to increase revenue. The incentives in the 2010 Jobs Act are not limited to small businesses, and the accelerated deduction for depreciation represents a major benefit to large businesses.

BILL ANALYSIS:

The 2010 Jobs Act's significant business tax incentives are described below. The federal law changes which increase revenue are listed separately. The business tax incentives available at the federal level under the 2010 Jobs Act include the following:

- *Extension of Bonus Depreciation* – Bonus depreciation allows a business to claim more of a deduction up front and spread the remainder out over the normal depreciation schedule. However, over the life of the asset the taxpayer still receives the same benefit. The federal Economic Stimulus Act of 2008[4] provided a 50% first year bonus depreciation for qualified property acquired and placed in service in 2008. The federal American Recovery and Reinvestment Act of 2009 extended the 50% bonus depreciation provided to qualified property for an additional year through 2009. The 2010 Jobs Act extends the bonus depreciation for 2010 and is retroactive to the beginning of 2010.[5]

  North Carolina decoupled from the extension of the bonus depreciation provisions in 2008 and 2009. The State delayed the impact of the bonus depreciation deduction in a manner similar to what it has done in the past: State tax law provides that a taxpayer may deduct the same amount of an asset's basis under State law as under federal law, it is just that the timing of the deduction differs. Under State tax law, a taxpayer must add back 85% of the accelerated depreciation amount[6] in the year that it is claimed for federal purposes. Then, in subsequent tax years, the taxpayer may deduct from federal taxable income the total amount of the addback, divided into five equal installments. This means that for State tax purposes, a taxpayer may deduct a greater depreciation amount in the outlying tax years, which will be the normal depreciation amount plus 20% of the accelerated depreciation amount the taxpayer had to add back.

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the Health Care and Education Reconciliation Act, P.L. 111-152; and the Hiring Incentives to Restore Employment Act (HIRE), P.L. 111-147.

[4] Congress has authorized bonus depreciation several times to encourage business investment, specifically after September 11, 2001. The Jobs Creation and Worker Assistance Act of 2002 provided a 30% bonus depreciation allowance. The Jobs and Growth Tax Relief Reconciliation Act of 2003 extended the sunset and increased the amount to 50%.

[5] The property may be placed in service during 2011 for property with a recovery period of 10 years or longer and for transportation property (i.e., tangible personal property used to transport people or property).

[6] The accelerated depreciation amount for property placed in service in 2008 is 50%.

The 2010 Jobs Act also allows taxpayers using the percentage of completion accounting method to benefit from bonus depreciation at the federal level for assets with a depreciable life of seven years or less. The percentage of completion accounting method might prevent taxpayers from receiving benefit from the bonus depreciation because the accounting method spreads expenses, including depreciation, throughout the life of a long-term contract. Under this accounting method, taxpayers could not deduct the bonus depreciation in the first year. Construction contractors use the percentage of completion accounting method. This provision is new.

- *Enhanced section 179 expensing* -Section 179 allows the expensing of the purchase price of some business assets[7] in the year of purchase rather than taking depreciation[8] throughout the life of the asset. In other words, expensing trades a smaller yearly deduction over time for a larger deduction in year one.

  Prior to the Emergency Economic Stabilization Act of 2008 (EESA), the section 179 expensing deduction was limited to $128,000 of the cost of the property with a phase-out at $510,000. The EESA increased the deduction limit from $128,000 to $250,000 with a phaseout at $800,000 for the 2008 tax year. The American Recovery and Reinvestment Act of 2009 extended the temporary increase through 2009. The federal HIRE Act of 2010 extended the 2008 and 2009 increase through 2010. North Carolina conformed to those changes.

  The 2010 Jobs Act expands the section 179 expensing deduction in three ways. The expansion is effective for tax years 2010 and 2011. The first year expensing is enhanced as follows:

  - *Increase limit on expensing* – The 2010 Jobs Act increases the maximum deduction from $250,000 to $500,000.
  - *Increase phase-out threshold* – The 2010 Jobs Act increases the phase-out threshold from $800,000 to $2 million.
  - *Expansion of eligible property* – The 2010 Jobs Act expands the definition of qualified property to include qualified leasehold improvement property, qualified restaurant property, qualified retail improvement property, and computer software.[9]

- *Increase in amount allowed as a deduction for start-up expenditures* – Under the 2010 Jobs Act, a taxpayer may take a deduction of up to $10,000 for start-up and organization expenses of the taxpayer's trade or business in 2011. However, the amount of the deduction is reduced by the amount by which those expenses exceed $60,000.
- *Modification to exclusion for gain from certain small business stock* – The American Recovery and Reinvestment Tax Act of 2009 (ARRTA) temporarily increased from 50% to

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[7] The business asset must be newly purchased tangible personal property that is used more than 50% for business purposes and is eligible to be depreciated under the Code.

[8] Generally, taxpayers take the Section 179 expensing deduction first and claim Section 168(k) depreciation on any remaining basis.

[9] Qualified real property is limited to a maximum deduction of $250,000.

75% the exclusion for qualified small business stock sold by an individual. The increased exclusion percentage is applicable to stock acquired after February 17, 2009 and before January 1, 2011. North Carolina conformed to ARRTA's temporary increase of the exclusion. When the stock is issued, the gross assets of the issuing corporation may not exceed $50 million and the corporation must have at least 80% of the value of its assets used in the active conduct of one or more qualified trades or businesses. The 2010 Jobs Act increases the exclusion percentage to 100% for stock acquired after September 27, 2010 and before January 1, 2011.

The federal law changes in the Jobs Act which increase revenue include:

- *Deduction for health insurance costs in computing self-employment taxes* – The 2010 Jobs Act allows self-employed individuals to deduct the cost of health insurance for the individual and immediate family to determine income subject to federal self-employment taxes. Health insurance costs were already deductible for regular income tax purposes. The reduction in self-employment taxes affects North Carolina taxable income because self-employment taxes were deductible in determining State taxable income. Self-employed taxpayers with health insurance costs will have larger State taxable incomes because less self-employment taxes were imposed and deducted at the federal level.
- *Allow participants in governmental 457 plans to treat elective deferrals as Roth contributions* – The 2010 Jobs Act gives participants the option to move retirement savings from government 457(b) plans to Roth accounts starting in 2011. The conversion will be taxable while the earrings and distributions from Roth accounts are generally tax free.
- *Allow rollovers from elective deferral plans to Roth designated accounts* – The 2010 Jobs Act allows retirement plans to offer participants the option starting September 27, 2010 to rollover distributions into Roth accounts within the same retirement plan. The rollover will be taxable while the earnings and distributions from the Roth account are generally tax free.
- *Permit partial annuitization of a nonqualified annuity contract* – The 2010 Jobs Act allows the owner of an annuity contract to begin receiving benefits based on a portion of the value of the annuity and leaving the balance of the annuity to accumulate earnings tax free. This option starts in 2011.
- *Source rules for income on guarantees* – The 2010 Jobs Act clarifies the federal tax treatment of guarantee fees as income sourced to the United States if connected to the United States by a domestic payer or by the conduct of a trade or business in the United States.

Bill Analysis by Greg Roney, Research Division

ASSUMPTIONS AND METHODOLOGY: The methodology used begins with the Joint Tax Committee estimates of the nationwide federal impact by federal fiscal year (Federal fiscal years run from October through September). Fiscal Research adjusted these numbers back to an approximate calendar year tax impact. The next step was to prorate the national numbers to the state impact using Gross State Product data compared to the nation as a whole.

Even though the major provisions of the 2010 Jobs Act are effective for 2010, the fiscal impact for the incentives that would be taken on 2010 tax returns is allocated to the 2011-2012 fiscal year. North Carolina's current reference to the Internal Revenue Code was updated during the last Session to May 1, 2010. Since the 2010 Jobs Act was not enacted until September, 2010, taxpayers are not entitled to these incentives for North Carolina purposes under current law. The 2011 General Assembly does not convene until after 2010 tax forms are published, therefore 2010 tax forms will reflect current law and require taxpayers to add back 100% of the 2010 Jobs Act incentives taken on the federal return when computing North Carolina taxable income. If the 2011 General Assembly adopts the provisions of the 2010 Jobs Act, it is unlikely that conforming legislation could be enacted in time for the fiscal impact to be realized prior to the end of FY 2010-11. Consequently, the FY 2011-2012 column in the table above shows the fiscal impact resulting from tax incentives that would be taken for the 2010 tax year, and those that would be taken for the 2011 tax year.

SOURCES OF DATA: US Joint Committee on Taxation, US Bureau of Economic Analysis, NC Department of Revenue

TECHNICAL CONSIDERATIONS: None

Individual Income Tax Return *2010*

D-400

North Carolina Department of Revenue

Print in Black or Blue Ink Only. No Pencil or Red Ink. IMPORTANT: Do not send a photocopy of this form. The original form is printed in pink and black ink.

Staple All Pages of Your Return

For calendar year **2010,** or fiscal year beginning *(MM-DD)* ___ - ___ - 10 and ending *(MM-DD-YY)* ___ - ___ - ___

Your Social Security Number ___ - ___ - ____

You must enter your social security number(s)

Spouse's Social Security Number ___ - ___ - ____

Your First Name *(USE CAPITAL LETTERS FOR YOUR NAME AND ADDRESS)* | M.I. | Your Last Name

If a Joint Return, Spouse's First Name | M.I. | Spouse's Last Name

Address | Apartment Number

City | State | Zip Code | Country *(If not U.S.)* | County *(Enter first five letters)*

○ ← **Fill in circle if you or your spouse were out of the country on April 15 and a U.S. citizen or resident.**

○ **Fill in circle if this is an AMENDED 2010 return.** (Note: This form cannot be used for tax years other than 2010.) **Important:** You must also complete **Form D-400X-WS, Worksheet for Amending 2010 Individual Income Tax Return**, and attach it to the front of your amended return.

Deceased Taxpayer Information

○ Fill in circle if return is filed and signed by Executor, Administrator or Court-Appointed Personal Representative.

If return is for a deceased taxpayer or deceased spouse, enter date of death.

Taxpayer *(MM-DD-YY)* ___ - ___ - ___

Spouse *(MM-DD-YY)* ___ - ___ - ___

N.C. Public Campaign Fund

Mark 'Yes' if you want to designate $3 of taxes to this special Fund for voter education materials and for candidates who accept spending limits. Marking 'Yes' does not change your tax or refund.

Fill in appropriate circle

	You	Your Spouse
	○ Yes	○ Yes
	○ No	○ No

N.C. Political Parties Financing Fund

Fill in appropriate circle if you want to designate $3 to this fund. Your tax remains the same whether or not you make a designation.

You	Your Spouse
○ Democratic	○ Democratic
○ Republican	○ Republican
○ Libertarian	○ Libertarian
○ Unspecified	○ Unspecified

Federal Adjusted Gross Income

Enter federal adjusted gross income from your federal return *(Form 1040, Line 37; Form 1040A, Line 21; or Form 1040EZ, Line 4)*

Fill in circle if negative ▶ ○ ___,___,___ .00

Residency Status

Were you a resident of N.C. for the entire year of 2010? ○ Yes ○ No

Was your spouse a resident for the entire year? ○ Yes ○ No

*If **No**, complete Lines 1 through 11. Then go to Page 4 of Form D-400. Fill in residency information and complete Lines 54 through 56.*

Filing Status

Same as federal. Fill in one circle only. If your spouse was a nonresident and had no North Carolina taxable income in 2010, see the Line Instructions for Lines 1 through 5. If you do not indicate your filing status by filling in one of the circles, any refund due will be delayed.

1. ○ **Single**
2. ○ **Married Filing Jointly**
3. ○ **Married Filing Separately** → *(Enter your spouse's full name and Social Security Number)* Name _____ SSN _____
4. ○ **Head of Household**
5. ○ **Qualifying Widow(er) with Dependent Child** (Year spouse died: _____)

Enter the **Number of Exemptions** claimed on your federal income tax return ___

If amount on Line 6, 8, 10, 11, or 13 is negative, fill in circle. Example: ●

Enter Whole U.S. Dollars Only

6. **Taxable Income from Your Federal Income Tax Return** Form 1040, Line 43; Form 1040A, Line 27; or Form 1040EZ, Line 6 ***(If zero, see the Line Instructions)*** ▶ 6. ○ ___,___,___ .00
7. **Additions to Federal Taxable Income** All taxpayers must complete **Lines 33 through 43 on Page 3** and enter amount from Line 43 ▶ 7. ___,___,___ .00
8. **Add** Lines 6 and 7 8. ○ ___,___,___ .00
9. **Deductions from Federal Taxable Income** If applicable, complete **Lines 44 through 53 on Page 3** and enter amount from Line 53 ▶ 9. ___,___,___ .00
10. Line 8 **minus** Line 9 10. ○ ___,___,___ .00

Staple W-2s Here

7020108012

2010

Last Name *(First 10 Characters)* | Tax Year **2010** | Your Social Security Number

Be sure to sign and date your return on Page 4.

11.	**Enter amount from Line 10**	11.	.00
12.	**Part-year residents and nonresidents** Complete **Lines 54 through 56 on Page 4** and enter decimal amount from Line 56	12.	.
13.	**North Carolina Taxable Income** **Full-year residents** enter the amount from Line 11 **Part-year residents and nonresidents** multiply amount on Line 11 by the decimal amount on Line 12	13.	.00
14.	**North Carolina Income Tax** - If the amount on Line 13 is less than $68,000, use the **Tax Table** beginning on Page 21 of the instructions to determine your tax. If the amount on Line 13 is $68,000 or more, use the **Tax Rate Schedule** on Page 29 to calculate your tax.	14.	.00
15.	**Surtax** - If North Carolina Taxable Income, Line 13, exceeds $50,000, see instructions on Page 32 to determine the amount to enter here.	▶ 15.	.00
16.	**Total North Carolina Income Tax** (Add Lines 14 and 15)	16.	.00
17.	**Tax Credits** *(From Form D-400TC, Part 4, Line 36 - **You must attach Form D-400TC** if you enter an amount on this line)*	▶ 17.	.00
18.	**Subtract** Line 17 from Line 16	18.	.00
19.	**Consumer Use Tax** *(See instructions on Page 8)*	▶ 19.	.00
20.	**Add** Lines 18 and 19	20.	.00
21.	**North Carolina Income Tax Withheld** *(Staple original or copy of the original State wage and tax statement(s) in lower left-hand corner of the return)* a. Your tax withheld	▶ 21a.	.00
	b. Spouse's tax withheld	▶ 21b.	.00
22.	**Other Tax Payments**		
	a. 2010 Estimated Tax	▶ 22a.	.00
	b. Paid with Extension	▶ 22b.	.00
	c. Partnership	▶ 22c.	.00
	d. S Corporation	▶ 22d.	.00
	If you claim a partnership payment on Line 22c or S corporation payment on Line 22d, you must attach a copy of the NC K-1.		
23.	**North Carolina Earned Income Tax Credit** *(From Form D-400TC, Part 5)*	▶ 23.	.00
24.	**Tax Credit for Small Businesses That Pay N.C. Unemployment Insurance** *(From Form D-400TC, Part 6)*	▶ 24.	.00
25.	**Add** Lines 21a through 24 and enter the total on Line 25	25.	.00
26.	a. **Tax Due** - If Line 20 is more than Line 25, subtract and enter the result	▶ 26a.	.00
	b. **Penalties** ▶ .00 c. **Interest** ▶ .00		
	d. **Add** Lines 26b and 26c and enter the total on Line 26d	26d.	.00
	e. Interest on the underpayment of estimated income tax *(See Line instructions and enter letter in box, if applicable)* **Exception to underpayment of estimated tax** ▶	▶ 26e.	.00
27.	**Add** Lines 26a, 26d, and 26e and enter the total - **Pay This Amount** *You can now pay online. Go to our website and click on Electronic Services for details.*	27. $	.00
28.	**Overpayment** - If Line 20 is less than Line 25, subtract and enter the result	28.	.00
29.	Amount of Line 28 to be applied to **2011 Estimated Income Tax**	▶ 29.	.00
30.	Contribution to the **N.C. Nongame and Endangered Wildlife Fund**	▶ 30.	.00
31.	**Add** Lines 29 and 30	31.	.00
32.	**Subtract** Line 31 from Line 28 and enter the **Amount To Be Refunded** *For a faster refund, file electronically. Go to our website and click on efile.*	▶ 32.	.00



Additions to Federal Taxable Income *(See Line Instructions beginning on Page 11.)*

33. Enter the itemized deductions or the standard deduction from your federal return

- Form 1040, Line 40
- Form 1040A, Line 24
- Form 1040EZ SINGLE filers - enter $5,700 **OR** the amount from Line 5 of Form 1040EZ, **whichever is less**
- Form 1040EZ MARRIED FILING JOINTLY filers - enter $11,400 **OR** the amount from Line 5 of Form 1040EZ, **whichever is less**

Enter Whole U.S. Dollars Only

▶ 33. .00

34. Enter your N.C. standard deduction *(The standard deduction for most people is shown below.)*

- Single $3,000
- Head of household $4,400
- Qualifying widow(er) $6,000
- Married filing jointly $6,000
- Married filing separately:
  - If your spouse does not claim itemized deductions $3,000
  - If your spouse claims itemized deductions 0

▶ 34. .00

⚠ **Note: If 65 or older or blind OR if someone can claim you as a dependent,** see the applicable chart or worksheet on Page 11 to determine the amount to enter on this line.

35. **Subtract** Line 34 from Line 33 and enter the result here, but not less than zero — 35. .00

36. **If you claimed the standard deduction** on your federal return, **do not** enter any amount on Line 36. **Instead, skip Line 36 and go to Line 37.**

If you itemized your deductions on your federal return, enter on this line the state and local taxes from Line 5 of Federal Schedule A, motor vehicle taxes from Line 7 of Federal Schedule A, and any foreign income taxes included on Line 8 of Federal Schedule A.

▶ 36. .00

37. **If you claimed the standard deduction,** enter the amount from Line 35 above.
If you itemized your deductions, compare Line 35 with Line 36 and enter whichever is less.

▶ 37. .00



38. Personal exemption adjustment *(See instructions on Page 12)* ▶ 38. .00

39. Interest income from obligations of states other than North Carolina ▶ 39. .00

40. Adjustment for Bonus Depreciation *(See instructions on Page 12)* ▶ 40. .00

41. Adjustment for Section 179 Expense Deduction *(See instructions on Page 12)* ▶ 41. .00

42. Other additions to federal taxable income *(Attach explanation or schedule)* ▶ 42. .00

43. **Total additions** - Add Lines 37 through 42 *(Enter the total here and on Line 7)* 43. .00

Deductions from Federal Taxable Income *(See Line Instructions beginning on Page 13.)*

44. State or local income tax refund if included on Line 10 of Federal Form 1040 ▶ 44. .00

45. Interest income from obligations of the United States or United States' possessions ▶ 45. .00

46. Taxable portion of Social Security and Railroad Retirement Benefits included on your federal return ▶ 46. .00

47. Retirement benefits received from **vested** N.C. State government, N.C. local government, or federal government retirees ***(Bailey settlement - Important: See Line instructions on Page 13)*** ▶ 47. .00

48. If you have retirement benefits not reported on Lines 46 or 47, complete the ***Retirement Benefits Worksheet*** on Page 14 and enter the result here ▶ 48. .00

49. Severance wages *(See Line instructions on Page 14 for explanation of qualifying severance wages)* ▶ 49. .00

50. Adjustment for bonus depreciation added back in 2008 and 2009
(Add Lines 50a and 50b and enter on Line 50c. See Line instructions on Page 14)

50a. 2008 ▶ .00 **50b. 2009** ▶ .00 ▶ 50c. .00

51. Contributions to North Carolina's National College Savings Program (NC 529 Plan) ▶ 51. .00
(See Line instructions on Page 14 for deduction limitations)

52. Other deductions from federal taxable income *(Attach explanation or schedule. Do not include any deduction for retirement benefits on this line.)* ▶ 52. .00

Total deductions - Add Lines 44 through 52 *(Enter the total here and on Line 9)* 53. .00

This page must be filed with Pages 1 and 2 of this form.

Last Name *(First 10 Characters)*

Tax Year **2010**

Your Social Security Number ___-___-____

Computation of North Carolina Taxable Income for Part-Year Residents and Nonresidents

*(See Line Instructions beginning on Page 14. Note: **Do not** complete Lines 54 through 56 if you were a full-year resident.)*

Fill in applicable circles

Fill in circle(s) if you or your spouse ***moved into or out of North Carolina*** during the year and enter the dates of residency in the boxes. → You ○ Spouse ○

You		Spouse	
Date residency began (MM-DD-YY)	Date residency ended (MM-DD-YY)	Date residency began (MM-DD-YY)	Date residency ended (MM-DD-YY)

Fill in circle(s) if you or your spouse were ***nonresidents of North Carolina*** for the entire year. → ○ ○

Part-year residents must read the instructions on Page 14 and complete the worksheet on Page 15 to determine the amounts to enter on Lines 54 and 55 below.

If amount on Line 54 or 55 is negative, fill in circle. Example: ●

Enter Whole U.S. Dollars Only

54. Enter the amount from **Column B, Line 31 of the Part-Year Resident/Nonresident Worksheet** on Page 15 of the Instructions. ▶ 54. ○ ,, .00

55. Enter the amount from **Column A, Line 31 of the Part-Year Resident/Nonresident Worksheet** on Page 15 of the Instructions. ▶ 55. ○ ,, .00

56. Divide Line 54 by Line 55 ***(Enter the result as a decimal amount here and on Line 12; round to four decimal places.)*** 56. .

Sign Here

I certify that, to the best of my knowledge, this return is accurate and complete.

Your Signature Date

Spouse's Signature *(If filing joint return, both must sign.)* Date

If prepared by a person other than taxpayer, this certification is based on all information of which the preparer has any knowledge.

Paid Preparer's Signature Date

Preparer's FEIN, SSN, or PTIN ▶

Home Telephone Number *(Include area code.)* ▶ ( ) -

Preparer's Telephone Number *(Include area code.)* ▶ ( ) -

If REFUND mail return to: N.C. DEPT. OF REVENUE, P.O. BOX R, RALEIGH, NC 27634-0001

If you ARE NOT due a refund, mail return, any payment, and D-400V to: N.C. DEPT. OF REVENUE, P.O. BOX 25000, RALEIGH, NC 27640-0640

7020400012

Original Return Payment Options

Online – You can pay your tax online by bank draft, credit, or debit card using Visa or MasterCard. Go to our website at www.dornc.com and click on **Electronic Services** for details.

Payment voucher – If you do not pay your tax online, go to our website and generate a personalized Form **D-400V.** Enclose the voucher with your return and payment, and mail to the address listed above. If you do not pay online or by payment voucher, mail a check or money order with your return for the full amount due. Please write "D-400", and your name, address, and social security number on the payment. If filing a joint return, write both social security numbers on your payment in the order that they appear on the return. **Note:** The Department will not accept a check, money order, or cashier's check unless it is drawn on a U.S. (domestic) bank and the funds are payable in U.S. dollars. Please do not staple, tape, paper clip, or otherwise attach your payment or voucher to your return or to each other.

Amended Returns

See Form D-400X-WS for the mailing address and payment options for amended returns.

Important: You must complete and attach the corrected Form D-400 behind Form D-400X-WS, Worksheet for Amending Individual Income Tax Return.

Department-Initiated Refunds

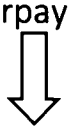
Trina Griffin
NCGA Research Division
Revenue Laws Study Committee
December 1, 2010

When Must the Department Initiate a Refund?

- When it knows the taxpayer has overpaid.
- The Department must know within the statute of limitations period.

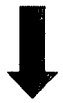
When Does the Department Know?

- When computer system processes return and identifies an overpayment.



- Internal emails indicate Individual and Corporate Income Tax Divisions followed this practice.

- When a DOR employee identifies, reviews, and approves an overpayment.



- Current agency policy pursuant to oral legal opinion given in 2009.

Summary

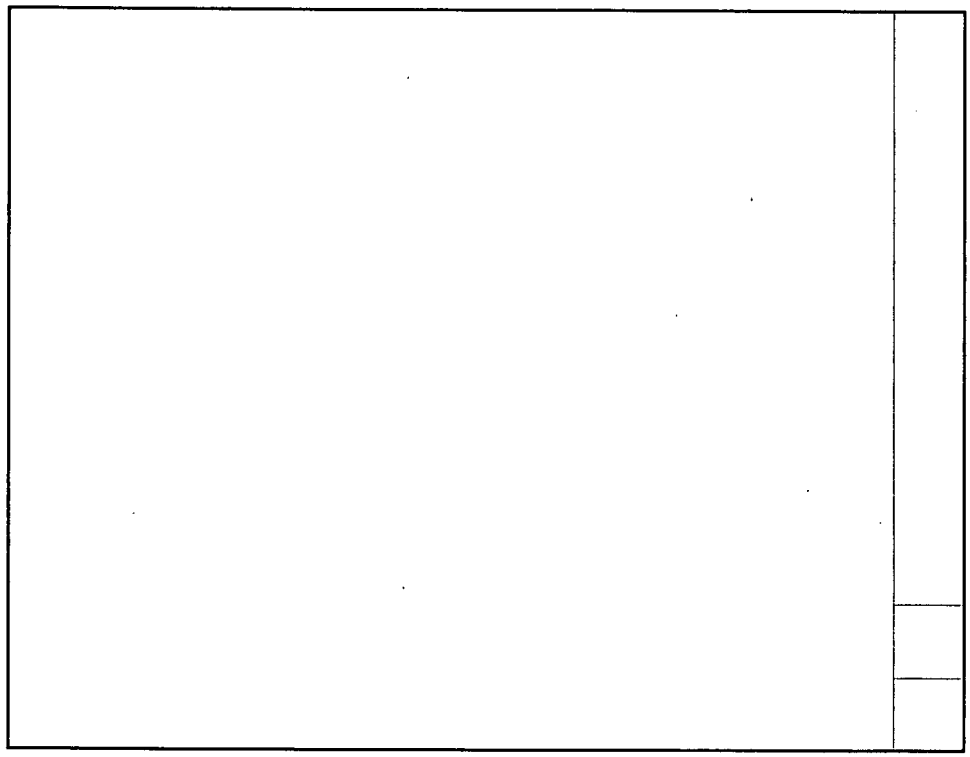
- No written policy.
- The Department reports that refunds of overpayments were handled inconsistently.
- The Department sought opinion of AG during efforts to clean up backlog of review items.
- AG provided oral legal opinion, which has been adopted as agency policy.
- The Department states legislative action is needed to issue remaining refunds, but has not indicated why or how the law needs to be changed.

Observations

- There has been no law change requiring a change in the way statute is applied.
- The practice described in the emails is more favorable to taxpayers than the current policy, which makes refunds dependent on Department workload and resources.
- The statute is subject to more than one interpretation as evidenced by the inconsistent practice cited by the Department.
- The basis for the AG's oral legal opinion that the law requires an employee review within the limitations period is unknown.

Options

- No legislative recommendation
  - Committee agrees with current Department policy.
  - Committee finds that statute may be interpreted by Department to allow refunds without legislative change.
  - Committee needs more information in order to make a recommendation.
- Recommend legislation
  - Committee disagrees with current Department policy.



Former Statute

§ 105-266. Overpayment of taxes to be refunded with interest.

(a) Refund. – If the Secretary discovers that a taxpayer has overpaid the correct amount of a tax, that overpayment shall be refunded to the taxpayer as soon as possible together with any applicable interest....

...

(c) Statute of Limitations. - ...

(1) General Rule. – No overpayment shall be refunded...if the discovery is not made ...within three years after the date set by the statute for the filing of the return or within six months after the payment of tax alleged to be an overpayment, whichever is later.

Current Statute

§ 105 241.7. Procedure for obtaining a refund.

(a) Initiated by Department. – The Department must refund an overpayment made by a taxpayer when the Department processes a return and finds all of the following:

(1) The statute of limitations for obtaining a refund has not expired.

(2) The amount shown due on the return is not correct.

(3) The correction of the amount due shows that the taxpayer has overpaid the tax.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U D

BILL DRAFT 2011-LAz-3 [v.3] (11/29)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
11/29/2010 5:26:05 PM

Short Title: Business Entity Changes. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REVISE THE BUSINESS ENTITY OWNERSHIP REQUIREMENTS OF LAND AT PRESENT-USE VALUE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.3(b1) reads as rewritten:

"**§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.**

...

(b1) **(Effective for taxes imposed for taxable years beginning on or after July 1, 2008)** Entity Ownership Requirements. – In order to come within a classification described in subsection (a) of this section, land owned by a business entity ~~or trust must have been owned by the business entity or trust or by one or more of its members or creators, respectively,~~ must meet the requirements of subdivision (1) of this subsection and land owned by a trust must meet the requirements of subdivision (2) of this subsection.

(1) Land owned by a business entity must have been owned by one or more of the following for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed:

a. The business entity.

b. A member of the business entity.

c. Another business entity whose members include a member of the business entity that currently owns the land.

(2) Land owned by a trust must have been owned by the trust or by one or more of its creators for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed."

SECTION 2. This act becomes effective for taxable years beginning on or after July 1, 2011. An application for property tax relief provided by this act may be filed and must be accepted at any time up to and through September 1 for the July 1, 2011 taxable year.

DRAFT 2011-LAz-3: Business Entity Changes

2011-2012 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	December 1, 2010
Introduced by:		**Prepared by:**	Martha Walston
Analysis of:	Draft Proposal 2011-LAz-3		Committee Counsel

SUMMARY: ***This legislative proposal makes changes to the business entity ownership requirements for qualification of land at its present-use value so that the requirements are met when the current owner of the land shares members in common with the prior owner of the land.***[1]

CURRENT LAW: Since 1973, farmland (agricultural land, horticultural land, and forestland) has been appraised and assessed at its present-use value as opposed to fair market value for property tax purposes if the farmland meets certain ownership, size, and use requirements. Farmland owned by a business entity meets the ownership requirements if the land was owned by the business entity or one of its members for the four years immediately preceding January 1 of the year for which the benefit is claimed. Prior to 2008, the members of the business entity had to be individuals. In 2008, the Revenue Laws Study Committee proposed legislation to broaden the ownership requirements so that farmland could be owned by a business entity whose membership includes modern estate planning vehicles such as a family limited partnership, a family limited liability company, or a trust.[2] S.L. 2008-146 alleviated problems tax assessors were having with recognizing these types of ownership. Now, for example, if the farmland is owned by a business entity, the members of the business entity are no longer restricted to individuals but can include trusts and other business entities.

BILL ANALYSIS: The 2008 changes to the present-use value statutes focus on problems the tax assessors were having with recognizing types of ownership. Ownership is determined on the basis of the name on the deed but does not always consider real parties in interest.

Recently, counties have received applications where farmland has been owned as follows:

- Farmland owned by ABC Partnership for past three years applies for PUV status.
- The partners of ABC Partnership are Tom, Dick, and Harry.
- The previous owner of the farmland was XYZ Partnership.
- The partners of XYZ Partnership were also Tom, Dick, and Harry.
- Counties have denied PUV status to the farmland based upon the language in G.S 105-277. 3(b1): The farmland had not been owned by its current owner, ABC Partnership, for four years immediately preceding the application, nor was the land owned by a partner of ABC Partnership.

The proposal would allow the business entity ownership requirements to be satisfied when the business entity that currently owns the farmland shares one or more members in common with the business entity that previously owned the farmland. For example, because one or more partners of the partnership that currently

[1] A "business entity" is defined as a corporation, general partnership, limited partnership, or limited liability company. A "member" is defined as a shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.

[2] When the membership of a business entity includes a business entity or trust, then the individual members of the business entity and the individual beneficiaries of the trust are deemed to be indirect members of the qualified business entity.

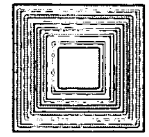
owns the farmland are the same partners of the partnership that previously owned the farmland, the ownership requirement would be met. In this example, the real parties in interest have not changed.

EFFECTIVE DATE: This act becomes effective for taxable years beginning on or after July 1, 2011. However, applications filed beyond the listing period (January 1-January 31) would be accepted up to and through September 1, 2011, so that an owner may benefit from the property tax relief during the July 1, 2011 tax year.

Unknown-SMLA-1(e1) v9

Clean Energy and Economic Security Act (CLEANS)

Rodney Bizzell
Fiscal Research Division
Revenue Laws Study Committee
December 1st, 2010

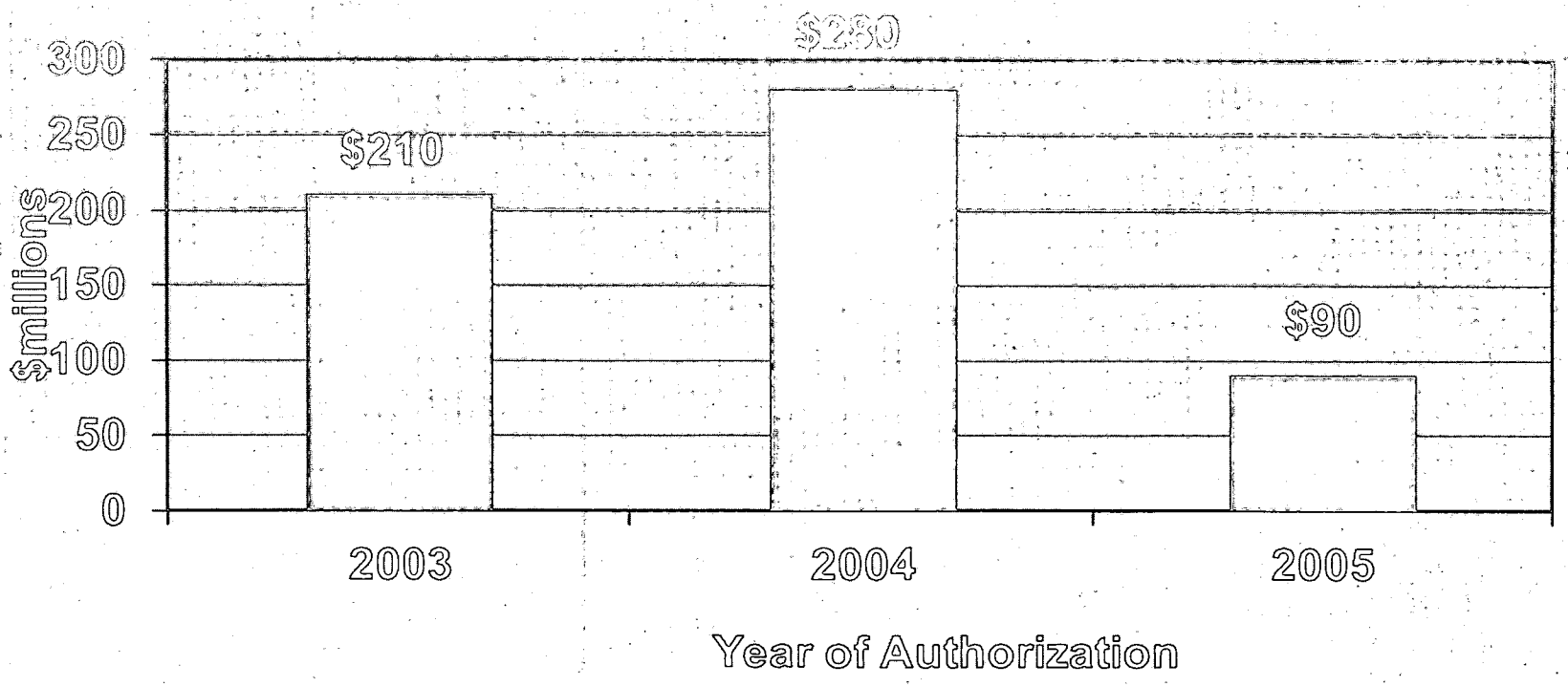


FISCAL RESEARCH DIVISION
A Staff Agency of the North Carolina General Assembly

Tax Anticipation Notes

- Authority found in NC Constitution Article 5
- Budget Director may borrow [illegible]
  - Treasurer to borrow
  - Budget Director must have consent of Governor and Council of State authorization
  - Carries GO pledge
  - Limited to 50% of anticipated taxes to be collected during the fiscal year

Source: Department of State Treasurer



Source: Department of State Treasurer

- Interest on the notes varied between 1.1% and 3.1% and were lower than federal rates
- Borrowing resulted in savings of $14 million.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U D

BILL DRAFT 2011-RBz-2 [v.1] (11/29)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
11/30/2010 2:39:19 PM

Short Title: No Delay of Tax Refunds. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT DELAY IN THE PAYMENT OF TAX REFUNDS.

Whereas, in both 2009 and 2010 the Governor delayed the payment of tax refunds owed to the taxpayers of this State; and

Whereas, interest does not begin to accrue on an individual income tax refund unless the State pays the refund after May 30; and

Whereas, delaying the payment of tax refunds due North Carolina's taxpayers forces the taxpayers to make involuntary short-term interest-free loans to the State; and

Whereas, tax refunds should not be considered assets of the State but should instead be considered funds held in trust; and

Whereas, the State Constitution and the General Statutes give the Governor the tools needed to avoid a deficit in an economic downturn; and

Whereas, these tools do not include the delay of tax refunds because tax refunds are not "expenditures" that are subject to reduction or management by the Governor; and

Whereas, the cost of short-term financing by the State is less than the interest the State must pay on delayed tax refunds; and

Whereas, delaying the payment of tax refunds due North Carolina's taxpayers shifts the stress of an economic downturn from the State's budget to the State's taxpayers; and

Whereas, the law requires a taxpayer to pay taxes owed by the due date, regardless of the cash position of the taxpayer on the due date; and

Whereas, taxpayers have a right to expect prompt payment of their refunds; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-258.3. Taxpayer refunds.**

An overpayment of tax belongs to the taxpayer who made the overpayment and is not an expenditure that is subject to management by the Director of the Budget. When the Department approves a refund for payment and submits a requisition to the State Controller for the funds needed to make the refund, the State Controller may not withhold approval of the requisition."

SECTION 2. G.S. 143C-6-2(b) reads as rewritten:

"(b) Revenue Collections. – The Director, with the assistance of the Secretary of Revenue and other officials collecting or receiving appropriated State revenue, shall

continuously survey the revenue collections. If the Director finds that revenues to any fund, when added to the beginning unreserved fund balance in that fund, will be insufficient to support appropriations from that fund, the Director shall immediately notify the General Assembly that a deficit is anticipated. The Director shall consult with the Chief Justice to identify expenditure reductions and other lawful measures the Chief Justice and Judicial Branch can implement to reduce expenditures. The Director shall report in a timely manner to the General Assembly a plan containing the expenditure reductions and other lawful measures as the Director is implementing in order to avert the deficit. This section does not authorize the Director to delay the payment of tax refunds in violation of G.S. 105-258.3."

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U D

BILL DRAFT 2011-RBxz-1 [v.4] (11/29)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
11/30/2010 5:05:31 PM

Short Title: Revenue Laws Technical Bill. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-120.2(f) is repealed.

SECTION 2. G.S. 105-129.50 is amended by adding a new subdivision to read:

"**§ 105-129.50. Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

(1) Development tier one area. – Defined in G.S. 143B-437.08.

...".

SECTION 3. G.S. 105-130.4(t2) is repealed.

SECTION 4. G.S. 105-164.4C(h)(5) reads as rewritten:

"(h) Definitions. – The following definitions apply in this section:

...

(5) Postpaid calling service. – A telecommunications service that is charged on a call-by-call basis and is obtained by making payment at the time of the call either through the use of a credit or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by charging the call to a telephone number that is not associated with the origination or termination of the telecommunications service. A postpaid calling service includes a service that meets all the requirements of a prepaid ~~wireline~~ telephone calling service, except the exclusive use requirement.

...".

SECTION 5. G.S. 105-164.13(12) and (26a) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(12) Sales of any of the following items:

a. Prosthetic ~~devices.~~devices for human use.

b. Mobility enhancing equipment sold on a prescription.

c. Durable medical equipment sold on prescription.
d. Durable medical supplies sold on prescription.

...

(26a) Food sold not for profit by a public school cafeteria to a child care center that participates in the Child and Adult Care Food Program of the Department of ~~Public Instruction.~~Health and Human Services."

SECTION 6. G.S. 105-164.13D(a) reads as rewritten:

"(a) The taxes imposed by this Article do not apply to the Energy Star qualified products listed in this section if sold between 12:01 A.M. on the first Friday of November and 11:59 P.M. the following Sunday. The qualified products are:

(1) Clothes washers.
(2) Freezers and refrigerators.
(3) Central air conditioners and room air conditioners.
(4) Air-source heat ~~pumps and geothermal heat~~ pumps.
(5) Ceiling fans.
(6) Dehumidifiers.
(7) Programmable thermostats."

SECTION 7. G.S. 105-164.14A(a)(1) and (4) read as rewritten:

"**§ 105-164.14A. Economic incentive refunds.**

(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

(1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars ($2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). This subdivision is repealed for purchases made on or after ~~January 1, 2011.~~January 1, 2013.

...

(4) Motorsports team or sanctioning body. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after ~~January 1, 2011.~~January 1, 2013.

...".

SECTION 8.(a) G.S. 105-164.14B(a) reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

...

(12) Owner. – The term includes a lessee under a lease-purchase contract.
(13) Paper-from-pulp manufacturing. – An industry primarily engaged in manufacturing or converting paper, other than newsprint or uncoated groundwood paper, from pulp or pulp products, or in converting purchased sanitary paper stock or wadding into sanitary paper products.

...

(21) Reserved.
(22) Turbine manufacturing. – An industry primarily engaged in manufacturing turbines or complete turbine generator set units, such as steam, hydraulic,

gas, and wind. The term does not include the manufacturing of aircraft turbines."

SECTION 8.(b) G.S. 105-164.14B(b)(1) reads as rewritten:

"(1) Business requirement. – The facility is primarily engaged in one or more of the following:

a. Air courier services.
b. Aircraft manufacturing.
c. Bioprocessing.
d. Financial services, securities operations, and related systems development.
e. Motor vehicle manufacturing.
f. Paper-from-pulp manufacturing.
g. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines.
~~g.~~h. Semiconductor manufacturing.
~~h.~~i. Solar electricity generating materials manufacturing.
j. Turbine manufacturing."

SECTION 9. G.S. 105-187.51C(c) reads as rewritten:

"(c) Forfeiture. – If the required level of investment to qualify as an eligible datacenter is not timely made, then the rate provided under this section is forfeited. If the required level of investment is timely made but any eligible machinery and equipment is not located and used at an eligible datacenter, then the rate provided for that machinery and equipment under this section is forfeited. A taxpayer that forfeits a rate under this section is liable for all past sales and use taxes avoided as a result of the forfeiture, computed ~~at the combined general rate~~ from the date the taxes would otherwise have been due, plus interest at the rate established under G.S. 105-241.21. If the forfeiture is triggered due to the lack of a timely investment required by this section, then interest is computed from the date the sales or use tax would otherwise have been due. For all other forfeitures, interest is computed ~~at the combined general rate~~ from the time as of which the machinery or equipment was put to a disqualifying use. A credit is allowed against the sales or use tax owed as a result of the forfeiture provisions of this subsection for privilege taxes paid pursuant to this section. For purposes of applying this credit, the fact that payment of the privilege tax occurred in a period outside the statute of limitations provided under G.S. 105-241.6 is not considered. The credit reduces the amount forfeited, and interest applies only to the reduced amount. The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236."

SECTION 10.(a) G.S. 105-228.37 reads as rewritten:

"**§ 105-228.37. Refund of overpayment of tax.**

(a) Refund Request. – A taxpayer who pays more tax than is due under this Article may request a refund of the overpayment by filing a written request for a refund with the board of county commissioners of the county where the tax was paid. The request must be filed within six months after the date the tax was paid and must explain why the taxpayer believes a refund is due.

(b) Hearing by County. – A board of county commissioners must conduct a hearing on a request for ~~refund in accordance with the procedures that apply to a hearing held by a board of equalization and review on an appeal concerning the listing or appraisal of property. If~~ refund. Within 60 days after a timely request for a refund has been filed and at least 10 days before the date set for the hearing, the board must notify the taxpayer in writing of the time and place at which the hearing will be conducted. The date set for the hearing must be within 90 days after the timely request for a hearing was filed or at a later date mutually agreed upon by the taxpayer and the board. The board must make a decision on the requested refund within 90

days after conducting a hearing under this subsection. ~~the board decides that a refund is due, it must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. If the board finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may appeal the decision to the Property Tax Commission.~~

(c) ~~Review by Commission.~~ Process if Refund Granted. – If the board of commissioners decides that a refund is due, it must refund the overpayment, together with any applicable interest, to the taxpayer and inform the Department of the refund. The Department may assess the taxpayer for the amunt of the refund in accordance with G.S. 105-241.9 if the Department disagrees with the board's decision. ~~The procedure in G.S. 105-290 for the appeal to the Property Tax Commission of a decision of a board of equalization and review concerning the listing or appraisal of property applies to the appeal of a denial by a board of county commissioners of a request for a refund of tax paid under this Article. If the Commission determines that a refund is due, the board of county commissioners must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. A decision of the Commission is binding on the Secretary and on a board of county commissioners.~~

(d) ~~Judicial Review.~~ Process if Refund Denied. – ~~A decision of the Property Tax Commission is subject to judicial review in accordance with G.S. 7A-29.~~ If the board of commissioners finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may request a Departmental review of the denial of the refund in accordance with the procedures set out in G.S. 105-241.11.

(e) Recording Correct Deed. – Before a tax is refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an instrument was recorded in the wrong county, then the taxpayer must record a document stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the county finance officer and the Secretary when the correcting instrument has been recorded.

(f) Interest. – An overpayment of tax bears interest at the rate established in G.S. 105-241.21 from the date that interest begins to accrue. Interest begins to accrue on an overpayment 30 days after the request for a refund is filed by the taxpayer with the board of county commissioners."

SECTION 10.(b) G.S. 105-228.30(b) reads as rewritten:

"(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less taxes refunded and the county's allowance for administrative expenses, to the Department of Revenue on a monthly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the Department of Revenue must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7."

SECTION 11.(a) G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this Article:

...

(4b) NAICS. – The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, 2007.

..."

SECTION 11.(b) G.S. 105-129.81(13) and (18) read as rewritten:

"**§ 105-129.81. Definitions.**

The following definitions apply in this Article:

...

(13) Information technology and services. – An industry in one of the ~~following:~~following, as defined by NAICS:

a. ~~Internet service providers, Web search portals, and data processing subsector 518 as defined by NAICS.~~Data processing industry group 518.

b. Software publishers industry group ~~5112 as defined by NAICS.~~5112.

c. Computer systems design and related services industry group ~~5415 as defined by NAICS.~~5415.

d. An internet activity included in industry group 519130.

...

(18) NAICS. – ~~The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, 2002.~~Defined in G.S. 105-228.90.

..."

SECTION 11.(c) G.S. 105-164.3(23a) reads as rewritten:

"(23a) NAICS. – ~~The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, 2007.~~Defined in G.S. 105-228.90."

SECTION 12. G.S. 105-236(a)(2) reads as rewritten:

"(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(2) Failure to Obtain a License. – For failure to obtain a license before engaging in a business, trade or profession for which a license is required, the Secretary shall assess a penalty equal to five percent (5%) of the amount prescribed for the license per month or fraction thereof until paid, not to exceed twenty-five percent (25%) of the amount so prescribed, but in any event shall not be less than five dollars ($5.00). In cases in which the ~~taxpayer~~ taxpayer, after written notification by the Department, fails to obtain a license as required under G.S. 105-449.65 or G.S. 105-449.131, the Secretary may assess a penalty of one thousand dollars ($1,000).

...".

SECTION 13.(a) G.S. 105-256(a)(9) reads as rewritten:

"(a) Publications. – The Secretary shall prepare and publish the following:

...

(9) A final decision of the Secretary in a contested tax case. ~~The Secretary must redact identifying taxpayer information from a final decision prior to publication.~~"

SECTION 13.(b) G.S. 105-259(b)(27) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(27) To provide a ~~report~~ publication required under this Chapter."

SECTION 13.(c) G.S. 150B-21.17(a)(5) is repealed.

SECTION 14. G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the ~~transactions listed in this subsection. The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this subsection.~~following:

(1) A retailer's net taxable sales and gross receipts that are ~~The sales price of tangible personal property~~ subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(1) and (a)(4b).~~G.S. 105-164.4.

~~(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).~~

~~(3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).~~

~~(4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).~~

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S.105-164.13(27a).

~~(6) The sales price of prepaid telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d).~~

~~(7) The gross receipts derived from providing satellite digital audio radio service subject to the general rate of tax under G.S. 105-164.4(a)(6a).~~"

SECTION 15. Section 24.18(g) of S.L. 2006-66 reads as rewritten:

"**SECTION 24.18.(g)** This section is effective for taxable years beginning on or after January 1, 2006, and expires for taxable years beginning on or after ~~January 1, 2011.~~January 1, 2013."

SECTION 16. Section 31.7(e) of S.L. 2010-31 reads as rewritten:

"**SECTION 31.7.(e)** G.S. 105-37.1(a)(1), as amended by subsection (a) of this section, becomes effective ~~August 1, 2010,~~February 1, 2009, and applies to charges for admission received before that date or on or after that date. G.S. 105-37.1(a)(2), as amended by subsection (a) of this section, becomes effective January 1, 2011, and applies to admission tickets sold on or after that date. The remainder of this section is effective when it becomes law."

SECTION 17. Section 8 of S.L. 2006-209 reads as rewritten:

"**SECTION 8.** As applied to G.S. 20-79.4, the authority in G.S. 164-10 for the Division of Legislative Drafting and Codification to reletter or renumber section subdivisions includes the authority to renumber all the subdivisions in G.S. 20-79.4(b) in sequential and alphabetical order and to eliminate mixed number-letter subdivision designations. ~~This section expires July 1, 2011.~~"

SECTION 18. This act is effective when it becomes law.

Bill Draft 2011-RBxz-1: Revenue Laws Technical Bill.

2011-2012 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	December 1, 2010
Introduced by:		**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	2011-RBxz-1		

SUMMARY: ***This proposal includes several technical, administrative, and clarifying changes to the revenue laws and related statutes.***

EFFECTIVE DATE: Except as otherwise provided, the proposal would become effective when it becomes law.

BILL ANALYSIS:

Section	Explanation
1	Repeals an obsolete provision. When the General Assembly enacted the qualified business venture tax credits in 1987, they applied to investments in North Carolina companies and to both corporations and individuals. In 1996, the General Assembly revised the tax credit to apply to all investments because the restriction to North Carolina companies was unconstitutional. In the same act, S.L. 1996-14, ES2, the General Assembly also restricted the tax credit to individuals and pass-through entities. The subsection being repealed is a carry-over from the original law as it applied to holding companies.
2	Provides a definition for development tier one area in the tax credit for research and development. The tax credit amount for research performed in a development tier one area is 3.25%.
3	Repeals an obsolete provision. In S.L. 2010-89, the General Assembly provided an alternative apportionment formula for a corporation that signed a letter of commitment by September 15, 2010, certifying that it planned to invest at least $500 million in private funds to construct a facility in a development tier one area. No company signed such a letter. The General Assembly enacted the provision at the request of Microsoft; Microsoft announced in August that it would be locating in Virginia.
4	Removes the word "wireline" at the request of the Streamlined Sales Tax Compliance Review and Interpretations Committee. It makes no substantive change in the law.
5	Clarifies that the sales tax exemption for prosthetic devices is for human use and corrects the name of the agency where the Child and Adult Care Food Program is located.
6	Removes geothermal heat pumps from the Energy Star sales tax holiday because consumers are not able to purchase them. Only contractors can purchase geothermal heat pumps and they are not entitled to the exemption. The presence of the item in

	the list raises many questions and frustrates consumes.
7	Corrects the sunset dates of the sales tax refunds for fuel sold to passenger air carriers and motorsports teams. The General Assembly extended these sunsets from January 1, 2011, to January 1, 2013, in S.L. 2010-31. In a subsequent piece of legislation recommended by the Revenue Laws Study Committee, S.L. 2010-166, these refund provisions were reenacted in a new statute dedicated to economic incentive refunds. The later legislation failed to conform to the extended sunset dates.
8	Includes the two new sales tax refunds for paper from pulp manufacturing and turbine manufacturing in the correct statute. The General Assembly enacted the refunds in S.L. 2010-31. The rewrite of the economic incentive refunds, enacted in S.L. 2010-166, failed to include this conforming change. Gives effect to the sales tax refund for paper from pulp manufacturing by defining the term "owner" to include a lessee in a lease-to-purchase contract. The Department of Commerce requested this change.
9	Removes unnecessary and confusing words. If a datacenter fails to maintain its required levels of investments, it forfeits its incentive and must pay sales tax on its purchases. The statute stated that the sales tax would be calculated "*at the combined general rate*". The words are not necessary and may not correctly reference the right tax rate since the term "combined general rate" does not include the ¼ ¢ local sales tax applicable in some counties.
10	Clarifies the refund process for the deed stamp tax.
11	Updates the reference to NAICS and places the definition in the statute applicable to most of Chapter 105. NAICS is the North American Industry Classification System adopted by the US Office of Management and Budget. It is updated every five years. Makes a conforming change to the term "information technology and services" to reflect the changes from the 2002 NAICS to the 2007 NAICS.
12	Clarifies that the higher penalty for failure to obtain a license under the motor fuel statutes only applies after the taxpayer has received written notification from the Department of Revenue to obtain the requisite license.
13	Reconciles two current conflicting provisions concerning whether the identity of certain taxpayers is public information. This section also makes conforming changes. The taxpayers affected are those who bring a contested case action at the Office of Administrative Hearings to obtain a review of an assessment or a denial of a refund by the Department of Revenue. Currently, G.S. 150B-31.1(e) states that the record, proceedings, and decision in a contested case are confidential until the final decision is issued. The Secretary of Revenue makes the final decision and, once that decision issued, the records with the taxpayer name is public.

	G.S. 105-256(a)(9) requires the Secretary of Revenue to publish the final decision in a contested case in a format that redacts identifying information. The requirement to redact the identifying information serves no purposes, however, because once the decision is published, the record in the contested case proceeding becomes public in an unredacted form under G.S. 150B-31.1. Subsection (a) reconciles these provisions by amending G.S. 105-269(a)(9) to delete the requirement that the Secretary redact identifying taxpayer information when publishing final decisions. Subsection (b) makes a conforming change to the secrecy statute, G.S. 105-259, to change the word "report" to "publication" to ensure that the final decisions are included within the current exception for reports. G.S. 150B-31.1 and G.S. 105-256(a)(9) were both enacted in 2007 in Senate Bill 242, S.L. 2007-491. Under prior law, the Tax Review Board reviewed administrative decisions of ht Secretary and made a decision, called an order, after the review. Orders of the Tax Review Board were published in the North Carolina Register, as required by G.S. 150B-21.17(a)(5),and were not redacted. S.L. 2007-491 revised the procedure for the review of contested tax cases and, as part of the revisions, eliminated the Tax Review Board. Subsection (c) makes a conforming change and repeals the obsolete requirement in G.S. 150B-21.17(a)(5) to publish orders of the Tax Review Board in the North Carolina Register.
14	Modernizes the local sales tax base to conform to the State sales tax base for items taxed at the general rate of tax. This change will remove the need to amend the local sales tax statute whenever an item is added to the State sales tax base and taxed at the general rate of tax. It effectively includes digital products in the local sales tax base, as intended by the General Assembly.
15	Conforms the sunset provisions of miscellaneous provisions associated with the tax credit for recycling oyster shells. The General Assembly extended the sunset on this credit from January 1, 2011, to January 1, 2013, in S.L. 2010-147.
16	Changes the effective date for the exclusion of amenities from general admissions receipts. Prior to February 1, 2009, amenities were excluded from admissions receipts. Effective February 1, 2009, with one day's notice, the Department of Revenue issued a directive providing that amenities would be included in admissions receipts. The Revenue Laws Study Committee recommended, and the General Assembly enacted, a restoration of the prior understanding. The effective date of the legislation was August 1, 2010. Companies that paid the tax with amenities included in the admissions receipts sought a refund of the excess tax paid. The Department denied the refund request because the effective date of the legislative change was August 1, 2010, not February 1, 2009 (the day the directive took affect).
17	Removes the sunset from the provision that allows the Codifier of Statutes to renumber the subdivisions in the special license plates statute in sequential and alphabetical order.

REVENUE LAWS STUDY COMMITTEE
Wednesday, January 5, 2011
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, January 5, 2011 in room 544 of the Legislative Office Building. Eighteen members of the committee were present. Representative Luebke presided as chair.

Approval of Minutes from the December 1, 2010 Meeting

Representative McGee motioned for the approval of the December 1, 2010 minutes and the motion carried. A copy of the minutes is attached.

Overview of the Unemployment Trust Fund

Kevin Carlson, Assistant Chairman for Finance and Administration for the Employment Security Commission, was recognized. He explained the purpose of the trust fund, how much as been distributed statewide and where, how the federal government is assisting, how other states are doing, and the amount the state has borrowed from the federal government. Lockhart Taylor, the Employment Security Commission's Director of Governmental Relations, was recognized to answer questions. A copy of Mr. Carlson's presentation is attached.

Federal Tax Law Changes Update & Distribution of IRC Update Draft

Cindy Avrette, a staff attorney with the Research Division, was recognized. She presented a chart outlining how the Internal Revenue Code (IRC) looked as of May 1. 2010, how North Carolina's tax law related to the IRC, how the IRC and NC law relate to the Small Business Jobs Act of 2010 and to the Tax Relief and Job Creation Act of 2010, and what the proposed bill draft will do in relation to the IRC's effects on both acts. Jonathan Tart, a fiscal analyst with the Fiscal Research Division, was recognized to answer questions regarding the fiscal impact of federal tax law changes. Representative Brubaker requested additional revenue figures in a similar chart, a fiscal impact chart. Representative Howard moved to add the proposed bill draft to the Committee's final report and the motion carried. A copy of the chart and the proposed bill draft is attached.

Central Appraisal of Wireless Companies

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized. She explained that the proposed bill draft would establish a uniform property tax appraisal for all telecommunications companies and tower aggregate companies by providing for system appraisal by the Department of Revenue rather than local

appraisal. Bill Wilkes, Department of Revenue, was recognized to answer questions. Bob Kaylor, a lobbyist representing AT& T and Verizon, was recognized to speak in opposition to the proposal. Representative Howard moved to add the proposed bill draft to the Committee's report to the 2011 Session and the motion carried. A copy of the draft is attached.

History and Background of Present-Use Value Program

David Baker, the Department of Revenue's Director of Property Tax Division, was recognized. He defined present-use property value, gave examples, how to qualify ownership, and requirements for qualifying owners. Julian Philpott, a lobbyist with the NC Farm Bureau, was recognized. He expressed concerns about the fiscal impact of any changes to the current program and stated that the Farm Bureau wants no changes. Rebecca Troutman with the NC Association of County Commissioners and Stan Duncan with the Tax Assessors were recognized to state that the Associations want no changes to the current program. A copy of Mr. Baker's power point is attached.

Industry-Specific Apportionment Formulas: Telephone

Lennie Collins, the Department of Revenue's Director of Corporate, Excise and Insurance Tax Division, was recognized. He explained the telecommunications apportionment formula. He outlined the problem with this formula concerning out-of-state services. He recommended changes to the formula to accommodate calls originating and terminating in the State, mobile and other telecommunications services for NC-based customers, prepaid services originating in NC and ancillary services in the customer's primary use is in NC. Cindy Avrette was recognized to explain the proposed bill draft. Marcus Trathen, representing the NC Cable Association, was recognized. He had not fully reviewed the details of the daft, but expressed concerns about its economic impact. Mark Prak, lobbyist for the NC Association of Broadcasters, stated similar concerns. A copy of Mr. Collin's power point and the proposed bill draft is attached.

Department-Initiated Tax Refunds: Follow Up

Canaan Huie, the Department of Revenue's General Counsel, was recognized. He stated that Revenue is working around the clock to resolve tax refund issues and that the Department believes that it needs legislative action to address the hold on taxpayer refunds. A copy of the Committee's letter to Secretary Hoyle requesting a written explanation of the legal basis on the Department's refund policy is attached.

Technical, Clarifying, and Administrative Changes – Part II

Trina Griffin, a staff attorney with the Research Division, was recognized. She gave a very brief overview of the technical changes proposed bill draft which makes technical, clarifying, and administrative changes to the revenue laws and related statutes. A copy of the proposed bill draft and its summary is attached.

The meeting adjourned at 11:36 a.m.

Representative Paul Luebke, Presiding Chair
Revenue Laws Study Committee

DeAnne Mangum, Committee Clerk

REVENUE LAWS STUDY COMMITTEE

State Legislative Building
Raleigh, North Carolina 27603

Senator Daniel G. Clodfelter, Co-Chair *Representative Paul Luebke, Co-Chair*

December 1, 2010

TO: Members, Revenue Laws Study Committee

FROM: Senator Dan Clodfelter, Co-Chair
Representative Paul Luebke, Co-Chair

SUBJECT: Revenue Laws Study Committee Meeting

There will be a meeting of the **Revenue Laws Study Committee** as follows:

DAY: **Wednesday**

DATE: **January 5, 2011**

TIME: **9:30 am**

LOCATION: **Room 544, Legislative Office Building**

Please advise DeAnne Mangum, Committee Clerk, at (919) 733-2405 or e-mail deanne.mangum@ncleg.net if you have any questions.

REVENUE LAWS STUDY COMMITTEE AGENDA

Sen. Daniel Clodfelter Rep. Paul Luebke

Wednesday, January 5, 2011
Room 544, Legislative Office Building
9:30 a.m.

I. **Approval of Minutes from December 1, 2010 Meeting**

II. **Overview of the Unemployment Trust Fund**
– Kevin Carlson, Assistant Chairman for Finance and Administration, Employment Security Commission

III. **Federal Tax Law Changes Update & Distribution of IRC Update Draft**
– Cindy Avrette, Research Division

IV. **Central Appraisal of Wireless Companies**
– Martha Walston, Fiscal Research Division

V. **Industry-Specific Apportionment Formulas: Telephone**
– Lennie Collins, Director of Corporate, Excise, and Insurance Tax, Department of Revenue

VI. **History and Background of Present-Use Value Program**
– David Baker, Director of Property Tax Division, Department of Revenue
– Comments from Interested Parties: NC Farm Bureau, NC Association of County Commissioners, Tax Assessors

VII. **Department-Initiated Tax Refunds: Follow Up**
– Canaan Huie, General Counsel, Department of Revenue

VIII. **Technical, Clarifying, and Administrative Changes – Part II**
– Trina Griffin, Research Division

IX. **Adjournment**

Next Meeting Date: Wednesday, January 19, 2011
in Room 544, LOB, at 9:30 a.m.

Committee Sergeants at Arms

NAME OF COMMITTEE Revenue Laws

DATE: 1-5-11 **Room:** 544

House Sgt-At Arms:

1. **Name:** Fred Hines
2. **Name:** Marvin Lee
3. **Name:** Martha Farmer
4. **Name:**
5. **Name:**

Senate Sgt-At Arms:

1. **Name:** RONALD SPANN
2. **Name:** ERNIE SHERRELL
3. **Name:** CHARLES MORSALIS
4. **Name:**
5. **Name:**

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 5, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mitch Kokai	John Locke Foundation
Anthony Greco	Carolina Journal
Mark Prak	BPMH
[illegible]	Mac Client
Pat Baggett	NCAEC
Ken Melton	K. M. A.
Dean Plunkett	Plunkett Strategies.

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 5, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Butch Cunnells	NC Beverage Assoc.
Anita Watkins	UNC GA
Preston Howard	MCIC
Ann Bordsman	NCC
Kathy Hawkins	Duke Energy
John Goodman	NC Chamber
Connie Wilson	CWC, Inc.
Rita Harris	Commerce Dept
Herb Crumbaw	AT+T North Carolina
Jim Hobbs	HANC
Sammy Robinson	TWC

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 5, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chris Hayes	Civitas
Karen Duquette	"
Christa Wagner Vinson	Commerce
Kim Crowell	NCBA
JOE LANIER	NELSON MULLINS
Chuck Stone	SEAC
Amy McConkey	NC Beverage Assn
Moore Goff	Smith Anderson
Dona Fazzini	Dept State Treasurer
Vance Holloman	Dept. State Treasurer
Fred Baggett	Smith Moore Leatherwood

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 5, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Keelye Roberson	TWC
Jack Stanley	TWC
Brad Phillips	TWC
Thomas Wilson	First Wachovia
David Barnes	Poyner Spruill
Doug Heron	Williams Mullen
Heather Barrett	Williams Mullen
Wendy Kelly	Policy Group
Alexandra Forter Sirota	N.C. Budget & Tax Center
Jon Teague	NMRS
Cameron Hardy	Electricities of NC

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 5, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Mitch Barnes	NC DOR
Stan Duncan	Henderson Co.
Bill Wilkes	NC DOR
Pete Rodda	Forsyth Co.
JULIAN PHILPOTT	NC FARM BUREAU
Debra Derr	ESC
Lockhart Taylor	"
Bill Lewis	alltel
STAN Pace	Frontier Communications
Lennie Collins	DOR
ERIC Williams	DOR

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 5, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Michael Howser	NC DOR
Amy Bason	NC ACC
Rebecca Trautman	NC ACC
Pete Rodda	Forsyth Co Tax Assessor/Collector
Bob Kaylor	Kay Law Firm
Will Culpepper	MVA
Paul Williams	WGR

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee
Name of Committee

Jan. 5, 2011
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	JD, HL, GA
Sarah Clapp	NCWRC
David Baker	NCDOR
Daniel Ambrose	Electricities of N.C.
Lee Harris	NCDOR
Beth Stevenson	NCDOR
Bill Spencer	NCDOR
Canaan Huie	NC DOR
[signature]	R. Lee & Assoc.
Gail Beamon	NCDOR
Pam Mattox	CenturyLink

REVENUE LAWS STUDY COMMITTEE
Wednesday, December 1, 2010
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, December 1, 2010 in room 544 of the Legislative Office Building. Sixteen members of the committee were present. Senator Clodfelter presided as chair.

Approval of Minutes from November 10th Meeting

Senator Brunstetter motioned for the approval of the November 10, 2010 minutes and the motion carried. A copy of the minutes is attached.

Industry-Specific Apportionment Formulas: Broadcasters

Lennie Collins, the Department of Revenue's Director of Corporate, Excise and Insurance Tax, was recognized. He outlined the apportionment formula used for taxing North Carolina broadcasters. He cited the problem with the formula is that some or all of some broadcasters' services are performed outside of the State. Some of his recommendations included the adoption of an industry-specific apportionment formula and consider the "audience factor" – a ratio of NC audience for a station to the total audience for that station elsewhere as determined by rating statistics from sources such as Neilson or Arbitron. Representation Gibson noted that he needs to be recused from the vote on this issue. Charles Marshall with the Association of Broadcasters was recognized. He offered to compile comments for any proposed bill draft. Mr. Collins will work with Revenue staff to prepare a bill draft. A copy of his presentation is attached.

Status of Rulemaking for Forced Combinations

Secretary Hoyle, Department of Revenue, was recognized to provide an update on rulemaking in regards to Senate Bill 897 and the gross underpayment of owed corporate taxes. He said that a rough draft has been completed and Revenue's senior management is currently reviewing it. Senator Clodfelter requested that the staff circulate copies to the Revenue Laws Committee membership.

IRC Update Follow-Up

Jonathan Tart, a fiscal analyst in the Fiscal Research Division, was recognized. He discussed the federal government's passage of the 2010 Job Creation Act and its significant impact on North Carolina if the State does not decouple from the federal changes. Barry Boardman, a fiscal analyst in the Fiscal Research Division, was recognized to answer questions. A copy of Mr. Tart's fiscal memo and a copy of North Carolina's 2010 Individual Income Tax Return are attached.

Department-Initiated Tax Refunds Follow-Up

Trina Griffin, an attorney with the Research Division, was recognized. She explained when the Department of Revenue (DOR) must initiate a refund and when the DOR

knows that a refund must be issued. She offered a summary, observations and options for the Committee on the DOR's refund policy. A copy of her power point is attached.

Business Entity Changes for Present-Use Value Taxation

Martha Walston, an attorney with the Fiscal Research Division, was recognized to present the proposed bill draft on business entity changes. The draft makes changes to the business entity ownership requirements for qualification of land at its present-use value so that the requirements are met when the current owner of the land shares members in common with the prior owner of the land. Senator Hartsell moved to include the draft in the Committee's final report to the session. The motion carried. A copy of the proposed bill draft is attached.

Delay of Tax Refunds Follow Up: Distribution of Proposed Legislation

Rodney Bizzell, a fiscal analyst with the Fiscal Research Division, was recognized. He gave a history of borrowing using tax anticipation notes. Draft legislation was distributed. It makes changes to the State Controller's authority to withhold approval of the DOR's refund fund request. A copy of Mr. Bizzell's power point presentation and the proposed bill draft is attached.

Revenue Laws Technical, Clarifying, and Administrative Changes

Cindy Avrette, a staff attorney with the Research Division, was recognized. She explained the Revenue Laws technical bill. It includes several technical, administrative, and clarifying changes to the revenue laws and related statutes. A copy of the proposed bill draft is attached.

The meeting adjourned at 11:15 a.m.

Senator Dan Clodfelter, Presiding Chair
Revenue Laws Study Committee

DeAnne Mangum, Committee Clerk

Revenue Laws Study Committee

Kevin D. Carlson
Assistant Chairman
Finance and Administration

ESC

January 5, 2011

Purpose of UI Trust Fund

- Provide temporary assistance to those who have lost their jobs through no fault of their own
- Help stabilize the economy in times of economic downturn.

Title XII of Social Security Act

- "...provides for state advances (loans) when a state determines their Unemployment Fund will not have adequate funding to allow for the payment of Unemployment Benefits."
- Current loan balance: $2.5 B

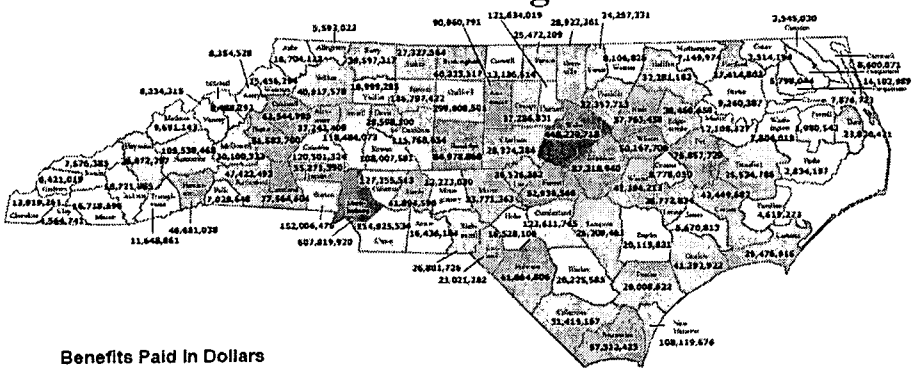
NC UI Benefit Payments

December 2009 – November 2010

$5.5 Billion total benefits

$2.1 Billion in State Benefits

North Carolina
UI Benefits Paid by County
December 2009-November 2010
Total All Programs



Benefits Paid In Dollars

- 1,980,540 - 20,225,600
- 20,225,601 - 47,422,500
- 47,422,501 - 90,960,800
- 90,960,801 - 299,008,600
- 299,008,601 - 607,820,000

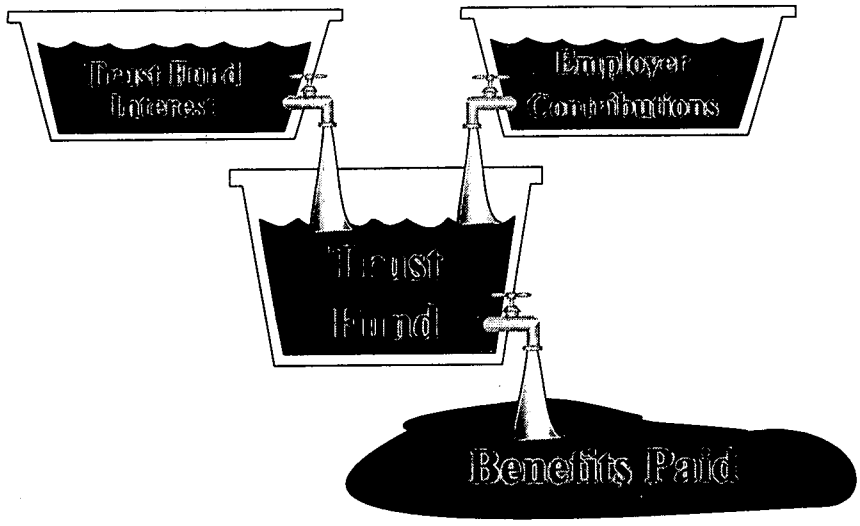
Statewide $5,524,274,334

Note: All programs include Regular Unemployment Insurance (UI), Emergency Unemployment Compensation Tier I (EUC1), Emergency Unemployment Compensation Tier II (EUC2), Emergency Unemployment Compensation Tier III (EUC3), Emergency Unemployment Compensation Tier IV (EUC4), Extended Benefits (EB) and Federal Additional Compensation (FAC). County data does not sum to statewide total.
Source: Employment Security Commission of North Carolina (ESC), Information Systems (IS)
Prepared by the Labor Market Information Division, Employment Security Commission of North Carolina 12_2010

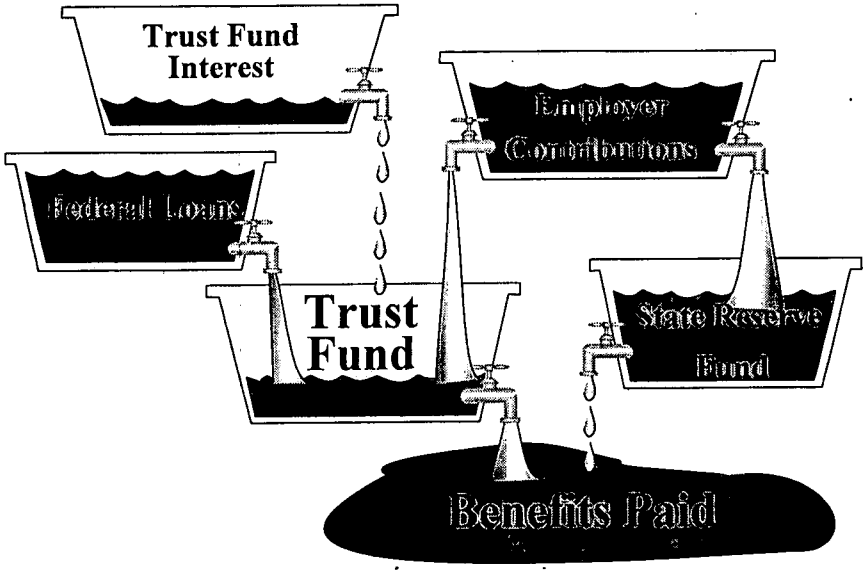
UI Trust Fund Report

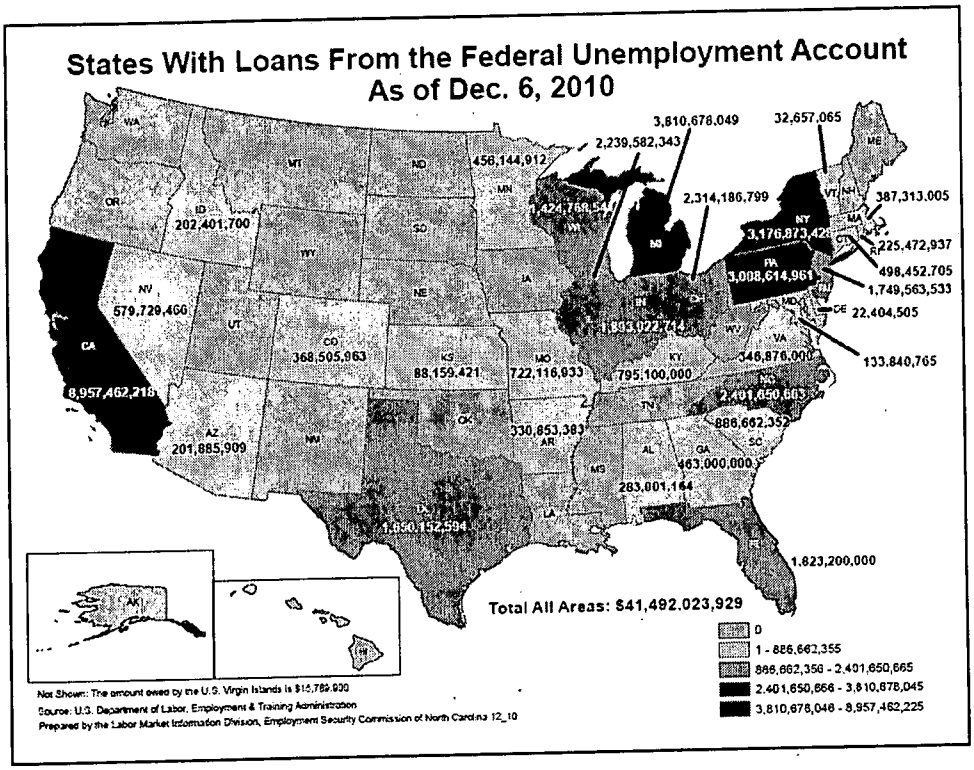
Months	Taxes	Total Benefits	State Reserve	Interest	Balance
JULY 2008	907,454,994	1,032,703,139	171,052,000	20,464,298	414,673,061
JULY 2009	855,942,820	2,321,036,300	153,980,000	10,558,388	885,882,030
JULY 2010	786,066,147	2,413,298,782	125,458,000	49,877	2,387,606,788
NOV 2010	311,127,000	299,849,979	0	0	2,376,329,767

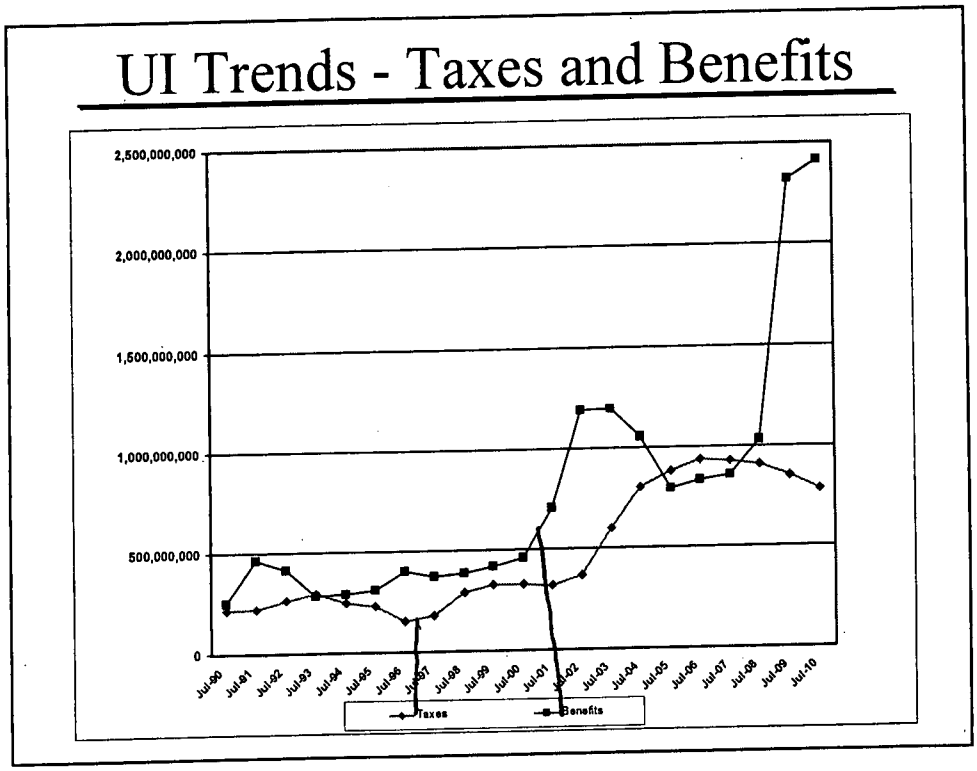
Trust Fund Monetary Flow - Regular



Trust Fund Monetary Flow - Recession




States With Loans From the Federal Unemployment Account
As of Dec. 6, 2010
3,810,678,049
32,657,065
2,239,582,343
456,144,912
2,314,186,799
387,313,005
202,401,700
3,176,873,428
225,472,937
3,008,614,961
498,452,705
1,749,563,533
579,729,466
22,404,505
368,505,963
88,159,421
722,116,933
795,100,000
346,876,000
133,840,765
8,957,462,215
2,401,650,663
886,662,352
530,853,387
201,885,909
463,000,000
283,001,164
1,823,200,000
Total All Areas: $41,492,023,929
0
1 - 886,662,355
886,662,356 - 2,401,650,665
2,401,650,666 - 3,810,678,045
3,810,678,046 - 8,957,462,225
Not Shown: The amount owed by the U.S. Virgin Islands is $15,789,900
Source: U.S. Department of Labor, Employment & Training Administration
Prepared by the Labor Market Information Division, Employment Security Commission of North Carolina 12_10


UI Trends - Taxes and Benefits
2,500,000,000
2,000,000,000
1,500,000,000
1,000,000,000
500,000,000
0
Jul-90
Jul-91
Jul-92
Jul-93
Jul-94
Jul-95
Jul-96
Jul-97
Jul-98
Jul-99
Jul-00
Jul-01
Jul-02
Jul-03
Jul-04
Jul-05
Jul-06
Jul-07
Jul-08
Jul-09
Jul-10
Taxes
Benefits

"(8b) For taxable years 2010 through 2012, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 2.(d) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(17b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (c)(8b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. "

SECTION 3.(a) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(23) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(b) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(26) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012."

SECTION 3.(c) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(15) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(d) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(21) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (c)(15) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012."

SECTION 4. Article 1A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-32.2A. Election to receive stepped-up basis for 2010.**

A personal representative of an estate of a decedent dying in calendar year 2010 for which the federal estate tax is paid may elect to conform the North Carolina basis of the property in the estate to that of the federal stepped-up basis obtained by payment of the federal estate tax by filing an election with the Secretary and paying the amount of tax that would have been payable under this Article had the federal estate tax that was paid been in effect when the decedent died. In the absence of this election and payment, the North Carolina basis of the property differs from the federal basis. To make the election, an executor must file a return with the Secretary within the time allowed for filing the federal estate tax return. "

SECTION 5. This act is effective when it becomes law. Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after May 1, 2010, that increase North Carolina taxable income for the 2010 taxable year become effective for taxable years beginning on or after January 1, 2011.

IRC Update Chart

	IRC as of May 1, 2010	North Carolina's current tax law *references the IRC as of May 1, 2010*	Small Business Jobs act of 2010 *Enacted September 27, 2010*	Tax Relief and Job Creation Act of 2010 *Enacted December 17, 2010*	PROPOSAL
Bonus Depreciation *allows a business to claim more of a deduction up front and spread the remainder out over the normal depreciation schedule. Over the life of the asset, the taxpayer receives the same benefit. The normal depreciation schedule is usually 5 years or 15 years, depending upon the asset.*	50% bonus depreciation for qualified property acquired and placed in service in 2009.	**DECOUPLED** but provided that the property's basis is the same for federal and State purposes. Taxpayer must add-back 85% of the accelerated depreciation amount in the year that it is claimed for federal tax purposes. The taxpayer may deduct 20% of this amount, plus the normal depreciation amount, over the next five years. *The extension of the bonus depreciation for tax years 2010, 2011, and 2012 are not included in the current NC tax law.*	50% bonus depreciation extended to property acquired and placed in service after December 31, 2009, in taxable years ending after such date, and before January 1, 2012 (2010 and 2011 taxable years).	Boosts 50% bonus depreciation to 100% bonus depreciation for property acquired and placed in service after September 8, 2010, in taxable years ending after such date, and before January 1, 2012 (2010 and 2011 taxable years). Provides 50% bonus depreciation for qualified property placed in service after December 31, 2012, and before January 1, 2013 (2012 taxable year).	**DECOUPLE,** but provide that the property's basis is the same for federal and State purposes. Taxpayer must add-back 85% of the accelerated depreciation amount in the year that it is claimed for federal tax purposes. The taxpayer may deduct 20% of this amount, plus the normal depreciation, over the next five years.
Section 179 expensing *allows the expensing of the purchase price of some business assets in the year of purchase rather than taking depreciation over the life of the asset. Section 179 has a deduction limit that begins to phase out on a dollar for dollar scale once an investment limit is reached. The deduction limit is $25,000 and the investment limit is $200,000; neither is indexed for inflation.*	The deduction limit is $250,000 for 2010 and the investment limit is $800,000. The expensing limits are scheduled to revert to prior levels in 2011.	**Conforms.** Deduction limit is $250,000 with an investment limit of $800,000; reverts to $25,000/$200,000 in 2011.	The limits expanded to $500,000 and $2,000,000 for 2010 and 2011; reverts back to prior levels in 2012 with no indexing ($25,000/$200,000). Expands definition of qualified property to include certain real property up to $250,000 for 2010 and 2011.	The limits expanded in 2012 to $125,000 and $500,000, indexed for inflation. Reverts to prior levels in 2013 ($25,000/$200,000).	**MAINTAINS** 2010 deduction limits of $250,000 and $800,000 for taxable years 2010 and 2011. **DECOUPLES** from enhanced limits of $500,000 and $2,000,000 for taxable years 2010 and 2011 but provides that the property's basis is the same for federal and State purposes. Taxpayer must add-back 85% of the additional expensing taken under federal law in the year that it is claimed and may deduct 20% of this amount over the next five years. **CONFORMS** to federal law for taxable years 2012 and 2013.

	IRC as of May 1, 2010	North Carolina's current tax law *references the IRC as of May 1, 2010*	Small Business Jobs act of 2010 *Enacted September 27, 2010*	Tax Relief and Job Creation Act of 2010 *Enacted December 17, 2010*	PROPOSAL
50% of the gain realized on qualified small business stock *may be excluded from income. To qualify, the stock must be purchased at its original issue and the aggregate gross assets of the issuing corporation may not exceed $50 million and at least 80% of the value of its assets must be used in the active conduct of one or more trades or business. The exclusion is capped at the greater of 10 times the taxpayer's basis in the stock or $10 million.*	Exclusion increased from 50% to 75% for stock acquired after February 17, 2009, and before January 1, 2011, and held for more than 5 years.	**Conforms** *with 75% exclusion*	Exclusion increased to 100% for stock acquired after September 27, 2010, and before January 1, 2011.		**Conform.** Exclusion increased to 100% for stock acquired after September 27, 2010, and before January 1, 2011.
Up to $5,000 of start-up expenses may be deducted. *The deduction is reduced by the amount of start-up costs that exceed $50,000.*	The deduction limit is $5,000 and the phase-out threshold is $50,000.	**Conforms.** Deduction limit of $5,000 and a phase-out threshold of $50,000	Increases the deduction limit to $10,000 and the phase-out threshold to $60,000.		**Conform.** Deduction limit increases to $10,000 and the phase-out threshold increases to $60,000.
Other provisions of the Small Business Jobs Act of 2010: • **Deduction for health insurance costs** • **457 plans** • **401(k) rollovers to Roth accounts** • **Annuitization of a nonqualified annuity contract** • **Source rules for income on guarantees**	N/A		These items generated a minimum amount of revenues.		**Conform.**

	IRC as of May 1, 2010	North Carolina's current tax law *references the IRC as of May 1, 2010*	Small Business Jobs act of 2010 *Enacted September 27, 2010*	Tax Relief and Job Creation Act of 2010 *Enacted December 17, 2010*	PROPOSAL
Various business tax extenders: • **Longer recovery periods** • **Charitable incentive deductions**	Incentives expired for tax year 2010.	**Conforms.** Incentives expired at the end of 2009.		Extends business incentives for two more taxable years: 2010 and 2011.	**Conform.** Extends incentives for two more taxable years: 2010 and 2011.
Various tax credits: • **WOTC** • **EITC** • **Adoption**	Enhancements set to expire for the 2011 tax year.	**Conforms.** Enhancements set to expire for the 2011 tax year.		Enhancements extended for two more tax years: 2011 and 2012.	**Conform.** Extend the enhancements for two more taxable years: 2011 and 2012.
Various individual tax extenders: • **Full repeal of phase-out of itemized deductions** • **Deductibility of mortgage insurance premiums** • **Educational assistance exclusion** • **Student loan interest deduction** • **Coverdale education savings accounts** • **Exclusion of qualified scholarships** • **Deduction for higher education tuition** • **Expense deduction for teacher's classroom supplies** • **Charitable contribution of IRA proceeds**	Incentives and enhancements expired for the 2010 taxable year and others set to expire for the 2011 taxable year.	**Conforms.** Incentives and enhancements expired or will expire in 2011.		Incentives and enhancements extended two more taxable years, through either 2011 or 2012.	**Conform.** Extend the incentives and enhancements for two more taxable years: either 2011 and 2012.

	IRC as of May 1, 2010	North Carolina's current tax law *references the IRC as of May 1, 2010*	Small Business Jobs act of 2010 *Enacted September 27, 2010*	Tax Relief and Job Creation Act of 2010 *Enacted December 17, 2010*	PROPOSAL
Estate tax *gradually reduced over a period of years and then abolished for decedents dying in 2010. EGTRRA repealed the state estate tax credit for decedents dying after 2004 and replaced it with a deduction.*	Scheduled to revert to pre-EGTRRA estate tax maximum tax rate of 55% and a $1 million applicable exclusion amount. The state estate tax credit, as it existed in 2001, is revived for decedents dying after 2010.	**Conforms.** NC does not have an estate tax for decedents dying in 2010 and the basis of the property passing through an estate of a decedent dying in 2010 is the modified carryover basis rules under EGTRRA. Beginning in 2011, the state estate tax is equal to the state estate tax credit as it existed in 2001 and the exclusion amount is $1 million		Revives the estate tax at significantly higher applicable exclusion amount and lower tax rate than had been scheduled under EGTRRA: the maximum estate tax rate is 35% with an applicable exclusion amount of $5 million. Gives estates of decedents dying in 2010 the option to (1) pay the estate tax based on the new 35% rate and $5 million exclusion, with stepped-up basis, or (2) no estate tax and modified carryover basis. Extends the state estate tax deduction. These provisions scheduled to sunset on December 31, 2012. Unless modified or extended, the estate tax law will revert to pre-EGTRRA rates and exclusion amounts.	**Conforms** to the higher exclusion amount and gives estates that chose to pay federal estate tax and receive the stepped-up basis to elect to receive the stepped-up basis for NC purposes by paying the State estate tax for 2010.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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BILL DRAFT 2011-LAxz-5 [v.4] (12/22)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/4/2011 11:12:00 AM

Short Title: Telephone and Tower Property Tax Appraisal. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH UNIFORM PROPERTY TAX APPRAISAL FOR ALL TELECOMMUNICATIONS COMPANIES AND TOWER AGGREGATE COMPANIES BY PROVIDING FOR SYSTEM APPRAISAL BY THE DEPARTMENT OF REVENUE RATHER THAN LOCAL APPRAISAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-273(8) reads as rewritten:

"**§ 105-273. Definitions.**

The following definitions apply in this Subchapter:

...

(8) Intangible personal property. – Patents, copyrights, secret processes, formulae, good will, trademarks, trade brands, licenses, franchises, stocks, bonds, cash, bank deposits, notes, evidences of debt, leasehold interests in exempted real property, bills and accounts receivable, or other like property."

SECTION 2. G.S. 105-333 reads as rewritten:

"Article 23.
Public Service Companies.

§ 105-333. Definitions.

The following definitions apply in this Article unless the context requires a different meaning:

(1) Airline company. – A company engaged in the business of transporting passengers and property by aircraft for hire within, into, or from this State.

(2) Bus line company. – A company engaged in the business of transporting passengers and property by motor vehicle for hire over the public highways of this State (but not including a bus line company operating primarily upon the public streets within a single local taxing unit), whether the transportation is within, into, or from this State.

(3) Distributable system property. – All real property and personal property owned or used by a railroad company other than nondistributable system property.

(4) Electric membership corporation. – A company organized, reorganized, or domesticated under Chapter 117 of the General Statutes and engaged in the

business of supplying electricity for light, heat, or power to consumers in this State.

(5) Electric power company. – A company engaged in the business of supplying electricity for light, heat, or power to consumers in this State.

(6) Repealed by Session Laws 1973, c. 783, s. 5.

(7) Flight equipment. – Aircraft fully equipped for flying and used in any operation within this State.

(8) Gas company. – A company engaged in the business of supplying artificial or natural gas to, from, within, or through this State through pipe or tubing for light, heat, or power to consumers in this State.

(9) Locally assigned rolling stock. – Rolling stock that is owned or leased by a motor freight carrier company, specifically assigned to a terminal or other premises, and regularly used at the premises to which assigned.

(10) Motor freight carrier company. – A company engaged in the business of transporting property by motor vehicle for hire over the public highways of this State as provided in this subdivision:

a. As to interstate carrier companies domiciled in North Carolina, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier outside this State or two or more terminals inside this State. For purposes of appraisal and allocation only, the term also includes a North Carolina interstate carrier that does not have a terminal outside this State but whose operations outside the State are sufficient to require the payment of ad valorem taxes on a portion of the value of the rolling stock of the carrier to taxing units in one or more other states.

b. As to interstate carrier companies domiciled outside this State, this term includes carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier inside this State.

c. As to intrastate carrier companies, this term includes only those carriers that are engaged in the transportation of property by tractor trailer to or from two or more terminals owned or leased by the carrier in this State.

(11) Nondistributable system property. – The following properties owned by a railroad company: land other than right-of-way, depots, machine shops, warehouses, office buildings, other structures, and the contents of the structures listed in this subdivision.

(12) Nonsystem property. – The real and tangible personal property owned by a public service company but not used in its public service activities.

(13) Pipeline company. – A company engaged in the business of transporting natural gas, petroleum products, or other products through pipelines to, from, within, or through this State, or having control of pipelines for such a purpose.

(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a ~~telephone~~ telecommunications company, ~~a telegraph company,~~ a bus line company, an airline company, ~~or~~ a motor freight carrier ~~company.~~company, or a tower aggregate company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the

Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, a cable television company, or a radio or television broadcasting company.

(15) Railroad company. – A company engaged in the business of operating a railroad to, from, within or through this State on rights-of-way owned or leased by the company. It also means a company operating a passenger service on the lines of any railroad located wholly or partly in this State.

(16) Rolling stock. – Motor vehicles, railroad locomotives, and railroad cars that are propelled by mechanical or electrical power and used upon the highways or, in the case of railroad vehicles, upon tracks.

(17) System property. – The real property and personal property used by a public service company in its public service activities. The term also includes public service company property under construction on the day as of which property is assessed which when completed will be used by the owner in its public service activities. The term does not include intangible personal property that is classified and excluded from the tax base pursuant to G.S. 105-275(31).

~~(18) Telegraph company. – A company engaged in the business of transmitting telegraph messages to, from, within, or through the State.~~

(19) ~~Telephone~~ Telecommunications company. – A company engaged in the business of ~~transmitting telephone messages and conversations to, from, within, or through this State.~~ providing telecommunications service as defined in G.S. 105-164.3

(20) Repealed by Session Laws 1973, c. 783, s. 5.

(21) Terminal. – A motor freight carrier facility that includes buildings for the handling and temporary storage of freight pending transfer between locations. The term also includes a facility that handles truckloads only and typically consists of a wide, open space where rolling stock is parked and a building for offices and maintenance of rolling stock.

(22) Tower aggregate company. – A company that owns towers used by a telecommunications company to provide telecommunications service and that is not a telecommunications company.

(23) True value. – Defined in G.S. 105-283."

SECTION 3. G.S 105-335 reads as rewritten:

"**§ 105-335. Appraisal of property of public service companies.**

(a) Duty to Appraise. – ~~In accordance with the provisions of subsection (b), below, the~~ The Department of Revenue ~~shall~~ must appraise for taxation the true value of each public service company ~~(other than bus line, motor freight carrier, and airline companies) as a system (both inside and outside this State). Certain specified properties of bus line, motor freight carrier, and airline companies shall be appraised by the Department in accordance with the provisions of subsection (c), below, and all other properties of such companies shall be listed, appraised, and assessed in the manner prescribed by this Subchapter for the properties of taxpayers other than public service companies.~~ in accordance with this section.

(b) Property of ~~Public Service Companies Other Than Those Noted in Subsection (c).~~Electric, Gas, Pipeline, and Telecommunications Companies. –

(1) System Property. – Each year, as of January 1, the Department of Revenue ~~shall~~ must appraise at its true value ~~(as defined in G.S. 105-283)~~ the system property used by each public service company both inside and outside this State. Property leased by a public service company shall be included in

appraising the value of its system property if necessary to ascertain the true value of the company's system property.

(2) Nonsystem Personal Property. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem tangible personal property subject to taxation in this State.

(3) Nonsystem Real Property. – In accordance with the county in which the public service company's nonsystem real property is located and the schedules set out in G.S. 105-286 and 105-287, the Department of Revenue shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public service company's nonsystem real property subject to taxation in this State.

(c) Property of Bus Line, Motor Freight Carrier, ~~and Airline~~ Airline, and Tower Aggregate Companies. –

(1) Bus Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned or leased by or operated under the control of each bus line company, which bus line company is domiciled in this State or which is regularly engaged in business in this State.

(2) Motor Freight Carrier Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock owned by a motor freight carrier company or leased by a motor freight carrier company and operated by its employees which motor freight carrier company is domiciled in this State or is regularly engaged in business in this State at a terminal owned or leased by the carrier.

(3) Flight Equipment. – Each year, as of January 1, the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the flight equipment owned or leased by or operated under the control of each airline company that is domiciled in the State or that is regularly engaged in business at some airport in this State.

(4) Tower Equipment. – Each year, as of January 1, the Department shall appraise at its true value the towers and related site improvements that are owned by each tower aggregate company."

SECTION 4. G.S. 105-338 reads as rewritten:

"**§ 105-338. Allocation of appraised valuation of system property among local taxing units.**

(a) State Board's Duty. – For purposes of taxation by local taxing units in this State, the Department of Revenue shall allocate the valuations of public service company property among the local taxing units in accordance with the provisions of this section.

(b) System Valuation of ~~Companies Other Than Those Noted in Subsection (c).~~Electric, Gas, Pipeline, Railroad, and Telecommunications Companies. –

(1) System Property of Railroad Companies. – The appraised valuation of the distributable system property of a railroad shall be allocated for taxation to the local taxing units in accordance with the ratio of the miles of all the company's tracks in the local taxing unit to the total miles of all the company's tracks in this State, adjusted to reflect density of traffic in the local taxing unit.

(2) System Property of ~~Telephone~~ Telecommunications Companies. –

a. The Department of Revenue shall divide each ~~telephone~~ telecommunications company's system property in this State into the following two classes and shall determine the original cost of that

property and the percentage thereof represented by the property in each of the two classes.

– Class 1: Property located in this State that is identified under the applicable uniform system of accounts as central office equipment, ~~large P.B.X. equipment,~~cellular equipment, personal communication service equipment, motor vehicles, tools and work equipment, office furniture and equipment, materials and supplies, and land and buildings (including towers and other structures).

– Class 2: Property located in this State that does not come within Class 1.

The Department of Revenue shall then apply the percentages obtained in accordance with this subdivision to the appraised valuation of the company's system property in this State and thereby derive the proportions of appraised valuation to be allocated as Class 1 and Class 2 valuations to local taxing units in accordance with subdivision (b)(2)b, below.

b. Having made the division required by subdivision (b)(2)a, above, the Department of Revenue shall allocate the appraised valuation of the properties in each class among the local taxing units of the State as follows:

– Class 1: The appraised valuations of property in this class shall be allocated among the local taxing units in which such property of the company is situated on January 1 in the proportion that the original cost of such property in the taxing unit bears to the original cost of all such property in this State.

– Class 2: The appraised valuations of property in this class shall be allocated among the local taxing units in which the company operates in the proportion that the miles of the company's ~~single aerial wire and single wire in cable (including single tube in coaxial cable)~~transmission wires or cables in the taxing unit bears to the total of such wire miles of the company in this State.

(3) System Property of ~~Other Companies Appraised by the Department of Revenue.~~Electric, Gas, and Pipeline Companies. –

a. The provisions of this subdivision (b)(3) shall govern the allocation of the property of ~~all companies appraised by the Department of Revenue except railroad, telephone, bus line, motor freight carrier, and airline companies.~~electric, gas, and pipeline companies.

b. The appraised valuation of the system property of such a company shall be allocated for taxation to the local taxing units in which the company operates in the proportion that the original cost of the taxable system property in the local taxing unit on January 1 bears to the original cost of all the taxable system property in this State. If in any local taxing unit the company owns system property acquired prior to January 1, 1972, for which the original cost cannot be definitely ascertained, a reasonable estimate of the original cost of that property shall be made by the company, and this estimate shall be used by the Department of Revenue for allocation purposes as if it were the actual original cost of the property.

(c) Property of Bus Line, Motor Freight Carrier, and ~~Airline~~ Airline, and Tower Aggregate Companies. –

(1) The appraised valuation of a bus line company's rolling stock shall be allocated for taxation to each local taxing unit according to the ratio of the company's scheduled miles during the calendar year preceding January 1 in each such unit to the company's total scheduled miles in this State for the same period. In no event, however, shall the State Board make an allocation to a taxing unit if, when computed, the valuation for that taxing unit amounts to less than five hundred dollars ($500.00).

(2) The appraised valuation of the rolling stock (other than locally assigned rolling stock) owned or leased by a motor freight carrier company shall be allocated for taxation to each local taxing unit in which the company has a terminal according to the ratio of the tons of freight handled in the calendar year preceding January 1 at the company's terminals within the taxing unit to the total tons of freight handled by the company in this State in the same period. If a North Carolina interstate motor freight carrier company has no terminal outside this State, but has been required to pay ad valorem tax to one or more taxing units outside this State, there shall be allowed a reduction in the North Carolina valuation measured by the ratio of the rolling stock subject to ad valorem taxation outside the State to all of the carrier's rolling stock.

(3) The appraised valuation of an airline company's flight equipment shall be allocated for taxation to each local taxing unit in which an airport used by the company is situated according to the ratio obtained by averaging the following two ratios: the ratio of the company's ground hours in the taxing unit in the year preceding January 1 to the company's ground hours in the State in the same period, and the ratio of the company's gross revenue in the taxing unit in the year preceding January 1 to the company's gross revenue in the State in the same period.

(4) The appraised valuation of towers and related site improvements owned by a tower aggregate company shall be allocated for taxation to each local taxing unit in which the tower aggregate company operates according to the ratio of the total tower height of the company's towers located in the taxing unit on January 1 to the total tower height of the company's towers located in the State on the same date."

SECTION 5. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2012.

Draft 2011-LAxz-5: Telephone and Tower Property Tax Appraisal.

2011-2012 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	January 4, 2011
Introduced by:		**Prepared by:**	Martha Walston Committee Counsel
Analysis of:	2011-LAxz-5 (Draft)		

SUMMARY: ***The draft proposal, as recommended by the Department of Revenue in discussions with the wireless companies and tower companies, would authorize the Department of Revenue to appraise wireless companies and tower aggregate companies throughout the State. This would relieve these companies of listing their system property in every county in which the property is located. The draft would also relieve the counties of trying to determine the true value of the companies' property.***

The draft would delete obsolete language and make stylistic and clarifying changes.

CURRENT LAW: Each year the North Carolina Department of Revenue must appraise, at its true value the system property used by certain public service companies both inside and outside the State. System property refers to the real and tangible personal property used by a public service company in its public service activities. Generally property is appraised by the county in which it is located. A public service company is defined as a railroad company, a pipeline company, a gas company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, or a motor freight carrier company.[1] In determining the true value of public service companies, the Department must consider the following:

- The market value of the company's capital stock and debt.
- The book value of the company's system property as reflected in the books of account kept under the regulations of the appropriate federal or State regulatory agency and what it would cost to replace or reproduce the system property, less a reasonable allowance for depreciation.
- Gross receipts and operating income of the company.
- Any other factor or information that in the judgment of the Department has a bearing on the true value of the company's system property.

If a public service company is operating both inside and outside the State, then the Department of Revenue must apportion, for taxation in North Carolina, a fair and reasonable share of the value of the company using property, business, and mileage factors. The Department must also allocate the valuations of public service company property among the local taxing units. Each local taxing unit then applies its tax rate to the apportioned valuation just as it does for any other type of property.

[1] The Department appraises the rolling stock of a bus line company or motor freight carrier company, and the flight equipment of an airline company each year. Rolling stock refers to motor vehicles, railroad locomotives, and railroad cars.

A water company, a cable television company, or a radio or television broadcasting company is not included in the definition of a "public service company" and is therefore assessed and appraised by each county in which the property is located.

Last session the General Assembly removed a radio common carrier company as defined in G.S. 62-119(3) from the list of companies excluded from the definition of "public service company". This change to the statutory definition of "public service company" was considered a technical change because G.S. 62-119 had been repealed in 1995. However, the consequence was more substantive because it could be interpreted as authorizing the Department of Revenue to centrally appraise radio common carriers such as wireless companies.

BILL ANALYSIS: This draft is a recommendation of the Department of Revenue and the North Carolina Association of County Commissioners with the understanding that the wireless providers and the tower companies would agree to the Department of Revenue centrally appraising the true value of the following companies for property tax purposes:

- a company engaged in the business of providing telecommunications service. The definition of the term "telecommunications service" is defined in the State's sales tax statutes and is attached to this summary. The Department already appraises the system property of landline telephone companies.
- a company that owns towers used by a telecommunications company to provide telecommunications service and that is not a telecommunications company.

The draft would relieve the wireless providers and tower aggregate companies of listing their property at the county level, which in many cases, would be multiple counties. The draft would also provide a more accurate determination of the true value of the companies' system property. In practice, most counties use only the cost approach, since they do not have the capability to consider other approaches such as the gross receipts and operating income of a company.

The draft would also add "licenses" to the definition of "intangible personal property" and clarify that the companies' intangible personal property other than a leasehold interest in exempted real property is not appraised and assessed for property tax purposes. G.S. 105-273(8) defines "intangible personal property" as patents, copyrights, secret processes, formulae, good will, trademarks, trade brands, licenses, franchises, stocks, bonds, cash, bank deposits, notes, evidences of debt, leasehold interests in exempted real property, bills and accounts receivable, and other like property.

EFFECTIVE DATE: This draft is effective for taxes imposed for taxable years beginning on or after July 1, 2012.

105-164.3

...

(48) Telecommunications service. – The electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term includes any transmission, conveyance, or routing in which a computer processing application is used to act on the form, code, or protocol of the content for purposes of the transmission, conveyance, or routing, regardless of whether it is referred to as voice-over Internet protocol or the Federal Communications Commission classifies it as enhanced or value added. The term does not include the following:

a. An information service.
b. The sale, installation, maintenance, or repair of tangible personal property.
c. Directory advertising and other advertising.
d. Billing and collection services provided to a third party.
e. Internet access service.
f. Radio and television audio and video programming service, regardless of the medium of delivery, and the transmission, conveyance, or routing of the service by the programming service provider. The term includes cable service and audio and video programming service provided by a mobile telecommunications service provider.
g. Ancillary service.
h. Digital property that is delivered or accessed electronically, including an audio work, an audiovisual work, or any other item subject to tax under G.S. 105-164.4(a)(6b).

Unknown-SMLA-2(e1) v12

Revenue Laws
January 5, 2011

Present-Use Value
Ownership

David Baker
Director
Property Tax Division
N.C. Department of Revenue

1

Introduction

- Generally, all property in North Carolina is valued at its **market value.**
- **Present-use value (PUV)** is the value of land in its current use as agricultural land, horticultural land, or forestland based solely on its ability to produce income and assuming an average level of management.

2

Introduction

- **Deferred taxes** are the difference in taxes between the market value and the present-use value.

3

Classifications

- Agricultural Land
- Horticultural Land
- Forestland

4

Four Tests

- Ownership
- Size
- Income
- Sound Management

5

"Individually Owned"

- All property qualifying for present-use value must be "individually owned."
- Originally, this meant that only individuals could qualify, but the term has been periodically expanded by the General Assembly to include other forms of ownership, such as business entities and trusts.

6

Qualifying Forms of Ownership

- There are four categories of qualifying owners:
  - Individuals
  - Certain Tenants in Common
  - Certain Business Entities
  - Certain Trusts and Testamentary Trusts

7

Qualifying Forms of Ownership

- Individuals
  - These are properties owned in a person's actual name.
  - Properties owned by husband and wife as tenants by the entirety fall into this category.

8

Qualifying Forms of Ownership

- Tenancy in Common
  - Tenants in common is a form of ownership where multiple owners can own undivided interests in real property.
  - A tenancy in common can qualify for present-use value only if each tenant would qualify as an owner if the tenant were the sole owner.

9

Qualifying Forms of Ownership

- Business Entities are:
  - limited liability companies,
  - general partnerships,
  - limited partnerships, and
  - corporations.

10

Qualifying Forms of Ownership

- Business Entity Requirements

  1. A business entity must have agriculture, horticulture, or forestry as its principal business.

11

Qualifying Forms of Ownership

- Business Entity Requirements (cont'd)

  2. All members of the business entity must be individuals, either directly or indirectly.

     Directly or indirectly—All interest in a business entity is ultimately owned by individuals, if you look far enough down the ownership structure. Essentially, you are "looking through" all of the intermediate ownerships to identify the individual level of ownership.

12

Qualifying Forms of Ownership

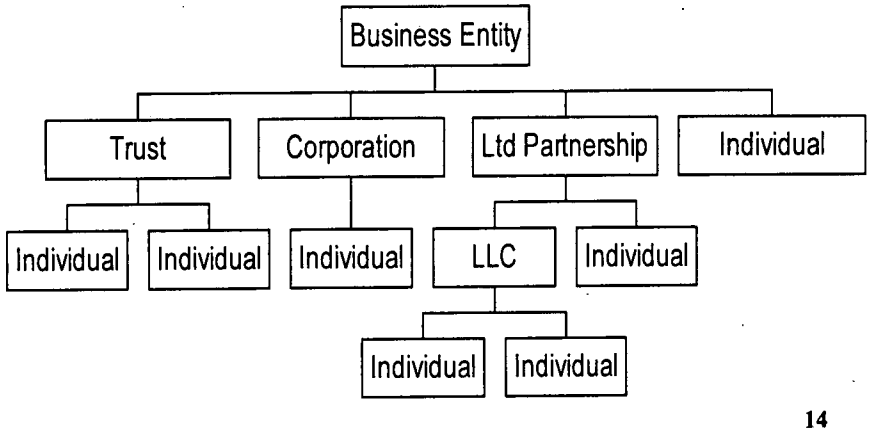
- Business Entity Requirements (cont'd)

  3. All individual members must be actively engaged in the principal business of the entity **or** be related to an individual member who is actively engaged in the principal business of the entity.

13

Qualifying Forms of Ownership

- Business Entity Requirements (cont'd)



14

Qualifying Forms of Ownership

- Business Entity Requirements (cont'd)

  4. A business entity cannot be a corporation whose shares are publicly traded. Neither can any of its members be corporations whose shares are publicly traded.

15

Qualifying Forms of Ownership

- Business Entities—Exception for Family Business Entities

  – If all members of the business entity are related to each other, the business entity may lease the land out to a tenant farmer to farm the land and, by statutory definition, the business entity can meet the principal business and actively engaged requirements. Otherwise, business entities are not allowed to lease the land out to a tenant farmer.

16

Qualifying Forms of Ownership

- Trusts
  - Must be created by an individual who transferred the land to the trust.
  - Each beneficiary must be an individual, either directly or indirectly, who is either the creator of the trust or a relative of the creator of the trust. The "directly or indirectly" principal requires "looking through" all of the intermediate ownerships to identify the individual level of beneficial interest.

17

Qualifying Forms of Ownership

- Testamentary Trusts
  - Must be created by an individual who transferred the land to the trust.
  - Land must have qualified for classification in the hands of the individual prior to transfer to the trust.
  - At the time of the creator's death, the creator had no relatives.
  - Trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes.

18

Requirements for Qualifying Owners

- All tracts owned by qualifying owners must meet either the Standard Ownership Requirements...

OR

- ...meet one of the Two Exceptions to the Standard Ownership Requirements.

19

Requirements for Qualifying Owners

- Standard Requirements—Individuals
  - If owned by an individual, the property must meet one of these requirements:

    1. The property is the owner's place of residence as of January 1.

20

Requirements for Qualifying Owners

- Standard Requirements—Individuals

  2. The property has been owned by the current owner or a relative of the current owner for the four full years preceding January 1 of the year for which application is made.

21

Requirements for Qualifying Owners

- Standard Requirements—Business Entities

  – If the current owner is a business entity, the property must have been owned by the business entity or by one or more of the members of the business entity for the four full years preceding January 1 of the year for which application is made.

22

Requirements for Qualifying Owners

- Standard Requirements—Trusts
  - If the current owner is a trust, the property must have been owned by the trust or by one or more of the creators of the trust for the four full years preceding January 1 of the year for which application is made.

23

Requirements for Qualifying Owners

- Two Exceptions to the Standard Requirements for Qualifying Owners:
  1. Exception for Continued Use
  2. Exception for Expansion of Existing Unit

24

Requirements for Qualifying Owners

- Exception for Continued Use
  - This exception allows a qualifying owner to immediately qualify without having to meet the Standard Ownership Requirements if all of the following conditions are met:

25

Requirements for Qualifying Owners

- Exception for Continued Use (cont'd)
  1. The land was appraised at its present-use value at the time title to the land passed to the new owner.
  2. The new owner will continue to use the land for the purposes it was classified for appraisal at its present-use value under the previous ownership.

26

Requirements for Qualifying Owners

- Exception for Continued Use (cont'd)

3. The land will continue to meet all the applicable size requirements. If the new owner does not own any other land in present-use value, the land must be able to meet the size requirements for an initial qualifying tract. If the new owner already has a qualifying tract of the same classification in use value, the transferred land may be less than the minimum initial required acreage if the land can properly be considered an additional tract of the existing farm unit.

27

Requirements for Qualifying Owners

- Exception for Continued Use (cont'd)

4. The new owner must file an application for present-use value within 60 days of the date of transfer. Untimely applications may be filed and approved under certain conditions.

5. The new owner certifies that they accept liability for any deferred taxes that exist on the property.

28

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit
  - This exception for expansion of an existing farm unit is designed to allow those property owners who already have qualifying property under the present-use value program to expand their farm and immediately qualify the new land for present-use value classification without having to meet the Standard Ownership Requirements.

29

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)
  - This exception only applies to property that was **not** appraised at present-use value at the time of transfer. If the property was not in present-use value or the previous owner requested removal from the program, the option for immediate qualification for year of transfer under the Exception for Continued Use will not be an option since the property must be in present-use value at the time of transfer under that exception.

30

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)
  - Under the provisions for Exception for Expansion of Existing Unit, the new owner may still immediately qualify the land for the next year if all of the following conditions are met:

31

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)
  1. At the time of transfer, the new owner owned other land already in present-use value.
  2. At the time of transfer, the land was not appraised at its present-use value.
  3. At the time of transfer, the land being transferred was being used for the same purpose as the land owned by the new owner that is already in present-use value.

32

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)

4. At the time of transfer, the land being transferred was eligible for present-use value with regard to production and sound management requirements. Since this exception applies to the expansion of an existing farm unit only, the initial size requirements would not need to be applied to the additional tract being transferred.

33

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)

5. The new owner must timely file a new application during the next listing period, typically the month of January. Since land attempting to qualify under this exception is not in present-use value at the time of transfer, the land will need to qualify under an initial application. An initial application for present-use value should be filed during the regular listing period of the next tax year.

34

Industry-Specific Apportionment – Telecommunications

Revenue Laws Study Committee
Lennie Collins, Director
Corporate, Excise & Insurance Tax Division
NC Department of Revenue
January 5, 2011

Apportionment

- Income of a multistate business is generally apportioned by use of a 3-factor formula
  - Property
  - Payroll
  - Sales (double weighted)
- Numerator consists of property, payroll and sales in NC
- Denominator consists of property, payroll and sales everywhere

Current Industry-Specific Formulas

- Railroads – railway operating revenue
- Telephone Companies – operating revenue from local service
- Motor Carriers – vehicle miles
- Public Utilities – sales factor only
- Air/Water Carriers – revenue ton miles

Special Formula for Telephone Companies

•G.S. 105-130.4(n) - All apportionable income of a telephone company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is gross operating revenue from local service in this State plus gross operating revenue from toll services performed wholly within this State plus the proportion of revenue from interstate toll services attributable to this State as shown by the records of the company plus the gross operating revenue in North Carolina from other service less the uncollectible revenue in this State, and the denominator of which is the total gross operating revenue from all business done by the company everywhere less total uncollectible revenue. Provided, that where a telephone company is required to keep its records in accordance with the standard classification of accounts prescribed by the Federal Communications Commission the amounts in such accounts shall be used in computing the apportionment fraction as provided in this subsection.

Issue:

- Current apportionment methodology has been in place since 1957
- "Telephone Company" is not defined
- "Local service" and "Toll services" are terms not applicable to wireless and voice over internet protocol services
- Traditional landline companies use single factor
- Other telecommunications companies use three factor

Level the Playing Field

- All businesses that provide telecommunication services should be subject to the same apportionment methodology

Telecommunication Services Defined

- Electronic transmission, conveyance, or routing of voice, data, audio, video or any other information or signals to a point, or between or among points.

Telecommunication Services Include

- Includes 800/900 service
- Fixed or mobile wireless service
- Paging service
- Prepaid service
- Private communication service
- International/Interstate telecommunications service
- Network access service
- Pay telephone service

Telecommunication Services Does Not Include

- Data processing and information services where the purchaser's primary purpose for the underlying transaction is the processed data or information.
- Installation or maintenance of wiring or equipment
- Advertising
- Billing and collection services provided to third parties
- Internet access service
- Radio and television audio and video programming service
- Digital products delivered electronically

Recommendation

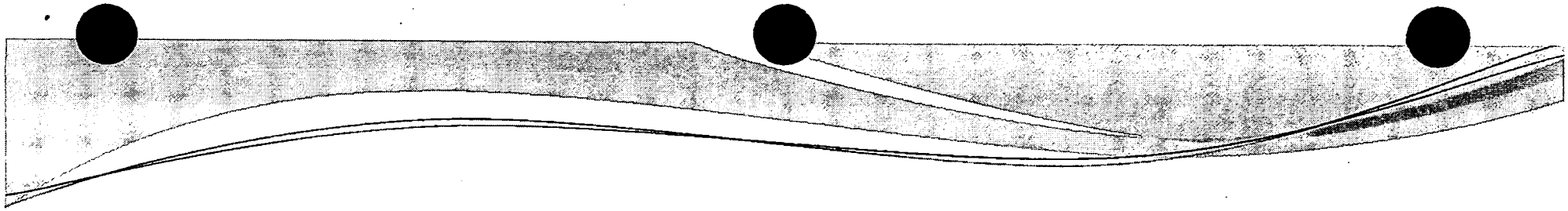
- Adopt Industry-Specific apportionment formula
- 3-factor formula
- Payroll Factor – unchanged
- Property Factor
  - Outer-jurisdictional property is excluded from the property factor

Recommendation

- Sales of tangible personal property – unchanged
- NC sales numerator includes gross receipts from:
  - Telecommunication services sold on a call-by-call basis when the call originates and terminates in NC, or the call originates or terminates and the service address is in NC
  - Telecommunication services sold on other than a call-by-call basis and the customer's place of primary use is in NC
  - Mobile telecommunication services when the customer's place of primary use is in NC pursuant to the Mobile Telecommunications Sourcing Act

Recommendation

- NC sales numerator includes gross receipts from:
  - Prepaid and postpaid services when the origination point is in NC
  - Private communication services when the customer channel termination points are located in NC
  - A portion of the wholesale sales based on FCC Table 15.6, Telecommunications Revenues by State
  - Ancillary services when the customer's primary use is in NC
- Gross receipts from services which are not taxable in the state to which they would be apportioned under these rules are excluded from the denominator of the sales factor



Questions?

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U D

BILL DRAFT 2011-RBxz-4 [v.3] (01/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/4/2011 6:50:11 PM

Short Title: Update Corporate Tax Apportionment Formula. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE APPORTIONMENT FORMULA SALES FACTOR FOR TELECOMMUNICATIONS SERVICE PROVIDERS, BROADCASTERS, AND PUBLISHERS AND TO UPDATE THE APPORTIONMENT FORMULA PROPERTY FACTOR FOR ALL CORPORATIONS BY EXCLUDING OUTER-JURISDICTIONAL PROPERTY FROM THAT FACTOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.4 reads as rewritten:

"**§ 105-130.4. Allocation and apportionment of income for corporations.**

(a) As used in this section, unless the context otherwise requires:

(1) "Apportionable income" means all income that is apportionable under the United States Constitution.

(1b) "Broadcast programming" means video programming as defined in G.S. 105-164.3 or audio programming. Each episode of a series is considered a separate broadcast.

(2) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) "Excluded corporation" means any corporation engaged in business as a building or construction contractor, a securities dealer, or a loan company or a corporation that receives more than fifty percent (50%) of its ordinary gross income from intangible property.

(5) "Nonapportionable income" means all income other than apportionable income.

(5b) 'Outer-jurisdictional property' means tangible personal property that is not physically located in any state. The term includes orbiting satellites and undersea transmission cables.

(6) "Public utility" means any corporation that is subject to control of one or more of the following entities: the North Carolina Utilities Commission, the Federal Communications Commission, the Interstate Commerce Commission, the Federal Energy Regulatory Commission, or the Federal Aviation Agency; and that owns or operates for public use any plant,

equipment, property, franchise, or license for the transmission of communications, the transportation of goods or persons, or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam, oil, oil products, or gas. The term also includes a motor carrier of property whose principal business activity is transporting property by motor vehicle for hire over the public highways of this State. The term does not include a corporation engaged in the business of broadcasting.

(7) "Sales" means all gross receipts of the corporation except for the following receipts:

a. Receipts from a casual sale of property.
b. Receipts allocated under subsections (c) through (h) of this section.
c. Receipts exempt from taxation.
d. The portion of receipts realized from the sale or maturity of securities or other obligations that represents a return of principal.

(8) "Casual sale of property" means the sale of any property which was not purchased, produced or acquired primarily for sale in the corporation's regular trade or business.

(9) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

...

(i) All apportionable income of ~~corporations other than public utilities, excluded corporations, and qualified capital intensive corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus one.~~corporations, other than those corporations that are required to apportion income under one of the special formulas provided in subsections (m) through (s3) of this section, is apportioned to this State by multiplying the income by the general factor.

(j) (1) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this State during the income year and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the income year. Neither the numerator nor the denominator includes outer-jurisdictional property.

(2) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals except that subrentals shall not be deducted when they constitute apportionable income. Any property under construction and any property the income from which constitutes nonapportionable income shall be excluded in the computation of the property factor.

(3) The average value of property shall be determined by averaging the values at the beginning and end of the income year, but in all cases the Secretary of Revenue may require the averaging of monthly or other periodic values during the income year if reasonably required to reflect properly the average value of the corporation's property. A corporation that ceases its operations in this State before the end of its income year because of its intention to

dissolve or to relinquish its certificate of authority, or because of a merger, conversion, or consolidation, or for any other reason whatsoever shall use the real estate and tangible personal property values as of the first day of the income year and the last day of its operations in this State in determining the average value of property, but the Secretary may require averaging of monthly or other periodic values during the income year if reasonably required to reflect properly the average value of the corporation's property.

...

(n) All apportionable income of a ~~telephone company shall be apportioned to this State~~ telecommunications service provider is apportioned by multiplying the income by ~~a fraction, the numerator of which is gross operating revenue from local service in this State plus gross operating revenue from toll services performed wholly within this State plus the proportion of revenue from interstate toll services attributable to this State as shown by the records of the company plus the gross operating revenue in North Carolina from other service less the uncollectible revenue in this State, and the denominator of which is the total gross operating revenue from all business done by the company everywhere less total uncollectible revenue. Provided, that where a telephone company is required to keep its records in accordance with the standard classification of accounts prescribed by the Federal Communications Commission the amounts in such accounts shall be used in computing the apportionment fraction as provided in this subsection.~~the general formula, after modifying the numerator and denominator of the sales factor in accordance with this subsection. The numerator includes gross receipts derived from providing telecommunications service or ancillary service that is sourced to this State under G.S. 105-164.4C and a portion of the gross receipts derived from sales of telecommunications service to other telecommunications service providers for resale. The portion of the gross receipts derived from sales of service to other providers for resale is determined by multiplying the total gross receipts derived from sales of service to other providers for resale by a fraction, the numerator of which is the provider's total carrier service revenues for this State and the denominator of which is the sum of the provider's total carrier service revenues, as reported by the Federal Communications Commission for the most recent year for which data is available. The denominator does not include gross receipts from the sale of telecommunications service that is not taxable in the state to which it would be apportioned under this subsection. The definitions in G.S. 105-164.3 and G.S. 105-164.4C apply in this subsection.

...

(s2) All apportionable income of a corporation engaged in the business of broadcast programming is apportioned by multiplying the income by the general formula, after modifying the numerator of the sales factor in accordance with this subsection. The numerator includes all receipts from broadcast programming multiplied by an audience factor. The audience factor is the ratio of the corporation's North Carolina listening or viewing audience to the corporation's total listening or viewing audience. A corporation may use published rating or subscription statistics, as appropriate, to determine its audience factor.

(s3) All apportionable income of a corporation engaged in the business of publishing, selling, licensing, or distributing a book, a magazine, a newspaper, a newsletter, a report, or another publication is apportioned by multiplying the income by the general formula, after modifying the numerator of the sales factor in accordance with this subsection. The numerator includes all of the corporation's receipts from advertising and from the sale, rental, or other use of its customer lists multiplied by a circulation factor. The circulation factor is the ratio of the corporation's North Carolina purchasers and subscribers of a publication to the corporation's total purchasers and subscribers of the publication. A purchaser or subscriber of a publication is the final recipient of the publication. A separate circulation factor applies to each publication. If advertising in a publication is included only in copies of the publication distributed to a limited geographic area, the circulation factor is determined on the basis of the circulation within the

limited geographic area. A corporation may use rating statistics published by the Audit Bureau of Circulations or other comparable statistics to determine the circulation factor for a publication.

...."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2011.

REVENUE LAWS STUDY COMMITTEE
State Legislative Building
Raleigh, North Carolina 27603

Senator Daniel Clodfelter, Cochair *Representative Paul Luebke, Cochair*

December 21, 2010

Mr. David Hoyle, Secretary
Department of Revenue
PO Box 25000
Raleigh, NC 27640

Dear David,

This is a request for a written explanation of the legal basis on which the Department is relying to hold taxpayer refunds. We make this request as a result of your presentation to the Revenue Laws Study Committee. You informed the Committee that the Department obtained an oral legal opinion from the Attorney General's Office that supports the Department's actions on this subject and that the Department cannot issue the refunds without a law change.

Without the benefit of the legal opinion, we do not understand why or how the law needs to be changed. We also do not understand how the Department's new policy is compatible with a long line of North Carolina cases that establish that, for statute of limitations purposes, discovery occurs when a party is on notice and could, in the exercise of reasonable diligence, make actual discovery. When the automated processing of a return identifies an overpayment, the Department is on notice of the potential refund.

The Revenue Laws Committee's next meeting is January 5, 2011. We ask that you provide the written explanation by January 3 so that we have time to review it before the meeting. Please send a copy electronically to Ms. Trina Griffin, Committee Counsel, as well.

Sincerely,

Rep. Paul Luebke, Co-Chair

Sen. Dan Clodfelter, Co-Chair

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U D

BILL DRAFT 2011-RBxz-1A [v.3] (11/29)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/4/2011 6:44:18 PM

Short Title: Revenue Laws Technical Bill - Part II. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

...

SECTION 1.(a) G.S. 105-164.4(a)(3) reads as rewritten:

"(3) A tax at the general rate applies to the gross receipts derived from the rental of an accommodation. The tax does not apply to a private residence or cottage that is rented for fewer than 15 days in a calendar year or to an accommodation rented to the same person for a period of 90 or more continuous days.

Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.

A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is ~~not~~ liable for tax on the amount the retailer charges the facilitator for the accommodation rental but is not liable for tax due but not received from a

facilitator on charges designated as facilitation fees and any other charges necessary to complete the rental.~~due but not received from a facilitator.~~ The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2.

The following definitions apply in this subdivision:

a. Accommodation. – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.

b. Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation."

SECTION 1.(b) This section is effective when it becomes law and applies to gross receipts derived from the rental of an accommodation that a consumer occupies or has the right to occupy on or after January 1, 2011.

SECTION 2.(a) A facilitator is not liable for an overcollection or undercollection of sales tax or local occupancy tax if the facilitator has made a good faith effort to comply with the law and collect the proper amount of tax as the result of the change under Section 31.6 of S.L. 2010-31 regarding a facilitator's collection and remittance obligations imposed under G.S. 105-164.4(a)(3), G.S. 153A-155(c), and G.S. 160A-215(c). This applies only to the period beginning January 1, 2011, and ending April 1, 2011.

SECTION 3. G.S. 105-164.16(d) reads as rewritten:

"(d) Use Tax on Out-of-State Purchases. – Use tax payable by an individual who purchases the items listed in this subsection~~tangible personal property other than a boat or an aircraft, digital property, or a service~~ outside the State for a nonbusiness purpose is due on an annual basis. For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar year and a use tax return is due by the following April 15. For an individual who is required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the use tax must be paid on the income tax return as provided in G.S. 105-269.14. The items are:

(1) Tangible personal property other than a boat or an aircraft.

(2) Digital property.

(3) A service."

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

Bill Draft 2011-RBxz-1A: Revenue Laws Technical Bill - Part II

2011-2012 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	January 5, 2011
Introduced by:		**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	2011-RBxz-1A		

SUMMARY: The changes in this proposal would be in addition to the changes distributed at the December 1, 2010 meeting in Bill Draft 2011-RBxz-1.

BILL ANALYSIS:

Section	Explanation
1	Clarifies that a retailer who provides accommodations is liable for sales tax on the amount it charges a facilitator for an accommodation. During the 2010 Session, the General Assembly established new sales and use tax reporting and remittance obligations on "facilitators," which are entities that enter into a contract with the providers of accommodations to market and collect payment for accommodation rentals. An example of a facilitator is an online travel company, such as Expedia or Travelocity. The Department of Revenue has raised concerns that the amended statute, which provides that "a retailer is not liable for tax due but not received from a facilitator," is unclear with regard to a retailer's liability. This section would clarify that a retailer is liable for tax due on the "wholesale" rate it charges a facilitator, but it is not liable for amounts due on charges imposed by a facilitator that the facilitator fails to send to the retailer. This section is effective when it becomes law and applies to gross receipts derived from the rental of an accommodation that a consumer occupies or has the right to occupy on or after January 1, 2011.
2	Provides that a facilitator would not be liable for an overcollection or an undercollection of sales tax or local occupancy tax during the period of January 1, 2011, through April 1, 2011, as the result of the new collection and remittance obligations imposed under Section 31.6 of S.L. 2010-31 as long as the facilitator made a good faith effort to comply with the law and collect the proper amount of tax.
3	Clarifies that use tax is payable by an individual on an annual basis for purchases made outside the State for a nonbusiness purpose of digital property and certain services. In 2009, the General Assembly imposed the State and local general rate of sales tax on certain digital goods, such as downloaded music and books. The legislation also made several conforming changes by adding the term "digital property" to a number of other sales tax statutes. Among them, the term "digital property" was added to the statute that sets out when an individual is required to pay use tax on out-of-State purchases. Since digital property was being subjected to sales tax, a corresponding change was made to subject it to use tax if it is purchased out of State. The Department of Revenue is interpreting the statute to exclude digital property and services from the annual use tax reporting requirement. This section clarifies that the "other than" phrase applies only to boats and aircraft. All other tangible personal property, digital property, and taxable services purchased outside the State for a nonbusiness use are subject to the annual reporting requirement for use tax.

EFFECTIVE DATE: Except as otherwise provided, the proposal would become effective when it becomes law.

2011-RBxz-1A-SMSV-1 v2

APPORTIONMENT FORMULAS

TELECOMMUNICATIONS SERVICE PROVIDERS, BROADCASTERS, AND PUBLISHERS

APPORTIONMENT FORMULA

- Fairly apportion the income of a multistate corporation to each of the states in which it has nexus
- Use of industry specific formulas when the general formula does not accurately reflect the income of the corporation derived from North Carolina and the citizens of North Carolina
- DOR brought to the attention of Revenue Laws three industries whose income derived from North Carolina is not accurately reflected by the general apportionment formula

RECOMMENDATION

- Payroll Factor – No change
- Property Factor – Exclude outer jurisdictional property
- Sales Factor – Modify
  - Publishers – Include sales of advertising and the sale, rental, or other use of publisher's customer lists. Source based on a circulation factor.
  - Broadcasters – Include gross receipts from video programming and audio programming. Source based on an audience factor.
  - Telecommunications service provider – Include telecommunication service. Source based on sales tax sourcing rules.

PROPOSAL: OUTER JURISDICTIONAL PROPERTY

- Exclude outer-jurisdictional property from property factor for all corporations
  - Tangible personal property that is not physically located in any state and therefore is not taxable in any state
    - Examples include orbiting satellites and undersea transmission cables
  - Excluding the property from the formula will prevent the dilution of income sourced to North Carolina
  - Factor will be *Property taxable in NC/Property taxable in another jurisdiction*
  - As opposed to *Property taxable in NC/Property elsewhere*

PROPOSAL: TELECOMMUNICATIONS SERVICE PROVIDERS

- Modify current industry specific apportionment formula
  - Current formula only applies to landlines
  - Proposal would modernize the formula by extending its application to all telecommunications service providers
- Modify the numerator
  - Include gross receipts from telecommunications service
  - Use the same sourcing rules as applied in sales tax statutes
  - Recommendation of MTC and DOR
- Modify the denominator
  - Exclude gross receipts from the sale of service that is not taxable in the state to which it would be apportioned
  - Recommendation of MTC and DOR

PROPOSAL: BROADCASTERS

- New industry specific apportionment formula
- Modify numerator
  - Include all receipts from broadcast programming
    - Video programming as defined in the sales tax statutes
    - Audio programming
  - Source based upon an *audience factor*
    - Ratio of the corporation's NC listening or viewing audience to the corporation's total listening or viewing audience
    - Corporation may use published ratings or subscription statistics to determine its audience factor
  - Recommendation of MTC and DOR

PROPOSAL: PUBLISHERS

- New industry specific apportionment formula
- Modify numerator
  - Include receipts from advertising and from the sale, rental, other use of its customer lists
  - Source based upon a circulation factor
    - Ratio of the corporation's NC purchasers and subscribers of a publication to the corporation's total purchasers and subscribers of the publication
  - Recommendation of MTC and DOR

REVENUE LAWS STUDY COMMITTEE
Wednesday, January 19, 2011
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, January 19, 2011 in room 544 of the Legislative Office Building. Nineteen members of the committee were present. Senator Clodfelter presided as chair.

Approval of Minutes from the January 5, 2011 Meeting

Senator Tillman motioned for the approval of the January 5, 2011 minutes and the motion carried. A copy of the minutes is attached.

Briefing on Recent Cases

Greg Roney, a staff attorney with the Research Division, was recognized. He explained the following cases, their status and any resolution. Amazon.com v. NC Dept. of Revenue (October, 2010), Amazon.com v. New York State Dept. of Taxation & Finance (November, 2010), and Delhaize America, Inc. v. NC Dept. of Revenue (January, 2011).

Legislative Proposals

#1: IRC Update

Cindy Avrette, a staff attorney with the Research Division, was recognized. She explained that the Committee had already voted on this proposal at the previous meeting (January 5, 2011) and wanted to be sure that there were no requested changes. Jonathan Tart, a fiscal analyst with the Fiscal Research Division, was recognized to explain the fiscal memo. The proposal would not conform to the federal tax law provisions of: bonus depreciation, Section 179 expensing, and the estate tax. A copy of the IRC Update proposal is attached.

#2: Business Entity Changes for Present-Use Value Taxation

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized. She explained that the proposal had already received approval by the Committee, but was available to offer further explanation and answer questions. A copy of the Business Entity Changes for Present-Use Value Taxation proposal is attached.

#3: Revenue Laws Technical, Clarifying, and Administrative Changes

Cindy Avrette was recognized to explain the proposal which makes several technical and clarifying changes to the revenue laws and related statutes, including changes to

the motor fuel tax and property tax laws. Many of the changes were recommendations of the Department of Revenue. Senator Jenkins moved to adopt the proposal for inclusion in the Committee's final report and the motion carried. A copy of the Revenue Laws Technical, Clarifying, and Administrative Changes proposal is attached.

Senator Brunstetter moved to adopt the report and the motion carried. A draft version of the Revenue Laws Study Committee's report is attached.

The meeting adjourned at 10:14 a.m.

Senator Dan Clodfelter, Presiding Chair
Revenue Laws Study Committee

DeAnne Mangum, Committee Clerk

REVENUE LAWS STUDY COMMITTEE AGENDA

Sen. Daniel Clodfelter Rep. Paul Luebke

Wednesday, January 19, 2011
Room 544, Legislative Office Building
9:30 a.m.

I. **Approval of Minutes from January 5, 2011 Meeting**

II. **Briefing on Recent Cases**

- ***Amazon.com v. NC Dept. of Revenue* (October, 2010)**
- ***Amazon.com v. New York State Dept. of Taxation & Finance* (November, 2010)**
- ***Delhaize America, Inc. v. NC Dept. of Revenue* (January 2011)**

– Greg Roney, Research Division

III. **Legislative Proposals**

- **#1: IRC Update**
  Cindy Avrette, Research Division
  Jonathan Tart, Fiscal Research Division
- **#2: Business Entity Changes for Present-Use Value Taxation**
  Martha Walston, Fiscal Research Division
- **#3: Revenue Laws Technical, Clarifying, and Administrative Changes**
  Trina Griffin, Research Division

IV. **Approval of Committee Proceedings (no legislative proposals)**

- **No Delay of Tax Refunds**
- **Department-Initiated Tax Refunds**
- **Status of Rulemaking for Forced Combinations**
- **Central Appraisal of Wireless Companies**
- **Industry-Specific Apportionment Formulas**

V. **Approval of Draft Report**

VI. **Adjournment**

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 19, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Ken Melton	K. M. A.
Connie Wilson	CWC

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 19, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Eric Mayer	NCDOR
Gail Beamon	NCDOR
Suzanne Bradley	SEANC
David Baker	DOR
Bill Wilkes	DOR
Lennie Collins	DOR
Bill Spencer	DOR
Elizabeth Biser	Brooks Pierce
Cancan Hvie	DOR
Edwin McLenaghan	NC Budget + Tax Center
Chris Nida	NCLM

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 19, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Jamie Fenwick	Time Warner Cable
Mary Pratt	Brooks Pierce
Sammy Robinson	TWC
Deb Calla	ATT
Ed FURLINGTON	Brooks Pierce
Danny Highsmith	Beasley Broadcast Group
John Idler	WTVD-TV
Sheria Reid	IOG
Mitch Kokai	John Locke Foundation
Michael Houser	NC Dept of Revenue
Bill Wright	Verizon

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 19, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Will Culpepper	MVA
Sandy Sands	[illegible]
Heather Barnett	Williams Mullen
[illegible]	CAPA
Lucius PULLEN	NCCA
Sam Taylor	NCBIO
Matthew Eisley	Smith Anderson
Thomas Mann	[illegible]
[illegible]	[illegible]
K Moore	Smith Anderson

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 19, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Chris Hayes	Civitas
Amy Hobbs	
Kerri Burke	MWC
JOHN GOODMAN	NC CHAMBER
Patrick Bufkin	NCAEC
PRESTON HOWARD	MCIC
Elizabeth Pearson	NCRMA
Wendy Kelly	Policy Group
JIM AHLER	NCACPA
Steve Ainsworth	A & A
W. Gardner Culpepper	NCNA

VISITOR REGISTRATION SHEET

Revenue Laws Study Committee — Jan. 19, 2011

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Butch Gunnells	NC Beverage A
Jay Ouitture	SEATOA
	NMRS
	Misc

REVENUE LAWS STUDY COMMITTEE
Wednesday, January 5, 2011
Room 544, Legislative Office Building
9:30 a.m.

MINUTES

The Revenue Laws Study Committee met at 9:30 a.m. on Wednesday, January 5, 2011 in room 544 of the Legislative Office Building. Eighteen members of the committee were present. Representative Luebke presided as chair.

Approval of Minutes from the December 1, 2010 Meeting

Representative McGee motioned for the approval of the December 1, 2010 minutes and the motion carried. A copy of the minutes is attached.

Overview of the Unemployment Trust Fund

Kevin Carlson, Assistant Chairman for Finance and Administration for the Employment Security Commission, was recognized. He explained the purpose of the trust fund, how much as been distributed statewide and where, how the federal government is assisting, how other states are doing, and the amount the state has borrowed from the federal government. Lockhart Taylor, the Employment Security Commission's Director of Governmental Relations, was recognized to answer questions. A copy of Mr. Carlson's presentation is attached.

Federal Tax Law Changes Update & Distribution of IRC Update Draft

Cindy Avrette, a staff attorney with the Research Division, was recognized. She presented a chart outlining how the Internal Revenue Code (IRC) looked as of May 1. 2010, how North Carolina's tax law related to the IRC, how the IRC and NC law relate to the Small Business Jobs Act of 2010 and to the Tax Relief and Job Creation Act of 2010, and what the proposed bill draft will do in relation to the IRC's effects on both acts. Jonathan Tart, a fiscal analyst with the Fiscal Research Division, was recognized to answer questions regarding the fiscal impact of federal tax law changes. Representative Brubaker requested additional revenue figures in a similar chart, a fiscal impact chart. Representative Howard moved to add the proposed bill draft to the Committee's final report and the motion carried. A copy of the chart and the proposed bill draft is attached.

Central Appraisal of Wireless Companies

Martha Walston, a staff attorney with the Fiscal Research Division, was recognized. She explained that the proposed bill draft would establish a uniform property tax appraisal for all telecommunications companies and tower aggregate companies by providing for system appraisal by the Department of Revenue rather than local

appraisal. Bill Wilkes, Department of Revenue, was recognized to answer questions. Bob Kaylor, a lobbyist representing AT& T and Verizon, was recognized to speak in opposition to the proposal. Representative Howard moved to add the proposed bill draft to the Committee's report to the 2011 Session and the motion carried. A copy of the draft is attached.

History and Background of Present-Use Value Program

David Baker, the Department of Revenue's Director of Property Tax Division, was recognized. He defined present-use property value, gave examples, how to qualify ownership, and requirements for qualifying owners. Julian Philpott, a lobbyist with the NC Farm Bureau, was recognized. He expressed concerns about the fiscal impact of any changes to the current program and stated that the Farm Bureau wants no changes. Rebecca Troutman with the NC Association of County Commissioners and Stan Duncan with the Tax Assessors were recognized to state that the Associations want no changes to the current program. A copy of Mr. Baker's power point is attached.

Industry-Specific Apportionment Formulas: Telephone

Lennie Collins, the Department of Revenue's Director of Corporate, Excise and Insurance Tax Division, was recognized. He explained the telecommunications apportionment formula. He outlined the problem with this formula concerning out-of-state services. He recommended changes to the formula to accommodate calls originating and terminating in the State, mobile and other telecommunications services for NC-based customers, prepaid services originating in NC and ancillary services in the customer's primary use is in NC. Cindy Avrette was recognized to explain the proposed bill draft. Marcus Trathen, representing the NC Cable Association, was recognized. He had not fully reviewed the details of the daft, but expressed concerns about its economic impact. Mark Prak, lobbyist for the NC Association of Broadcasters, stated similar concerns. A copy of Mr. Collin's power point and the proposed bill draft is attached.

Department-Initiated Tax Refunds: Follow Up

Canaan Huie, the Department of Revenue's General Counsel, was recognized. He stated that Revenue is working around the clock to resolve tax refund issues and that the Department believes that it needs legislative action to address the hold on taxpayer refunds. A copy of the Committee's letter to Secretary Hoyle requesting a written explanation of the legal basis on the Department's refund policy is attached.

Technical, Clarifying, and Administrative Changes – Part II

Trina Griffin, a staff attorney with the Research Division, was recognized. She gave a very brief overview of the technical changes proposed bill draft which makes technical, clarifying, and administrative changes to the revenue laws and related statutes. A copy of the proposed bill draft and its summary is attached.

The meeting adjourned at 11:36 a.m.

Representative Paul Luebke, Presiding Chair
Revenue Laws Study Committee

DeAnne Mangum, Committee Clerk

LEGISLATIVE PROPOSAL #1

IRC UPDATE

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U D

BILL DRAFT 2011-RBxz-3A [v.7] (12/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/18/2011 5:35:03 PM

Short Title: IRC Update. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2010,~~ January 1, 2011, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 2.(a) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(15b) For taxable years 2010 through 2012, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 2.(b) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(21b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013."

SECTION 2.(c) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(8b) For taxable years 2010 through 2012, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 2.(d) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(17b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (c)(8b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. "

SECTION 3.(a) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(23) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(b) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(26) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012."

SECTION 3.(c) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

"(15) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. These adjustments do not result in a

difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(d) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(21) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (c)(15) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012."

SECTION 4. Article 1A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-32.2A. Election to receive stepped-up basis for 2010.**

A personal representative of an estate of a decedent dying in calendar year 2010 for which the federal estate tax is paid may elect to conform the North Carolina basis of the property in the estate to that of the federal stepped-up basis obtained by payment of the federal estate tax by filing an election with the Secretary and paying the amount of tax that would have been payable under this Article had the federal estate tax that was paid been in effect when the decedent died. In the absence of this election and payment, the North Carolina basis of the property differs from the federal basis. To make the election, an executor must file a return with the Secretary within the time allowed for filing the federal estate tax return. "

SECTION 5. This act is effective when it becomes law. Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after May 1, 2010, that increase North Carolina taxable income for the 2010 taxable year become effective for taxable years beginning on or after January 1, 2011.

Bill Draft 2011-RBxz-3A: IRC Update.

2011-2012 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	January 18, 2011
Introduced by:		**Prepared by:**	Cindy Avrette Committee Counsel
Analysis of:	2011-RBxz-3A		

SUMMARY: This proposal would update the reference to the Internal Revenue code used in defining and determining certain State tax provisions from May 1, 2010, to January 1, 2011. By doing so, North Carolina would conform to many of the changes made by the federal Small Business Jobs Act of 2010 and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, including part of the estate tax changes, some of the enhanced section 179 expense deduction changes, and all of the business and individual income tax extenders from the Bush-era tax legislation of 2001. The proposal would not conform to the bonus depreciation provisions.

CURRENT LAW: North Carolina's tax law tracks many provisions of the federal Internal Revenue Code by reference to the Code.[1] The General Assembly determines each year whether to update its reference to the Code.[2] Updating the reference makes recent amendments to the Code applicable to the State to the extent that State law previously tracked federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made. Maintaining conformity with federal tax law simplifies tax reporting because a taxpayer will not need to account for differing federal and State treatment of the same asset.

BILL ANALYSIS: The current reference to the Code is May 1, 2010.[3] Since that time, Congress has enacted two Acts that make substantial changes to the tax code: the Small Business Jobs Act of 2010, enacted September 27, 2010, as P. L. 111-240 (2010 Jobs Act), and the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act, enacted December 17, 2010, as P. L. 111-312 (2010 Tax Relief Act). Both Acts contain provisions that became effective retroactively on January 1, 2010. Since the General Assembly will not have had an opportunity to enact legislation prior to the end of the 2010 taxable year, taxpayers may have to make adjustments on their 2010 State tax return for items included in, or excluded from, federal taxable income as a result of one of these two Acts.

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[1] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[2] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

[3] Part 31 of S.L. 2010 31 updated the reference to the Internal Revenue Code used in defining and determining certain State tax provisions from May 1, 2009, to May 1, 2010. However, S.L. 2010 31 did not conform to the five year carryback of net operating losses incurred by large businesses. S.L. 2010 31 incorporated tax changes made by five federal acts: the Worker, Homeownership, and Business Assistance Act (WHBA), P.L. 111-92; Acceleration of Income Tax Benefits for Haiti Relief, P.L. 111-126; the Patient Protection and Affordable Care Act, P.L. 111-148; the Health Care and Education Reconciliation Act, P.L. 111-152; and the Hiring Incentives to Restore Employment Act (HIRE), P.L. 111-147.

The 2010 Jobs Act enhances existing business tax incentives and partially offsets this revenue loss with changes which are expected to increase revenue. The incentives in the 2010 Jobs Act are not limited to small businesses, and the accelerated deduction for depreciation represents a major benefit to large businesses. The 2010 Tax Relief Act boosts some of the business tax incentives in the 2010 Jobs Act and extends the Bush-era individual and business tax incentives, included in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)[4], for two years.

Extension of 50% Bonus Depreciation for 2010, 2011, and 2012

Businesses may depreciate the cost of a new asset[5] over a period of time, usually five to 15 years. Bonus depreciation allows a business to claim more of a deduction up front and spread the remainder out over the normal depreciation schedule. The federal Economic Stimulus Act of 2008[6] provided a 50% first year bonus depreciation for qualified property acquired and placed in service in 2008. The federal American Recovery and Reinvestment Act of 2009 extended the 50% bonus depreciation provided to qualified property for an additional year through 2009.

The 2010 Jobs Act extends the bonus depreciation for 2010 and applies retroactively to property acquired and placed in service in 2010.[7] The 2010 Tax Relief Act increases the 50% bonus depreciation extended under the 2010 Jobs Act to 100% for property acquired and placed in service after September 8, 2010, and before January 1, 2012. It also provides 50% bonus depreciation for qualified property placed in service after December 31, 2012, and before January 1, 2013. Under the 2010 Jobs Act, the bonus depreciation would have expired for the 2012 taxable year. Under the 2010 Tax Relief Act, the bonus deprecation expires for the 2013 taxable year.

The 2010 Jobs Act also allows taxpayers using the percentage of completion accounting method to benefit from bonus depreciation at the federal level for assets with a depreciable life of seven years or less. The percentage of completion accounting method might prevent taxpayers from receiving benefit from the bonus depreciation because the accounting method spreads expenses, including depreciation, throughout the life of a long-term contract. Under this accounting method, taxpayers could not deduct the bonus depreciation in the first year. Construction contractors use the percentage of completion accounting method. This provision is new.

North Carolina decoupled from the extension of the bonus depreciation provisions in 2008 and 2009. The State delayed the impact of the bonus depreciation deduction in a manner similar to what it has done in the past: State tax law provides that a taxpayer may deduct the same amount of an asset's basis under State law as under federal law, it is just that the timing of the deduction differs. Under State tax law, a taxpayer must add back 85% of the accelerated depreciation amount[8] in the year that it is claimed for federal purposes. Then, in subsequent tax years, the taxpayer may deduct from federal taxable income the total amount of the add-back, divided into five equal installments. This adjustment means that for State tax purposes, a taxpayer may deduct a greater depreciation amount in the outlying tax years, which

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[4] Most of the tax provisions in EGTRRA were scheduled to expire in 2010 or 2011 and revert to the provisions as they existed in 2001.

[5] One important difference between bonus depreciation and section 179 expensing is that bonus depreciation applies only to new equipment, while section 179 expensing may apply to new and used equipment.

[6] Congress has authorized bonus depreciation several times to encourage business investment, specifically after September 11, 2001. The Jobs Creation and Worker Assistance Act of 2002 provided a 30% bonus depreciation allowance. The Jobs and Growth Tax Relief Reconciliation Act of 2003 extended the sunset and increased the amount to 50%.

[7] The property may be placed in service during 2011 for property with a recovery period of 10 years or longer and for transportation property (i.e., tangible personal property used to transport people or property).

[8] The accelerated depreciation amount for property placed in service in 2008 is 50%.

will be the normal depreciation amount plus 20% of the accelerated depreciation amount the taxpayer had to add back.

The proposal would decouple from the bonus depreciation provisions for 2010, 2011, and 2012 in the same manner as it has decoupled from them in the past: A taxpayer would add-back 85% of the accelerated depreciation amount in the year that it is claimed for federal purposes. Then, in subsequent tax years, the taxpayer would deduct from federal taxable income the total amount of the add-back, divided into five equal installments.

Enhanced Section 179 Expensing for 2010, 2011, and 2012

Section 179 of the Code allows the expensing of the purchase price of some business assets[9] in the year of purchase rather than taking depreciation[10] throughout the life of the asset. In other words, expensing trades a smaller yearly deduction over time for a larger deduction in year one.

Prior to the Emergency Economic Stabilization Act of 2008 (EESA), the deduction limit for section 179 expensing was $128,000[11] of the cost of the property with a dollar for dollar phase-out of this amount whenever the total cost of qualifying property placed in service that year exceeded $510,000.[12] EESA increased the deduction limit from $128,000 to $250,000 with a phaseout at $800,000 for the 2008 tax year. The American Recovery and Reinvestment Tax Act of 2009 (ARRTA) extended the temporary increase through 2009. The federal HIRE Act of 2010 extended the 2008 and 2009 increase through 2010. The limits were scheduled to revert to the prior levels of $25,000/$200,000 in taxable year 2011. North Carolina conformed to those changes.

The 2010 Jobs Act not only delayed the reversion to the prior levels until the 2012 taxable year, it also increased the section 179 expensing deduction for tax years 2010 and 2011 from $250,000/$500,000 to $800,000/$2 million. In addition to the expansion of the limits, the Act broadened the definition of qualified property to include qualified leasehold improvement property, qualified restaurant property, qualified retail improvement property, and computer software.[13] The enhancements made by the 2010 Jobs Act are set to expire for the 2012 taxable year. The 2010 Tax Relief Act does not continue the expansion of the types of property that may qualify for the deduction beyond the 2011 taxable year, but it does increase the limits for the 2012 taxable year from $25,000/$200,000 to $125,000/$500,000. Under the 2010 Tax Relief Act, the deduction limits are set to revert to their prior levels of $25,000/$200,000 in 2013.

North Carolina has conformed to the enhanced section 179 expense deduction provisions in the past. However, the enhancements made by the 2010 Jobs Act are the most expansive ever enacted. **The proposal** would conform to the expanded definition of qualified property; it would maintain the 2010 deduction limits of $250,000 and $800,000 for taxable years 2010 and 2011; and it would decouple from the enhanced limits of $500,000 and $2,000,000 for taxable years 2010 and 2011. The proposal would provide that the property's basis would be the same for federal and State purposes and would treat the difference in the same manner as State tax law has historically treated the bonus depreciation: A

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[9] The business asset must be newly purchased tangible personal property that is used more than 50% for business purposes and is eligible to be depreciated under the Code. The newly purchased property may be new or used equipment.

[10] Generally, taxpayers take the Section 179 expensing deduction first and claim Section 168(k) depreciation on any remaining basis.

[11] Prior to the EESA, the dollar limits would have been $125,000 with a phase-out beginning at $500,000; both amounts would have been indexed for inflation resulting in the limits of $128,000 and $510,000.

[12] For example, if the taxpayer placed in service during the taxable year one or more items of qualifying property totaling $520,000, the amount that could be expensed under section 179 would be $118,000 -- $128,000 less $10,000, which is the excess of $520,000 over $510,000.

[13] Qualified real property is limited to a maximum deduction of $250,000.

taxpayer would add-back 85% of the additional expensing taken under federal law in 2010 and 2011 and would deduct 20% of this amount over the succeeding five years. The proposal would conform to the expensing limits of $125,000/$500,000 for the taxable year 2012 and, like federal law, would revert to the prior expense limits of $25,000/$200,000 for the tax year 2013.

Estate Tax for 2010 - 2012

EGTRRA gradually reduced the federal estate tax over a period of years and abolished it for decedents dying in 2010. During the year of its repeal, the basis of property passing through an estate was determined by the modified carryover basis rules under EGTRRA. EGTRRA also repealed the state estate tax credit for decedents dying on or after 2004 and replaced the credit with a deduction. The estate tax was scheduled to revert to the 2001 law in 2011: the 2001 maximum estate tax rate of 55% and a $1 million applicable exclusion amount.

The 2010 Tax Relief Act revives the estate tax retroactively for decedents dying on or after January 1, 2010, and thereby allows property passing through the estate to acquire a stepped-up basis. The maximum federal estate tax rate is 35% with an applicable exclusion amount of $5 million. The 2010 Tax Relief Act also provides for portability between spouses of the exclusion amount. This portability means that any unused exclusion amount by one spouse is available to the surviving spouse, effectively allowing a married couple to exclude up to $10 million from estate tax.[14] The new estate tax law is scheduled to sunset on December 31, 2012, to the pre-EGTRRA amounts. The 2010 Tax Relief Act gives the estates of decedents dying in 2010 the option to pay no estate tax and assume the modified carryover basis in the property.

North Carolina imposes an estate tax on the estate of a decedent when a federal estate tax is imposed on the estate.[15] The amount of the State's estate tax is the amount of the credit allowed on the federal estate tax return for state estate tax paid, as the federal law provided in 2001.[16] Since the federal estate tax did not exist in 2010, North Carolina's estate tax was repealed for 2010 and the basis of property passing through an estate of a decedent dying in 2010 is determined by the modified carryover basis rules under EGTRRA. However, effective for decedents dying on or after January 1, 2011, the state estate tax is equal to the state estate tax credit as it existed in 2001 and the exclusion amount is $1 million. Unlike Congress, North Carolina cannot impose the estate tax retroactively on the estates of decedents dying on or after January 1, 2010, and before January 1, 2011.

The proposal would conform to the higher estate exclusion amount of $5 million. If an estate is subject to State estate tax, the amount of the tax will continue to be the amount of the credit allowed on the federal estate tax return for state estate tax paid, as the federal law provided in 2001. Although the State cannot impose the tax retroactively on the estates of decedents dying in 2010, the proposal does give those estates that chose to pay federal estate tax and receive the stepped-up basis an ability to elect to receive the stepped-up basis for NC purposes by paying the State estate tax for 2010. As under federal

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[14] The portability election is set to sunset December 31, 2012. Therefore the utility of the portability election is limited to situations where both spouses die within the two-year term (2011 and 2012).

[15] North Carolina repealed its inheritance tax in 1998 and replaced it with an estate tax that was equivalent to the federal state estate tax credit allowed on a federal estate tax return. This type of state estate tax was known as a "pick up" tax because it picked up for the state the amount of federal estate tax that would otherwise be paid to the federal government.

[16] When Congress phased out the state estate tax credit, beginning in 2002, North Carolina enacted legislation not to conform to the phase out of the credit. In other words, North Carolina began tying the amount of the State estate tax owed to the federal credit as it existed in 2001 rather than as it currently exists. Georgia, South Carolina, and Tennessee have not had an estate tax since January 1, 2005, because their estate tax equals the amount of the state estate tax credit allowed on the federal estate tax return. Virginia repealed its estate tax, effective July 1, 2007.

law, the estate tax provisions would revert to the pre-EGTRRA exclusion amounts for decedents dying on or after January 1, 2013.

Business Tax Extenders for 2010 and 2011

The 2010 Tax Relief Act extended many of the tax incentives enacted in EGTRRA for two years. The business tax incentives included enhanced deduction and expensing items, charitable deductions, and tax credits. North Carolina conformed to these incentives in 2002[17]; however, under existing North Carolina law, these incentives expired for the 2010 taxable year. **The proposal** would conform to these extensions.

The 2010 Tax Relief Act extended the following business tax incentives that were set to expire for the 2010 taxable year for the 2010 and 2011 taxable years:

- 15-year recovery period for qualified leasehold improvements, restaurant building and improvements, and retail improvements
- Seven-year recovery period for motor sports entertainment costs recovery
- Expensing election for certain film and television production costs
- Brownfields remediation expensing

The 2010 Tax Relief Act extends the Work Opportunity Tax Credit (WOTC) to include individuals who begin employment after August 31, 2011, and before January 1, 2012. The WOTC is equal to 40% of up to $6,000 of the targeted employee's qualified first year wages. North Carolina's WOTC is equal to 6% of the federal WOTC for wages paid for positions located in this State. The federal WOTC was scheduled to expire September 1, 2011.

The 2010 Tax Relief Act extends the following charitable incentives for taxable years 2010 and 2011:

- Deduction for contributions of food inventory
- Deduction for contributions by C corporations of books to public schools
- Deduction for corporate contributions of computer equipment for educational purposes
- Basis adjustment to stock of S corporations making charitable contributions of property

Individual Income Tax Extenders for 2010, 2011, and 2012

The 2010 Tax Relief Act extends many of the Bush-era individual tax incentives included in the EGTRRA for two years. Some of the tax incentives expired in 2010 and others were scheduled to expire in 2011. North Carolina conformed to these incentives in 2002[18]; however, under existing North Carolina law, many of these incentives expired for the 2010 taxable year and others are scheduled to expire for the 2011 taxable year. **The proposal** would conform to these extensions.

The following three individual income tax incentives were scheduled to expire in 2010, but the 2010 Tax Relief Act extends the incentives retroactively for the 2010 tax year and the 2011 tax year:

- Tax deduction for higher education tuition expenses
- Up to $250 deduction for teacher's classroom expenses
- Charitable contribution of IRA proceeds

[17] S.L. 2002-126.
[18] S.L. 2002-126.

The following individual income tax incentives were scheduled to expire in 2011, but 2010 Tax Relief Act extends the incentives for the 2011 and 2012 taxable years:

- *No limitation on itemized deductions.* Section 68 of the Code, first added in 1990, established an overall limitation on itemized deductions. This limitation was gradually repealed starting in 2006, with the phase-out complete in taxable year 2010. The limitation was scheduled to revert in full in 2011. The 2010 Tax Relief Act extends the complete repeal of the limitation for 2011 and 2012.

- *Enhancements to the earned income tax credit (EITC).* The EITC is a refundable tax credit that varies depending on the number of the taxpayer's qualifying children. North Carolina's EITC is equal to 5% of the federal credit amount. EGTRRA increased the EITC from 40% to 45% of a family's first $12,570 of earned income for families with three or more children and an increase in the beginning point of the phase-out range for married coupled filing a joint return by $1,880. The enhancements were set to expire for the 2011 taxable year. The 2010 Tax Relief Act extends the enhancements through the 2011 and 2012 taxable years.

- *Enhancements to the adoption tax credit.* EGTRRA increased the dollar limitation for the credit and the income exclusion for employer paid expenses to $10,000, indexed for inflation. The Patient Protection and Affordable Care Act increased the credit and exclusion by another $1,000 for 2010 and 2011. The credit cap was scheduled to return to $5,000[19] for taxable years beginning on or after January 1, 2012. North Carolina's adoption tax credit is equal to 50% of the federal credit amount. The 2010 Tax Relief Act extends the enhancements made by EGTRRA for one year. Under the Act, the credit caps will revert to their prior levels in taxable year 2013.

- *Deductibility of mortgage insurance premiums.* Mortgage insurance premiums became deductible in 2007. The insurance must be in connection with home acquisition debt for a first or second home. The deduction is subject to phase-out based on a taxpayer's income. The deductibility of mortgage insurance premiums was set to expire for taxable year 2011. The 2010 Tax Relief Act extends the deduction for one more year, through taxable year 2011.

- *Educational assistance exclusion.* EGTRRA allowed employees to exclude up to $5,250 in employer-provided education assistance from income and employment taxes. The exclusion was set to expire for taxable year 2011. The 2010 Tax Relief Act extends the exclusion for taxable years 2011 and 2012.

- *Student loan interest deduction.* The student loan interest deduction is a deduction from gross income used to determine a taxpayer's adjusted gross income (AGI). The deduction is subject to a phase-out based on the taxpayer's AGI. EGTRRA eliminated the rule that the deduction only applies to payments made during the first 60 months that interest payments were required and it increased significantly the phase-out amounts. These changes were set to expire in 2011, but the 2010 Tax Relief Act extends the changes for taxable years 2011 and 2012.

- *Coverdale education savings accounts.* Coverdale education savings accounts allow a taxpayer to make nondeductible contributions and to withdraw the proceeds tax free if they are used towards educational expenses. EGTRRA increased the amount that may be contributed to an account from $500 to $2,000 and it made elementary and secondary school

[19]The limit is $6,000 for a special needs child.

expenses qualified expenses. The enhancements were set to expire for the 2011 taxable year. The 2010 Tax Relief Act extends the enhancements for taxable years 2011 and 2012.

- *Qualified scholarships.* Qualified scholarships may be excluded from taxable income. EGTRRA provided that the national Health Services Corps Scholarship Program and the Armed Forces Scholarship Program are qualified scholarships for exclusion for income purposes. These scholarships were scheduled to be included in a recipient's income in taxable year 2011. The 2010 Tax Relief Act extends the income exclusion for taxable years 2011 and 2012.

Miscellaneous Business Incentives

The 2010 Jobs Act provided several tax incentives for businesses. **The proposal** would conform to these incentives.

- *Increase in amount allowed as a deduction for start-up expenditures.* The Code allows up to $5,000 of start-up expenses to be deducted. The deduction is reduced by the amount of start-up costs that exceed $50,000. The 2010 Jobs Act increased the deduction to $10,000 for start-up and organization expenses of the taxpayer's trade or business in 2011 and increased the phase-out threshold to $60,000.
- *Modification to exclusion for gain from certain small business stock.* Fifty percent of the gain realized on qualified small business stock may be excluded from income. To qualify, the stock must be purchased at its original issue and the aggregate gross assets of the issuing corporation may not exceed $50 million and at least 80% of the value of its assets must be used in the active conduct of one or more trades or businesses. The exclusion is capped at the greater of 10 times the taxpayer's basis in the stock or $10 million. ARRTA temporarily increased from 50% to 75% the exclusion for qualified small business stock sold by an individual. The increased exclusion percentage is applicable to stock acquired after February 17, 2009, and before January 1, 2011. North Carolina conformed to ARRTA's temporary increase of the exclusion. The 2010 Jobs Act increaseed the exclusion percentage to 100% for stock acquired after September 27, 2010, and before January 1, 2011.

Provisions in the 2010 Jobs Act Designed to Increase Revenue

The 2010 Jobs Act contained provisions to increase revenues. The provisions projected to raise the most revenue were related to higher federal tax penalty provisions. These provisions would not apply to North Carolina and would not increase any revenues payable to North Carolina. The Act also contained some retirement-friendly provisions that, if chosen by the taxpayer, would encourage up-front distributions that would be taxable. **The proposal** conforms to these changes.

- *Deduction for health insurance costs in computing self-employment taxes.* The 2010 Jobs Act allows self-employed individuals to deduct the cost of health insurance for the individual and immediate family to determine income subject to federal self-employment taxes. Health insurance costs were already deductible for regular income tax purposes. The reduction in self-employment taxes affects North Carolina taxable income because self-employment taxes were deductible in determining State taxable income. Self-employed taxpayers with health insurance costs will have larger State taxable incomes because less self-employment taxes were imposed and deducted at the federal level.
- *Allow participants in governmental 457 plans to treat elective deferrals as Roth contributions.* The 2010 Jobs Act gives participants the option to move retirement savings

from government 457(b) plans to Roth accounts starting in 2011. The conversion will be taxable while the earrings and distributions from Roth accounts are generally tax free.

- *Allow rollovers from elective deferral plans to Roth designated accounts.* The 2010 Jobs Act allows retirement plans to offer participants the option starting September 27, 2010 to rollover distributions into Roth accounts within the same retirement plan. The rollover will be taxable while the earnings and distributions from the Roth account are generally tax free.
- *Permit partial annuitization of a nonqualified annuity contract.* The 2010 Jobs Act allows the owner of an annuity contract to begin receiving benefits based on a portion of the value of the annuity and leaving the balance of the annuity to accumulate earnings tax free. This option starts in 2011.
- *Source rules for income on guarantees.* The 2010 Jobs Act clarifies the federal tax treatment of guarantee fees as income sourced to the United States if connected to the United States by a domestic payer or by the conduct of a trade or business in the United States.

EFFECTIVE DATE: The proposal would become effective when it becomes law. However, anyy amendments to the Internal Revenue Code enacted after May 1, 2010, that increase North Carolina taxable income for the 2010 taxable year would become effective for taxable years beginning on or after January 1, 2011.

2011-RBxz-3A-SMRB-2 v1

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: January 19, 2011

TO: Revenue Laws Study Committee

FROM: Jonathan Tart
Fiscal Research Division

RE: 2011 IRC update

FISCAL IMPACT					
	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
REVENUES:					
($ millions)					
Decouple from Bonus depreciation	-.5	-1.1	-.2	1.1	.5
Decouple from Section 179 expensing for 2010 and 2011, keep 250k limit for 2011, conform to fed in 2012 and 2013	-.1	-4	-.3	.3	.4
Increase to capital gain exclusion for small business stock	0	0	0	0	-2
Increased start-up expense deduction	-2.5	-.8	.1	.2	.2
Deduction of health insurance for SE tax	2.8	1.2	.1	0	0
Allow 457 plan deferral to be treated as Roth	.1	.2	.2	.3	.4

Allow rollovers from elective deferral plans to Roth	1.6	4.3	4.7	3.9	4.4
Partial Annuitization of a nonqualified annuity contract	0	.2	.3	.5	.7
Source rules for income on guarantees	1.4	1.9	1.9	1.9	1.9
Tax Relief Act	0	0	0	5.4	3.1
Estate Tax	0	-79	-83.2	-87.6	-92.2
Total	2.8	-77.1	-76.4	-74	-82.6
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue					
EFFECTIVE DATE: Effective when it becomes law					

BILL SUMMARY: This proposal would update the reference to the Internal Revenue code used in defining and determining certain State tax provisions from May 1, 2010, to January 1, 2011. By doing so, North Carolina would conform to many of the changes made by the federal Small Business Jobs Act of 2010 (2010 Jobs Act) and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (2010 Tax Relief Act). The proposal would not conform to the following federal tax law provisions:

- Bonus depreciation. – Bonus depreciation allows a business to claim more of a deduction up front and spread the remainder out over the normal deprecation schedule. Over the life of the asset, the taxpayer receives the same benefit. The normal deprecation schedule is usually five to 15 years, depending upon the asset. In the past, Congress has provided 50% bonus depreciation for qualified property to spur economic investment. The bonus depreciation provision was scheduled to expire for property acquired and placed in service in 2010. The 2010 Jobs Act extended the 50% bonus depreciation provision to property placed in service in taxable years 2010 and 2011. The 2010 Tax Relief Act boosted the 50% bonus depreciation to 100% for property acquired and placed in service after September 8, 2010, and before January 1, 2012, and it provided 50% bonus depreciation for property placed in service after December 31, 2012, and before January 1, 2013. Although the proposal decouples from bonus depreciation, it provides that the property's basis is the same for federal and State purposes. The taxpayer must add-back 85% of the accelerated depreciation amount in the year that it is claimed for federal tax purposes, and then deduct 20% of this amount, plus the normal depreciation amount, over the next five years.

- Section 179 expensing. – Section 179 expensing allows the expensing of the purchase price of some business assets in the year of purchase rather than taking depreciation over the life of the asset. Section 179 has a deduction limit that begins to phase out on a dollar for dollar scale once an investment limit is reached. The deduction limit is $25,000 and the investment limit is $200,000. In the past, Congress has increased both the deduction limit

and the investment limit to spur economic investment. For the 2010 taxable year, the deduction limit was $250,000 and the investment limit was $800,000. The expensing limits were scheduled to revert to their prior levels in 2011. The 2010 Jobs Act expanded the section 179 deduction limits from $250,000 to $500,000 for the 2010 taxable year and from $25,000 to $500,000 for the 2011 taxable year; it expanded the investment limits from $800,000 to $2,000,000 for the 2010 taxable year and from $200,000 to $2,000,000 for the 2011 taxable year; the expensing limits were scheduled to revert to their prior levels in 2012. It also broadened the definition of qualified property to include certain real property investments for the 2010 and 2011 taxable years. The 2010 Tax Relief Act expanded the section 179 deduction limits for the 2012 taxable year from $25,000/$200,000 to $125,000/$500,000; the expensing limits are scheduled to revert to their prior levels of $25,000/$200,000 in 2013. The proposal would maintain the 2010 deduction limits of $250,000 and $800,000 for taxable years 2010 and 2011. It would decouple from the enhanced limits of $500,000 and $2,000,000 for taxable years 2010 and 2011 but provide that the property's basis would be the same for federal and State purposes. The proposal provides that a taxpayer must add-back 85% of the additional expensing taken under federal law in 2010 and 2011 and may deduct 20% of this amount over the succeeding five years. The proposal would conform to the expensing limits of $125,000/$500,000 for the 2012 taxable year.

- Estate tax. – The federal estate tax expired for decedents dying in 2010. The estate tax had been scheduled to reemerge in 2011 at the 2001 exclusion amount of $1 million and the maximum estate tax rate of 55%. The 2010 Tax Relief Act revived the federal estate tax retroactively to January 1, 2010, with an exclusion amount of $5 million (the portability provision effectively provides an exclusion amount of $10 million for married couples) and a maximum estate tax rate of 35%. The estate of a decedent dying in 2010 may elect not to pay estate tax, and receive a modified carryover basis in the property passing through the estate. The estate tax provisions are scheduled to return to the 2001 rates and exclusion amounts for decedents dying on or after January 1, 2013. The proposal would conform to the higher exclusion amounts and give estates that chose to pay federal estate tax and receive the stepped-up basis in the property passing through the estate to elect to receive the stepped-up basis for NC purposes by paying the State estate tax for 2010.

The proposal would conform to all other provisions in the 2010 Jobs Act and the 2010 Tax Relief Act. The other provisions in the 2010 Jobs Act include the following:

- An increased exclusion amount of the gain realized on qualified small business stock. The exclusion amount is increased from 50% to 75% for stock acquired after February 17, 2009, and before January 1, 2011, and held for more than five years.
- An increased deduction limit for start-up expenses. The deduction is reduced by the amount of start-up costs that exceed a certain amount. The deduction limit is increased from $5,000 to $10,000 and the phase-out threshold is increased from $50,000 to $60,000.
- Various other small provisions that are intended to generate revenue. – Deduction for health insurance costs, 457 plans, 401(k) rollovers to Roth accounts, annuitization of a nonqualified annuity contract, sources rules for income on guarantees.

The 2010 Tax Relief Act extended many of the tax incentives enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001 for two years. North Carolina conformed to these incentives in 2002; however, under existing North Carolina law, several of these incentives expired for the 2010 taxable year and many others are scheduled to expire for the 2011 taxable year. The proposal would conform to the federal effective date extensions.

The 2010 Tax Relief Act extended the following business tax incentives that were set to expire for the 2010 taxable year for the 2010 and 2011 taxable years:

- 15-year recovery period for qualified leasehold improvements, restaurant building and improvements, and retail improvements
- Seven-year recovery period for motor sports entertainment costs recovery
- Expensing election for certain film and television production costs
- Brownfields remediation expensing

The 2010 Tax Relief Act extended the Work Opportunity Tax Credit (WOTC) to include individuals who begin employment after August 31, 2011, and before January 1, 2012. North Carolina's WOTC is equal to 6% of the federal WOTC for wages paid for positions located in this State. The federal WOTC was scheduled to expire September 1, 2011.

The 2010 Tax Relief Act extended the following charitable incentives for taxable years 2010 and 2011:

- Deduction for contributions of food inventory
- Deduction for contributions by C corporations of books to public schools
- Deduction for corporate contributions of computer equipment for educational purposes
- Basis adjustment to stock of S corporations making charitable contributions of property

The 2010 Tax Relief Act extended the following individual income tax incentives retroactively for the 2010 taxable year and the 2011 taxable year:

- Tax deduction for higher education tuition expenses
- Up to $250 deduction for teacher's classroom expenses
- Charitable contribution of IRA proceeds

The following individual income tax incentives were scheduled to expire in 2011, but 2010 Tax Relief Act extends the incentives for the 2011 and 2012 taxable years:

- No limitation on itemized deductions.
- Enhancements to the earned income tax credit (EITC). North Carolina's EITC is equal to 5% of the federal credit amount.
- Enhancements to the adoption tax credit. North Carolina's adoption tax credit is equal to 50% of the federal credit amount.
- Deductibility of mortgage insurance premiums.
- Educational assistance exclusion.
- Student loan interest deduction.
- Increased amount that may be contributed to Coverdale education savings accounts and expansion of qualified expenses to include elementary and secondary school expenses.

- Exclusion of scholarships received from the national Health Services Corps Scholarship Program and the Armed Forces Scholarship Program from income.

For a more detailed explanation of the federal tax provisions, please see the summary of the proposal prepared by the Research Division.

ASSUMPTIONS AND METHODOLOGY:
Except as outlined below, The fiscal impact to the General Fund from partial conformity with the IRC update is based on JCT estimates on changes to federal taxes from the update. The methodology used begins with these JCT estimates, which are calculated by federal fiscal year. Fiscal Research adjusts these numbers back to an approximate calendar year tax impact. Then the next step was to prorate the national numbers to the state impact. This adjustment involved two steps: accounting for the relative size of the state based on federal tax collections and then adjusting for the difference in federal and state marginal tax rates. Once North Carolina's share of the JCT estimates were determined, state tax liability changes were estimated and allocated to the appropriate fiscal year.

The estimate of the bonus depreciation provision is based on data obtained from the Department of Revenue from the 2004 and 2008 tax returns. The estimate is derived from the tax that would not have been paid had North Carolina not required an add-back for bonus depreciation in computing State taxable income for both of those years. In order to assess the impact of the 85% add-back of the bonus depreciation and the Section 179 deduction, a depreciation schedule was developed. The depreciation simulation was used to determine the impact of the bonus depreciation and the Section 179 deduction with the adoption of an 85 percent add-back rule and a 5 year deduction for each fiscal year.

The estimate to conform to the estate tax provision of the Tax Relief Act was prepared based on tax return data obtained from the Department of Revenue for the 2007, 2008, and 2009 tax years. The impact is estimated from the tax that would not have been received as a result of the increase in the federal exclusion amount.

The Tax Relief Act of 2010 included multiple extensions of tax credits and deductions which were first enacted under the Economic Growth and Tax Relief Reconciliation Act of 2001. Because the changes were extensive and the Act was in place for ten years, the revenue base was adjusted to include the impacts from the Act. If the Tax Relief Act had not been enacted, then the result would have been an increase in General Fund revenue as result of the various federal tax law changes expiring for the 2011 tax year. Because they were extended for two years, there is no impact for FY 2011-12 and FY 2012-13. In the out years, after the latest extensions expire there will be a net gain to General Fund revenues. As with other calculations related to federal tax changes, analysis from the JCT was used to determine state tax liability. General Fund revenue changes would occur in FY 2013-14 and FY 2014-15.

SOURCES OF DATA: US Joint Committee on Taxation, US Bureau of Economic Analysis, NC Department of Revenue

Tax Treatment of Bonus Depreciation Under Current Law Compared To Proposal

Assume Eligible Property Investment = 1,000,000

Assume property is to be depreciated as 5 year property

100% bonus depreciation taken on 2010 Federal Tax Return

Based on Current Law

							Total write-off
tax year	*2010*	*2011*	*2012*	*2013*	*2014*	*2015*	
bonus depreciation	1,000,000						
add-back bonus depreciation	-1,000,000						
depreciation	200,000	200,000	200,000	200,000	200,000	0	
20% deduction for 5 yrs	not applicable						
Total NC deduction	200,000	200,000	200,000	200,000	200,000	0	1,000,000

Based on Proposal (85% add-back with 20% deduction over 5 years)

tax year	*2010*	*2011*	*2012*	*2013*	*2014*	*2015*	
bonus depreciation	1,000,000						
add-back bonus depreciation	-850,000						
depreciation	0	0	0	0	0	0	
20% deduction for 5 yrs		170,000	170,000	170,000	170,000	170,000	
Total NC deduction	150,000	170,000	170,000	170,000	170,000	170,000	1,000,000

Based on Conformity

							Total write-off
tax year	*2010*	*2011*	*2012*	*2013*	*2014*	*2015*	
bonus depreciation	1,000,000						
add-back bonus depreciation	0						
depreciation	0	0	0	0	0	0	
20% deduction for 5 yrs		0	0	0	0	0	
Total NC deduction	1,000,000	0	0	0	0	0	1,000,000

Bonus Depreciation Options

	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15
Full conformity (Tax Relief Act and Jobs Act)	-266	-207	-11	95	85
Conformity to 2010 Jobs Act only	-133	-8	36	27	21
Proposal (85% add-back)	-0.5	-1.1	-0.2	1.1	0.5

Section 179 Deduction Options

	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15
Full conformity (Tax Relief Act and Jobs Act)	-58	-39	-13	7.5	9.5
Conformity to 2010 Jobs Act only	-58	-37	21	19	14
Proposal (85% add-back, keep 250k for 2011)	-0.1	-4	-0.3	0.3	0.4

Corrected copy handed out at meeting. Attached as a single handout.

DM

CORRECTED

Bonus Depreciation Options

	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15
Full conformity (Tax Relief Act and Jobs Act)	-345	-115	-11	95	85
Conformity to 2010 Jobs Act only	-200	-67	36	27	21
Proposal (85% add-back)	-0.5	-1.1	-0.2	1.1	0.5

Section 179 Deduction Options

	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15
Full conformity (Tax Relief Act and Jobs Act)	-58	-39	-13	7.5	9.5
Conformity to 2010 Jobs Act only	-58	-37	21	19	14
Proposal (85% add-back, keep 250k for 2011)	-0.1	-4	-0.3	0.3	0.4

LEGISLATIVE PROPOSAL #2

BUSINESS ENTITY CHANGES FOR PRESENT-USE VALUE TAXATION

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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BILL DRAFT 2011-LAz-3 [v.3] (11/29)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
11/29/2010 5:26:05 PM

Short Title: Business Entity Changes. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REVISE THE BUSINESS ENTITY OWNERSHIP REQUIREMENTS OF LAND AT PRESENT-USE VALUE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.3(b1) reads as rewritten:

"**§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.**

...

(b1) **(Effective for taxes imposed for taxable years beginning on or after July 1, 2008)** Entity Ownership Requirements. – In order to come within a classification described in subsection (a) of this section, land owned by a business entity ~~or trust must have been owned by the business entity or trust or by one or more of its members or creators, respectively,~~ must meet the requirements of subdivision (1) of this subsection and land owned by a trust must meet the requirements of subdivision (2) of this subsection.

(1) Land owned by a business entity must have been owned by one or more of the following for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed:

a. The business entity.

b. A member of the business entity.

c. Another business entity whose members include a member of the business entity that currently owns the land.

(2) Land owned by a trust must have been owned by the trust or by one or more of its creators for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed."

SECTION 2. This act becomes effective for taxable years beginning on or after July 1, 2011. An application for property tax relief provided by this act may be filed and must be accepted at any time up to and through September 1 for the July 1, 2011 taxable year.

DRAFT 2011-LAz-3: Business Entity Changes

2011-2012 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	December 1, 2010
Introduced by:		**Prepared by:**	Martha Walston Committee Counsel
Analysis of:	Draft Proposal 2011-LAz-3		

SUMMARY: ***This legislative proposal makes changes to the business entity ownership requirements for qualification of land at its present-use value so that the requirements are met when the current owner of the land shares members in common with the prior owner of the land.***[1]

CURRENT LAW: Since 1973, farmland (agricultural land, horticultural land, and forestland) has been appraised and assessed at its present-use value as opposed to fair market value for property tax purposes if the farmland meets certain ownership, size, and use requirements. Farmland owned by a business entity meets the ownership requirements if the land was owned by the business entity or one of its members for the four years immediately preceding January 1 of the year for which the benefit is claimed. Prior to 2008, the members of the business entity had to be individuals. In 2008, the Revenue Laws Study Committee proposed legislation to broaden the ownership requirements so that farmland could be owned by a business entity whose membership includes modern estate planning vehicles such as a family limited partnership, a family limited liability company, or a trust.[2] S.L. 2008-146 alleviated problems tax assessors were having with recognizing these types of ownership. Now, for example, if the farmland is owned by a business entity, the members of the business entity are no longer restricted to individuals but can include trusts and other business entities.

BILL ANALYSIS: The 2008 changes to the present-use value statutes focus on problems the tax assessors were having with recognizing types of ownership. Ownership is determined on the basis of the name on the deed but does not always consider real parties in interest.

Recently, counties have received applications where farmland has been owned as follows:

- Farmland owned by ABC Partnership for past three years applies for PUV status.
- The partners of ABC Partnership are Tom, Dick, and Harry.
- The previous owner of the farmland was XYZ Partnership.
- The partners of XYZ Partnership were also Tom, Dick, and Harry.
- Counties have denied PUV status to the farmland based upon the language in G.S. 105-277. 3(b1): The farmland had not been owned by its current owner, ABC Partnership, for four years immediately preceding the application, nor was the land owned by a partner of ABC Partnership.

The proposal would allow the business entity ownership requirements to be satisfied when the business entity that currently owns the farmland shares one or more members in common with the business entity that previously owned the farmland. For example, because one or more partners of the partnership that currently

[1] A "business entity" is defined as a corporation, general partnership, limited partnership, or limited liability company. A "member" is defined as a shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.

[2] When the membership of a business entity includes a business entity or trust, then the individual members of the business entity and the individual beneficiaries of the trust are deemed to be indirect members of the qualified business entity.

owns the farmland are the same partners of the partnership that previously owned the farmland, the ownership requirement would be met. In this example, the real parties in interest have not changed.

EFFECTIVE DATE: This act becomes effective for taxable years beginning on or after July 1, 2011. However, applications filed beyond the listing period (January 1-January 31) would be accepted up to and through September 1, 2011, so that an owner may benefit from the property tax relief during the July 1, 2011 tax year.

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LEGISLATIVE PROPOSAL #3

REVENUE LAWS TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U D

BILL DRAFT 2011-RBxz-1B [v.2] (11/29)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/19/2011 7:38:04 AM

Short Title: Rev Laws Tech, Clarify., & Admin. Chngs. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-120.2(f) is repealed.

SECTION 2. G.S. 105-129.50 is amended by adding a new subdivision to read:

"**§ 105-129.50. Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

(1) Development tier one area. – Defined in G.S. 143B-437.08.

...".

SECTION 3. G.S. 105-130.4(t2) is repealed.

SECTION 4. G.S. 105-164.4C(h)(5) reads as rewritten:

"(h) Definitions. – The following definitions apply in this section:

...

(5) Postpaid calling service. – A telecommunications service that is charged on a call-by-call basis and is obtained by making payment at the time of the call either through the use of a credit or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by charging the call to a telephone number that is not associated with the origination or termination of the telecommunications service. A postpaid calling service includes a service that meets all the requirements of a prepaid ~~wireline~~ telephone calling service, except the exclusive use requirement.

...".

SECTION 5. G.S. 105-164.13(12) and (26a) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(12) Sales of any of the following items:

a. Prosthetic ~~devices.~~devices for human use.

b. Mobility enhancing equipment sold on a prescription.

c. Durable medical equipment sold on prescription.
d. Durable medical supplies sold on prescription.

...

(26a) Food sold not for profit by a public school cafeteria to a child care center that participates in the Child and Adult Care Food Program of the Department of ~~Public Instruction.~~Health and Human Services."

SECTION 6. G.S. 105-164.13D(a) reads as rewritten:

"(a) The taxes imposed by this Article do not apply to the Energy Star qualified products listed in this section if sold between 12:01 A.M. on the first Friday of November and 11:59 P.M. the following Sunday. The qualified products are:

(1) Clothes washers.
(2) Freezers and refrigerators.
(3) Central air conditioners and room air conditioners.
(4) Air-source heat ~~pumps and geothermal heat~~ pumps.
(5) Ceiling fans.
(6) Dehumidifiers.
(7) Programmable thermostats."

SECTION 7. G.S. 105-164.14A(a)(1) and (4) read as rewritten:

"**§ 105-164.14A. Economic incentive refunds.**

(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

(1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars ($2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). This subdivision is repealed for purchases made on or after ~~January 1, 2011.~~January 1, 2013.

...

(4) Motorsports team or sanctioning body. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after ~~January 1, 2011.~~January 1, 2013.

...".

SECTION 8.(a) G.S. 105-164.14B(a) reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

...

(12) Owner. – The term includes a lessee under a lease-purchase contract.
(13) Paper-from-pulp manufacturing. – An industry primarily engaged in manufacturing or converting paper, other than newsprint or uncoated groundwood paper, from pulp or pulp products, or in converting purchased sanitary paper stock or wadding into sanitary paper products.

...

(21) Reserved.
(22) Turbine manufacturing. – An industry primarily engaged in manufacturing turbines or complete turbine generator set units, such as steam, hydraulic,

gas, and wind. The term does not include the manufacturing of aircraft turbines."

SECTION 8.(b) G.S. 105-164.14B(b)(1) reads as rewritten:

"(1) Business requirement. – The facility is primarily engaged in one or more of the following:

a. Air courier services.
b. Aircraft manufacturing.
c. Bioprocessing.
d. Financial services, securities operations, and related systems development.
e. Motor vehicle manufacturing.
f. Paper-from-pulp manufacturing.
g. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines.
~~g.~~h. Semiconductor manufacturing.
~~h.~~i. Solar electricity generating materials manufacturing.
j. Turbine manufacturing."

SECTION 9. G.S. 105-187.51C(c) reads as rewritten:

"(c) Forfeiture. – If the required level of investment to qualify as an eligible datacenter is not timely made, then the rate provided under this section is forfeited. If the required level of investment is timely made but any eligible machinery and equipment is not located and used at an eligible datacenter, then the rate provided for that machinery and equipment under this section is forfeited. A taxpayer that forfeits a rate under this section is liable for all past sales and use taxes avoided as a result of the forfeiture, computed ~~at the combined general rate~~ from the date the taxes would otherwise have been due, plus interest at the rate established under G.S. 105-241.21. If the forfeiture is triggered due to the lack of a timely investment required by this section, then interest is computed from the date the sales or use tax would otherwise have been due. For all other forfeitures, interest is computed ~~at the combined general rate~~ from the time as of which the machinery or equipment was put to a disqualifying use. A credit is allowed against the sales or use tax owed as a result of the forfeiture provisions of this subsection for privilege taxes paid pursuant to this section. For purposes of applying this credit, the fact that payment of the privilege tax occurred in a period outside the statute of limitations provided under G.S. 105-241.6 is not considered. The credit reduces the amount forfeited, and interest applies only to the reduced amount. The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236."

SECTION 10.(a) G.S. 105-228.37 reads as rewritten:

"**§ 105-228.37. Refund of overpayment of tax.**

(a) Refund Request. – A taxpayer who pays more tax than is due under this Article may request a refund of the overpayment by filing a written request for a refund with the board of county commissioners of the county where the tax was paid. The request must be filed within six months after the date the tax was paid and must explain why the taxpayer believes a refund is due.

(b) Hearing by County. – A board of county commissioners must conduct a hearing on a request for ~~refund in accordance with the procedures that apply to a hearing held by a board of equalization and review on an appeal concerning the listing or appraisal of property. If~~ refund. Within 60 days after a timely request for a refund has been filed and at least 10 days before the date set for the hearing, the board must notify the taxpayer in writing of the time and place at which the hearing will be conducted. The date set for the hearing must be within 90 days after the timely request for a hearing was filed or at a later date mutually agreed upon by the taxpayer and the board. The board must make a decision on the requested refund within 90

days after conducting a hearing under this subsection. ~~the board decides that a refund is due, it must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. If the board finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may appeal the decision to the Property Tax Commission.~~

(c) ~~Review by Commission.~~ Process if Refund Granted. – If the board of commissioners decides that a refund is due, it must refund the overpayment, together with any applicable interest, to the taxpayer and inform the Department of the refund. The Department may assess the taxpayer for the amunt of the refund in accordance with G.S. 105-241.9 if the Department disagrees with the board's decision. ~~The procedure in G.S. 105-290 for the appeal to the Property Tax Commission of a decision of a board of equalization and review concerning the listing or appraisal of property applies to the appeal of a denial by a board of county commissioners of a request for a refund of tax paid under this Article. If the Commission determines that a refund is due, the board of county commissioners must refund the county's portion of the overpayment, together with any applicable interest, to the taxpayer. A decision of the Commission is binding on the Secretary and on a board of county commissioners.~~

(d) ~~Judicial Review.~~ Process if Refund Denied. – ~~A decision of the Property Tax Commission is subject to judicial review in accordance with G.S. 7A-29.~~ If the board of commissioners finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may request a Departmental review of the denial of the refund in accordance with the procedures set out in G.S. 105-241.11.

(e) Recording Correct Deed. – Before a tax is refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an instrument was recorded in the wrong county, then the taxpayer must record a document stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the county finance officer and the Secretary when the correcting instrument has been recorded.

(f) Interest. – An overpayment of tax bears interest at the rate established in G.S. 105-241.21 from the date that interest begins to accrue. Interest begins to accrue on an overpayment 30 days after the request for a refund is filed by the taxpayer with the board of county commissioners."

SECTION 10.(b) G.S. 105-228.30(b) reads as rewritten:

"(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less taxes refunded and the county's allowance for administrative expenses, to the Department of Revenue on a monthly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the Department of Revenue must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7."

SECTION 11.(a) G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this Article:

...

(4b) NAICS. – The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, 2007.

..."

SECTION 11.(b) G.S. 105-129.81(13) and (18) read as rewritten:

"**§ 105-129.81. Definitions.**

The following definitions apply in this Article:

...

(13) Information technology and services. – An industry in one of the ~~following:~~following, as defined by NAICS:

a. ~~Internet service providers, Web search portals, and data processing subsector 518 as defined by NAICS.~~Data processing industry group 518.

b. Software publishers industry group ~~5112 as defined by NAICS.~~5112.

c. Computer systems design and related services industry group ~~5415 as defined by NAICS.~~5415.

d. An internet activity included in industry group 519130.

...

(18) NAICS. – ~~The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, 2002.~~Defined in G.S. 105-228.90.

..."

SECTION 11.(c) G.S. 105-164.3(23a) reads as rewritten:

"(23a) NAICS. ~~– The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, 2007.~~Defined in G.S. 105-228.90."

SECTION 12. G.S. 105-236(a)(2) reads as rewritten:

"(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(2) Failure to Obtain a License. – For failure to obtain a license before engaging in a business, trade or profession for which a license is required, the Secretary shall assess a penalty equal to five percent (5%) of the amount prescribed for the license per month or fraction thereof until paid, not to exceed twenty-five percent (25%) of the amount so prescribed, but in any event shall not be less than five dollars ($5.00). In cases in which the ~~taxpayer~~ taxpayer, after written notification by the Department, fails to obtain a license as required under G.S. 105-449.65 or G.S. 105-449.131, the Secretary may assess a penalty of one thousand dollars ($1,000).

...".

SECTION 13.(a) G.S. 105-256(a)(9) reads as rewritten:

"(a) Publications. – The Secretary shall prepare and publish the following:

...

(9) A final decision of the Secretary in a contested tax case. ~~The Secretary must redact identifying taxpayer information from a final decision prior to publication.~~"

SECTION 13.(b) G.S. 105-259(b)(27) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(27) To provide a ~~report~~ publication required under this Chapter."

SECTION 13.(c) G.S. 150B-21.17(a)(5) is repealed.

SECTION 14. G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the ~~transactions listed in this subsection. The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this subsection.~~following:

(1) A retailer's net taxable sales and gross receipts that are ~~The sales price of tangible personal property~~ subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4(a)(1) and (a)(4b).~~G.S. 105-164.4.

~~(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).~~

~~(3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).~~

~~(4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).~~

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S.105-164.13(27a).

~~(6) The sales price of prepaid telephone calling service taxed as tangible personal property under G.S. 105-164.4(a)(4d).~~

~~(7) The gross receipts derived from providing satellite digital audio radio service subject to the general rate of tax under G.S. 105-164.4(a)(6a).~~"

SECTION 15. Section 24.18(g) of S.L. 2006-66 reads as rewritten:

"**SECTION 24.18.(g)** This section is effective for taxable years beginning on or after January 1, 2006, and expires for taxable years beginning on or after ~~January 1, 2011.~~January 1, 2013."

SECTION 16. Section 31.7(e) of S.L. 2010-31 reads as rewritten:

"**SECTION 31.7.(e)** G.S. 105-37.1(a)(1), as amended by subsection (a) of this section, becomes effective ~~August 1, 2010,~~February 1, 2009, and applies to charges for admission received before that date or on or after that date. G.S. 105-37.1(a)(2), as amended by subsection (a) of this section, becomes effective January 1, 2011, and applies to admission tickets sold on or after that date. The remainder of this section is effective when it becomes law."

SECTION 17. Section 8 of S.L. 2006-209 reads as rewritten:

"**SECTION 8.** As applied to G.S. 20-79.4, the authority in G.S. 164-10 for the Division of Legislative Drafting and Codification to reletter or renumber section subdivisions includes the authority to renumber all the subdivisions in G.S. 20-79.4(b) in sequential and alphabetical order and to eliminate mixed number-letter subdivision designations. ~~This section expires July 1, 2011.~~"

SECTION 18. A facilitator is not liable for an overcollection or undercollection of sales tax or local occupancy tax if the facilitator has made a good faith effort to comply with the law and collect the proper amount of tax as the result of the change under Section 31.6 of S.L. 2010-31 regarding a facilitator's collection and remittance obligations imposed under G.S. 105-164.4(a)(3), G.S. 153A-155(c), and G.S. 160A-215(c). This applies only to the period beginning January 1, 2011, and ending April 1, 2011.

SECTION 19. G.S. 105-164.16(d) reads as rewritten:

"(d) Use Tax on Out-of-State Purchases. – Use tax payable by an individual who purchases the items listed in this subsection~~tangible personal property other than a boat or an aircraft, digital property, or a service~~ outside the State for a nonbusiness purpose is due on an annual basis. For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar year and a use tax return is due by the following April 15. For an individual who is required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the use tax must be paid on the income tax return as provided in G.S. 105-269.14. The items are:

(1) Tangible personal property other than a boat or an aircraft.

(2) Digital property.

(3) A service."

SECTION 20. G.S. 105-133(14) reads as rewritten"

"§ 105-333. Definitions.

The following definitions apply in this Article unless the context requires a different meaning:

...

(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, or a motor freight carrier company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, mobile telecommunications service as defined in G.S. 105-164.3, a cable television company, or a radio or television broadcasting company."

SECTION 21. G.S. 105-241.9(b) reads as rewritten:

"(b) Time Limit. – The Secretary must propose an assessment within the statute of limitations for proposed assessments unless the taxpayer waives the limitations period ~~in writing.~~ before it expires by agreeing in writing to extend the period. A taxpayer may waive the limitations period for either a definite or an indefinite time. If the taxpayer waives the limitations period, the Secretary may propose an assessment at any time within the time extended by the waiver."

SECTION 22. This act is effective when it becomes law.

Bill Draft 2011-RBxz-1B: Rev Laws Tech, Clarify., & Admin. Chngs.

2011-2012 General Assembly

Committee: Revenue Laws Study Committee
Introduced by:
Analysis of: 2011-RBxz-1B

Date: January 18, 2011
Prepared by: Finance Team

SUMMARY: This proposal includes several technical, administrative, and clarifying changes to the revenue laws and related statutes.

EFFECTIVE DATE: This act would become effective when it becomes law.

BILL ANALYSIS:

Section	Explanation
1	Repeals an obsolete provision. When the General Assembly enacted the qualified business venture tax credits in 1987, they applied to investments in North Carolina companies and to both corporations and individuals. In 1996, the General Assembly revised the tax credit to apply to all investments because the restriction to North Carolina companies was unconstitutional. In the same act, S.L. 1996-14, ES2, the General Assembly also restricted the tax credit to individuals and pass-through entities. The subsection being repealed is a carry-over from the original law as it applied to holding companies.
2	Provides a definition for development tier one area in the tax credit for research and development. The tax credit amount for research performed in a development tier one area is 3.25%.
3	Repeals an obsolete provision. In S.L. 2010-89, the General Assembly provided an alternative apportionment formula for a corporation that signed a letter of commitment by September 15, 2010, certifying that it planned to invest at least $500 million in private funds to construct a facility in a development tier one area. No company signed such a letter. The General Assembly enacted the provision at the request of Microsoft; Microsoft announced in August that it would be locating in Virginia.
4	Removes the word "wireline" at the request of the Streamlined Sales Tax Compliance Review and Interpretations Committee. It makes no substantive change in the law.
5	Clarifies that the sales tax exemption for prosthetic devices is for human use and corrects the name of the agency where the Child and Adult Care Food Program is located.
6	Removes geothermal heat pumps from the Energy Star sales tax holiday because consumers are not able to purchase them. Only contractors can purchase geothermal heat pumps and they are not entitled to the exemption. The presence of the item in the list raises many questions and frustrates consumers.

7	Corrects the sunset dates of the sales tax refunds for fuel sold to passenger air carriers and motorsports teams. The General Assembly extended these sunsets from January 1, 2011, to January 1, 2013, in S.L. 2010-31. In a subsequent piece of legislation recommended by the Revenue Laws Study Committee, S.L. 2010-166, these refund provisions were reenacted in a new statute dedicated to economic incentive refunds. The later legislation failed to conform to the extended sunset dates.
8	Includes the two new sales tax refunds for paper from pulp manufacturing and turbine manufacturing in the correct statute. The General Assembly enacted the refunds in S.L. 2010-31. The rewrite of the economic incentive refunds, enacted in S.L. 2010-166, failed to include this conforming change. Gives effect to the sales tax refund for paper from pulp manufacturing by defining the term "owner" to include a lessee in a lease-to-purchase contract. The Department of Commerce requested this change.
9	Removes unnecessary and confusing words. If a datacenter fails to maintain its required levels of investments, it forfeits its incentive and must pay sales tax on its purchases. The statute stated that the sales tax would be calculated "*at the combined general rate*". The words are not necessary and may not correctly reference the right tax rate since the term "combined general rate" does not include the ¼ ¢ local sales tax applicable in some counties.
10	Clarifies the refund process for the deed stamp tax.
11	Updates the reference to NAICS and places the definition in the statute applicable to most of Chapter 105. NAICS is the North American Industry Classification System adopted by the US Office of Management and Budget. It is updated every five years. Makes a conforming change to the term "information technology and services" to reflect the changes from the 2002 NAICS to the 2007 NAICS.
12	Clarifies that the higher penalty for failure to obtain a license under the motor fuel statutes only applies after the taxpayer has received written notification from the Department of Revenue to obtain the requisite license.
13	Reconciles two current conflicting provisions concerning whether the identity of certain taxpayers is public information. This section also makes conforming changes. The taxpayers affected are those who bring a contested case action at the Office of Administrative Hearings to obtain a review of an assessment or a denial of a refund by the Department of Revenue. Currently, G.S. 150B-31.1(e) states that the record, proceedings, and decision in a contested case are confidential until the final decision is issued. The Secretary of Revenue makes the final decision and, once that decision issued, the records with the taxpayer name is public. G.S. 105-256(a)(9) requires the Secretary of Revenue to publish the final decision

	in a contested case in a format that redacts identifying information. The requirement to redact the identifying information serves no purposes, however, because once the decision is published, the record in the contested case proceeding becomes public in an unredacted form under G.S. 150B-31.1. Subsection (a) reconciles these provisions by amending G.S. 105-269(a)(9) to delete the requirement that the Secretary redact identifying taxpayer information when publishing final decisions. Subsection (b) makes a conforming change to the secrecy statute, G.S. 105-259, to change the word "report" to "publication" to ensure that the final decisions are included within the current exception for reports. G.S. 150B-31.1 and G.S. 105-256(a)(9) were both enacted in 2007 in Senate Bill 242, S.L. 2007-491. Under prior law, the Tax Review Board reviewed administrative decisions of the Secretary and made a decision, called an order, after the review. Orders of the Tax Review Board were published in the North Carolina Register, as required by G.S. 150B-21.17(a)(5),and were not redacted. S.L. 2007-491 revised the procedure for the review of contested tax cases and, as part of the revisions, eliminated the Tax Review Board. Subsection (c) makes a conforming change and repeals the obsolete requirement in G.S. 150B-21.17(a)(5) to publish orders of the Tax Review Board in the North Carolina Register.
14	Modernizes the local sales tax base to conform to the State sales tax base for items taxed at the general rate of tax. This change will remove the need to amend the local sales tax statute whenever an item is added to the State sales tax base and taxed at the general rate of tax. It effectively includes digital products in the local sales tax base, as intended by the General Assembly.
15	Conforms the sunset provisions of miscellaneous provisions associated with the tax credit for recycling oyster shells. The General Assembly extended the sunset on this credit from January 1, 2011, to January 1, 2013, in S.L. 2010-147.
16	Changes the effective date for the exclusion of amenities from general admissions receipts. Prior to February 1, 2009, amenities were excluded from admissions receipts. Effective February 1, 2009, with one day's notice, the Department of Revenue issued a directive providing that amenities would be included in admissions receipts. The Revenue Laws Study Committee recommended, and the General Assembly enacted, a restoration of the prior understanding. The effective date of the legislation was August 1, 2010. Companies that paid the tax with amenities included in the admissions receipts sought a refund of the excess tax paid. The Department denied the refund request because the effective date of the legislative change was August 1, 2010, not February 1, 2009 (the day the directive took effect).
17	Removes the sunset from the provision that allows the Codifier of Statutes to renumber the subdivisions in the special license plates statute in sequential and alphabetical order.

18	Provides that a facilitator would not be liable for an overcollection or an undercollection of sales tax or local occupancy tax during the period of January 1, 2011, through April 1, 2011, as the result of the new collection and remittance obligations imposed under Section 31.6 of S.L. 2010-31 as long as the facilitator made a good faith effort to comply with the law and collect the proper amount of tax. During the 2010 Session, the General Assembly established new sales and use tax reporting and remittance obligations on "facilitators," which are entities that enter into a contract with the providers of accommodations to market and collect payment for accommodation rentals. An example of a facilitator is an online travel company, such as Expedia or Travelocity.
19	Clarifies that use tax is payable by an individual on an annual basis for purchases made outside the State for a nonbusiness purpose of digital property and certain services. In 2009, the General Assembly imposed the State and local general rate of sales tax on certain digital goods, such as downloaded music and books. The legislation also made several conforming changes by adding the term "digital property" to a number of other sales tax statutes. Among them, the term "digital property" was added to the statute that sets out when an individual is required to pay use tax on out-of-State purchases. Since digital property was being subjected to sales tax, a corresponding change was made to subject it to use tax if it is purchased out of State. The Department of Revenue is interpreting the statute to exclude digital property and services from the annual use tax reporting requirement. This section clarifies that the "other than" phrase applies only to boats and aircraft. All other tangible personal property, digital property, and taxable services purchased outside the State for a nonbusiness use are subject to the annual reporting requirement for use tax.
20	Clarifies that the definition of "public service company" in the property tax statutes does not include mobile telecommunication service.
21	Clarifies that a waiver of a statute of limitations must be executed before the statute of limitations expires.

2009-2010
REVENUE LAWS STUDY COMMITTEE

DRAFT



REPORT TO THE 2011-2012 GENERAL ASSEMBLY OF NORTH CAROLINA 2011 SESSION

DRAFT

COMMITTEE PROCEEDINGS

The Revenue Laws Study Committee met four times after the adjournment of the 2010 Regular Session of the 2009 General Assembly on July 10, 2010. Appendix B contains a copy of the Committee's agenda for each meeting. All of the materials distributed at the meetings may be viewed on the Committee's website: http://www.ncleg.net/committees/revenuelaws. The Committee considered a number of issues, but it ultimately recommended only three pieces of legislation. Those proposals are discussed below followed by a summary of the Committee's discussion of the other issues. The Committee considers all proposed tax changes in light of general principles of tax policy and as part of an examination of the existing tax structure as a whole.

REVIEW OF THE RECOMMENDATIONS MADE TO THE 2010 GENERAL ASSEMBLY

The 2010 General Assembly enacted seven of the Revenue Laws Study Committee's nine legislative proposals in whole or in part. Appendix C lists the Committee's recommendations and the action taken on them in 2010. A document entitled "**2010 Finance Law Changes**" summarizes all of the tax legislation enacted in 2010. It is available in the Legislative Library located in the Legislative Office Building. It may also be viewed on the Legislative Library's website: http://www.ncleg.net/LegLibrary under 'Publications,' 'Tax and Finance Law Changes'.

LEGISLATIVE PROPOSAL #1:
IRC UPDATE

North Carolina's tax law tracks many provisions of the federal Internal Revenue Code by reference to the Code.[3] The General Assembly determines each year whether to update its reference to the Code.[4] Updating the reference makes recent amendments to the Code applicable to the State to the extent that State law previously tracked federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made. Maintaining conformity with federal tax law simplifies tax reporting because a taxpayer will not need to account for differing federal and State treatment of the same asset.

The current reference to the Code is May 1, 2010.[5] Since that time, Congress has enacted two Acts that make substantial changes to the tax code: the Small Business Jobs Act of 2010, enacted September 27, 2010, as P. L. 111-240 (2010 Jobs Act), and the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act, enacted

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[3] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[4] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

[5] Part 31 of S.L. 2010 31 updated the reference to the Internal Revenue Code used in defining and determining certain State tax provisions from May 1, 2009, to May 1, 2010. However, S.L. 2010 31 did not conform to the five year carryback of net operating losses incurred by large businesses. S.L. 2010 31 incorporated tax changes made by five federal acts: the Worker, Homeownership, and Business Assistance Act (WHBA), P.L. 111-92; Acceleration of Income Tax Benefits for Haiti Relief, P.L. 111-126; the Patient Protection and Affordable Care Act, P.L. 111-148; the Health Care and Education Reconciliation Act, P.L. 111-152; and the Hiring Incentives to Restore Employment Act (HIRE), P.L. 111-147.

December 17, 2010, as P. L. 111-312 (2010 Tax Relief Act). Both Acts contain provisions that became effective retroactively on January 1, 2010. Since the General Assembly will not have had an opportunity to enact legislation prior to the end of the 2010 taxable year, taxpayers may have to make adjustments on their 2010 State tax return for items included in, or excluded from, federal taxable income as a result of one of these two Acts.

The 2010 Jobs Act enhanced existing business tax incentives and partially offset the revenue loss associated with changes which are expected to increase revenue.[6] The two most noteworthy incentives in the 2010 Jobs Act are the retroactive extension of the 50% bonus depreciation for the 2010 taxable year and the significant expansion of the section 179 expensing deduction for tax years 2010 and 2011 from $250,000/$500,000 to $800,000/$2 million. In addition to the expansion of the section 179 deduction limits, the Act broadens the definition of qualified property to include qualified leasehold improvement property, qualified restaurant property, qualified retail improvement property, and computer software.[7]

The 2010 Tax Relief Act boosts the 50% bonus depreciation extended under the 2010 Jobs Act to 100% for property acquired and placed in service after September 8, 2010, and before January 1, 2012, and it provides 50% bonus depreciation for qualified property placed in service after December 31, 2012, and before January 1, 2013.[8] The Act

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[6] The 2010 Jobs Act gives taxpayers a greater number of options for their retirement plan dollars. The provisions are treated as revenue raisers because they encourage up-front distributions that are taxable. The majority of the revenue generated by the act, however, is in the form of increased federal tax penalties. The increased federal penalties would not generate revenue for the State.

[7] Qualified real property is limited to a maximum deduction of $250,000.

[8] Under the 2010 Jobs Act, the bonus depreciation provision would have expired for taxable year 2012. Under the 2010 Tax Relief Act, it does not expire until taxable year 2013.

also increases the section 179 expense deduction limits for the 2012 taxable year from $25,000/$200,000 to $125,000/$500,000.[9]

North Carolina has historically decoupled from the bonus depreciation incentives enacted by Congress. Whenever federal tax law allows bonus depreciation, the State's tax law has provided that a taxpayer's basis in the property is the same for federal and State purposes. It has accounted for the difference in basis by allowing the taxpayer to deduct the same amount of an asset's basis as allowed under federal law; it is just that the timing of the deduction differs. Under State tax law, a taxpayer must add back 85% of the accelerated depreciation amount in the year that it is claimed for federal purposes. Then, in subsequent tax years, the taxpayer may deduct from federal taxable income the total amount of the add back, divided into five equal installments. This adjustment means that for State tax purposes, a taxpayer may deduct a greater depreciation amount in the outlying tax years, which will be the normal depreciation amount plus 20% of the accelerated depreciation amount the taxpayer had to add back.

North Carolina has historically conformed to the higher deduction and investment limits of the expense deduction in section 179 of the Code. However, the change enacted by Congress in the 2010 Jobs Act represents a substantial increase in these limits and effectively increases the availability of Code section 179 expensing to many more businesses.

The 2010 Tax Relief Act extends the sunsets of the individual and business tax incentives included in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)[10] for two years. Those incentives include the repeal of the limitation on

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[9] Under the 2010 Jobs Act, the limits would have reverted to the prior levels of $25,000/$200,000 in taxable year 2012. Under the 2010 Tax Relief Act, the limits will not revert to their prior levels until taxable year 2013.

[10] Most of the tax provisions in EGTRRA were scheduled to expire in 2010 or 2011 and revert to the provisions as they existed in 2001.

itemized deductions, enhanced earned income tax credit provisions, and the deduction for higher education tuition expenses and teacher's classroom expenses. North Carolina conformed to these incentives in 2002.

The 2010 Tax Relief Act revives the estate tax for decedents dying after December 31, 2009, but at a significantly higher exclusion amount of $5 million and lower tax rates than had been scheduled to be revived under EGTRRA, effective for decedents dying on or after January 1, 2011. North Carolina imposes an estate tax on the estate of a decedent when a federal estate tax is imposed on the estate.[11] The amount of the State's estate tax is the amount of the credit allowed on the federal estate tax return for state estate tax paid, as the federal law provided in 2001.[12] Since the federal estate tax did not exist in 2010, North Carolina's estate tax was repealed for 2010 and the basis of property passing through an estate of a decedent dying in 2010 is determined by the modified carryover basis rules under EGTRRA. However, effective for decedents dying on or after January 1, 2011, the State's estate tax is equal to the state estate tax credit as it existed in 2001 and the exclusion amount is $1 million. Unlike Congress, North Carolina cannot impose the estate tax retroactively on the estates of decedents dying on or after January 1, 2010, and before January 1, 2011.

The Revenue Laws Study Committee discussed the federal tax law changes and their fiscal impact. Full conformity with the 100% bonus depreciation provisions in the

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[11] North Carolina repealed its inheritance tax in 1998 and replaced it with an estate tax that was equivalent to the federal state estate tax credit allowed on a federal estate tax return. This type of state estate tax was known as a "pick up" tax because it picked up for the state the amount of federal estate tax that would otherwise be paid to the federal government.

[12] When Congress phased out the state estate tax credit, beginning in 2002, North Carolina enacted legislation not to conform to the phase out of the credit. In other words, North Carolina began tying the amount of the State estate tax owed to the federal credit as it existed in 2001 rather than as it currently exists. Georgia, South Carolina, and Tennessee have not had an estate tax since January 1, 2005, because their estate tax equals the amount of the state estate tax credit allowed on the federal estate tax return. Virginia repealed its estate tax, effective July 1, 2007.

2010 Tax Relief Act would reduce General Fund revenues by approximately $266 million for fiscal year 2010-2011; full conformity with the 50% bonus depreciation provisions in the 2010 Jobs Act would reduce General Fund revenues by approximately $133 million. Full conformity with the section 179 expense limits of $500,000/$2,000,000 would reduce General Fund revenues by approximately $58 million in fiscal year 2010-2011.

Legislative Proposal #1, *IRC Update,* would take the more cost neutral position, consistent with the State's historical treatment of bonus depreciation and section 179 expensing. The proposal would decouple from bonus depreciation by requiring the taxpayer to add-back 85% of the bonus depreciation in the year it is taken and allowing the taxpayer to deduct that amount over the next five years. The proposal would maintain the section 179 expense limits of $250,000/$800,000 for taxable years 2010 and 2011 rather than conform to the higher federal limits for those tax years of $500,000/$2,000,000. It would conform to the section 179 expense limits for taxable years 2012 and 2013. On these provisions, the cost of conforming to the Code is approximately $600,000 for fiscal year 2010-2011.

Legislative Proposal #1 would conform North Carolina's estate tax exclusion amounts to the higher exclusion amounts in the 2010 Tax Relief Act. Although the State cannot retroactively impose the tax on decedents dying in 2010, the proposal does give those estates that chose to pay federal estate tax and receive the stepped-up basis in the property passing through the estate to elect to receive the stepped-up basis for State tax purposes by paying the State estate tax for 2010. The proposal's conformity on this issue does not result in a revenue impact for fiscal year 2010-2011, but its impact in fiscal year 2011-2012 is a reduction in General Fund revenues of approximately $79 million.

Legislative Proposal #1 would conform to all other provisions in the 2010 Jobs Act and the 2010 Tax Relief Act.

LEGISLATIVE PROPOSAL #2: BUSINESS ENTITY CHANGES FOR PRESENT-USE VALUE TAXATION

At the December 1, 2010 meeting, the Committee voted to recommend legislation to amend the business entity ownership requirements for farmland qualifying for present-use value for property tax purposes. Under current law, farmland (agricultural land, horticultural land, and forestland) may be taxed at its lower present-use value as opposed to market value if the land meets certain ownership, size, and use requirements. The business entity ownership requirements are met when farmland has been owned by a business entity or by one or more of the entity's members for the previous four years. Under this language, ownership is determined on the basis of the name on the deed but does not always consider real parties in interest. Recently counties have received applications in which farmland has been owned by a business entity such as a partnership for the past three years. The counties have denied present-use value status in instances where the farmland was previously owned by a different partnership, even though one or more partners of this partnership were the same as the partners of the partnership that currently owns the farmland.

Legislative Proposal #2, ***Business Entity Changes for Present Use Value Taxation,*** would allow the business entity ownership requirements to be satisfied when the business entity that currently owns farmland shares one or more members in

common with the business entity that previously owned farmland. This proposed legislation recognizes that the real parties in interest have not changed.

LEGISLATIVE PROPOSAL #3: TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES

The Revenue Laws Study Committee recommends **Legislative Proposal #3,** ***Revenue Laws Technical, Administrative, and Clarifying Changes.*** This proposal makes several technical and clarifying changes to the revenue laws and related statutes, including changes to the motor fuel tax and property tax laws. Many of the changes were recommendations of the Department of Revenue.

TAX ADMINISTRATION

No Delay of Tax Refunds

In 2009 and 2010, many taxpayers did not receive the tax refunds owed to them in a timely manner. Interest on individual income tax refunds does not begin to accrue unless the State pays the refund after May 30th. For the period January 1 and June 30 of 2008, the Department of Revenue issued 172,812 individual income tax refunds with interest.13 For the same period in 2009, the number of individual income tax refunds issued with interest fell to 115,358; however, that number rose significantly in 2010 to 417,737. The amount of refunds for that period in 2010 equaled $287,574,365 and the amount of interest paid equaled $1,280,002. The Revenue Laws Study Committee asked the Department of Revenue, the Office of State Budget and Management, the State Controller's Office, and the Office of the State Treasurer to address this issue at its November 10th meeting.

North Carolina must constitutionally maintain a balanced budget. The State typically experiences low points in its cash flow during late November through mid-

[13] This number does not include amended returns.

April because of the variance between income and expenditures. Under Article III, Sec. 5(3) of the North Carolina Constitution, the Governor has the authority to 'effect the necessary economies in State expenditures' to insure that the State does not incur a deficit for any fiscal period. The two primary tools used by the state governments to manage cash flow when revenue is insufficient to meet daily cash requirements has been the reallocation of funds between the General Fund and certain reserve funds on a short term basis and the scheduling of payments contingent upon sufficient cash begin available to meet the requirements.

In 1991, the State Controller's Office, the Office of State Budget and Management, the Department of Revenue, and the Office of the State Treasurer developed cash flow management procedures to pay individual income tax refunds. Appendix D contains two memos from this period. Consistent with the procedures established in March 1991, the State Controller's Office, the Department of Revenue, and the Office of State Budget and Management began discussions in late February 2010, began discussions on managing the payment of tax refunds. It was the hope of the agencies that sufficient revenues would be realized in a timely manner so that all refunds could be processed by May 30th without the requirement of paying interest.

In addition to the tools discussed above to manage cash flow issues, G.S. 142-19 gives the Director of the Budget the authority to borrow money in anticipation of the collection of taxes, by and with the consent of the Council of State. This borrowing would constitute general obligation indebtedness and would be limited to 50% of the taxes anticipated to be collected during the fiscal year. The Office of the State Treasurer noted that borrowing for cash flow purposes may be recognized by rating agencies as an indication of low reserves, but it would not necessarily result in a downgrading of a state's credit rating. Under the current market conditions, the interest rate on short-term

borrowing of six months or less would be .60% to 1.00% for a taxable borrowing.[14] With this interest rate, the interest costs per $1 million borrowed would be $500 to $833 per month.

The Committee expressed concern regarding the Governor's constitutional and statutory authority to delay individual income tax refunds. The issue is whether taxpayer refunds are 'expenditures' that are subject to reduction or management by the Governor. The Committee also voiced taxpayers' frustration that the State could delay refunding an over collected tax payment to a taxpayer to help the State achieve its cash flow needs while the law requires a taxpayer to pay taxes owed to the State by the due date, regardless of the cash position of the taxpayer. At its December 1st meeting, the Committee considered a bill draft that prohibit delay in the payment of tax refunds. A copy of the draft is contained in Appendix E.

During the first week of January 2010, Governor Perdue ordered revenue officials to make sure a taxpayer owed a tax refund received it within 30 to 45 days after the taxpayer filed the return. According to the press releases, the State may likely borrow short-term to expedite the payment of tax refunds if necessary to manage the cash flow needs of the State.

Department-Initiated Tax Refunds

The Committee spent a great deal of time on the issue of Department-initiated refunds, which was discussed at three of its four meetings. In August of 2010, several newspaper articles reported that the Department of Revenue had a backlog of 230,000 unresolved tax returns, dating back as far as 1994, many of which included

[14] To qualify as tax exempt borrowing, the General Fund would have to be out of cash.

overpayments of tax. The articles indicated that, in the past, a longstanding Department policy existed that allowed for overpayments to be refunded as long as the computer system flagged the item as an overpayment within the statute of limitations period. The reports further indicated that a recent change in Department policy resulted in thousands of taxpayer overpayments being withheld. Under the new policy, overpayments are not considered "discovered," the event triggering the Department's obligation to issue a refund, until a departmental employee manually reviews the return after it has been flagged by the computer system. The significance of this change is that returns are processed by the computer system almost immediately after they are filed, ensuring that taxpayers will eventually get a refund under the old policy, whereas a manual review can take years, depending on the Department's resources and workload. If employee review occurs more than three years after the filing of the return, then under the Department's new policy, a refund is barred by the statute of limitations.

Under current law, the Department is required to initiate a refund when it knows that a taxpayer has overpaid as long as the Department acquires this knowledge within the statute of limitations period. The central issue is what constitutes knowledge or discovery. At its November meeting, newly appointed Secretary David Hoyle told the Committee that two different interpretations exist within the Department about what constitutes knowledge or discovery. The first interpretation is that the Department has

knowledge of an overpayment when a return is processed, and the computer system (ITAS) flags the return as including an overpayment. The return is then placed in a pending status awaiting review to verify that, in fact, a refund is due. This interpretation is supported by emails written by long-time Directors of the Individual Income Tax and Corporate Income Tax Divisions, which were published in the News & Observer. The Directors' interpretation is also supported by a long line of North Carolina cases holding that "discovery" occurs when a party is put on notice and could, in the exercise of reasonable diligence, make actual discovery. In his remarks, Secretary Hoyle acknowledged that this practice existed within the Department, but indicated that it was not a written policy and that it was inconsistently applied.

The second interpretation is that the Department has knowledge of an overpayment when a departmental employee manually reviews a "pended" return after it has been flagged by the computer system. In the case of the backlog items, employee review did not occur until several years after the returns were flagged by the computer system, well after the expiration of the three-year statute of limitations period. This interpretation surfaced in 2009 when, as part of its efforts to clean up the backlog items, the Department sought guidance from the Attorney General's Office. According to the Department, the Attorney General opined that discovery occurs when a person actually reviews a return, not when the computer system flags the return for review. Secretary Hoyle informed the Committee that this guidance is now the agency's policy. Neither

the Attorney General's opinion nor the agency-wide policy is in writing. Based on the Department's new policy, Secretary Hoyle indicated that a legislative change is required in order to refund the remaining overpayments. The Department has not, however, indicated what specific legislative change needs to be made.

Without further information about which statute the Department was applying to the backlog items or the basis for its interpretation that discovery requires manual review, the Co-Chairs requested more information from the Department before moving forward with any recommendation. Specifically, the Co-Chairs sent a letter requesting to the Secretary asking for a written explanation of the legal basis upon which the Department is relying to support its new policy, a copy of which is attached in Appendix F. Although the Department's newly hired General Counsel, Canaan Huie, attended the January meeting and was available to answer questions, no one from the Department provided the requested information to the Committee.

Ultimately, the Committee observed the following:

- There has been no law change requiring a change in the way the statute has historically been applied within the Department.
- The statute may be subject to more than one interpretation, as evidenced by the inconsistent practice cited by the Department.

- The practice described in the emails of former Division Directors is more favorable to taxpayers than the current policy, which makes the refund of an overpayment dependent on the Department's resources and workload.
- The basis for the Attorney General's oral legal opinion that discovery requires employee review within the limitations period is unknown.

Based on these observations, the Committee finds that the Department can issue the refunds without any changes in the law and encourages the Department to do so as soon as possible. The Committee further encourages the Department to adhere to the Directors' longstanding interpretation that the Department has knowledge of an overpayment when the computer system flags a return.

Status of Rulemaking for Forced Combinations

North Carolina is a single entity filing state, meaning that a multistate corporation must determine its State net income as if it filed a separate return for federal income tax purposes. G.S. 105-130.14 prohibits a corporation from filing a consolidated or combined return in North Carolina unless specifically directed to do so by the Secretary of Revenue. Under G.S. 105-130.6, the Secretary can require a corporation to file a combined return with other parent, subsidiary, or affiliated corporations when the Department believes the corporation's net income attributable to this State is not accurately reflected on its separate entity filing return.[15] Section 31.10

[15] The Department of Revenue has collected millions of dollars in taxes from forced combinations. The Department generated $424 million through Resolution Initiative in 2009. The Current Operations and

of S.L. 2010-31, the Appropriations Act of 2010, created two exceptions to the general rule requiring a corporation to file a single entity return:

- The corporation's facts and circumstances meet the facts and circumstances described in a permanent rule adopted by the Department.
- Pursuant to a written request from the corporation, the Secretary has provided written advice to the corporation stating that the Secretary will require a consolidated or combined return under the facts and circumstances set out in the request.

The act allowed the Secretary to adopt rules that describe facts and circumstances under which the Secretary would require a corporation to file a consolidated or combined return. The Revenue Laws Study Committee asked the Department for an update on the status of its rulemaking for forced combinations. Secretary Hoyle indicated at the December 1st meeting that the Department hoped to have a draft of its rules available before the first of the year. The Committee checked on the status of the rulemaking prior to the conclusion of the Committee's work this biennium. The Department responded that it did not have a draft at this time. It is unclear when a draft may be available. The draft, once submitted to the Rules Review Commission, will be posted on the Office of Administrative Hearings website: http://www.oah.state.nc.us/rules/RRC.

Capital Improvements Appropriations Act of 2010 included $110 million in its adjustments to availability attributable to 'Department of Revenue Settlement Initiative'.

PROPERTY TAX

Present Use Value Taxation

At the January 5, 2011 meeting, David Baker, Director of the Property Tax Division within the Department of Revenue, gave a presentation on the history and background of the present-use value program. Mr. Baker explained the recent legislative changes that broadened the business entity ownership requirements to include modern estate planning vehicles such as family limited partnerships and family limited liability companies. The Committee then heard comments from representatives of the North Carolina Farm Bureau, the North Carolina Association of County Commissioners, and the North Carolina tax assessors. Each of these representatives indicated that he or she supported the current present-use program and requested that the committee make no further changes to broaden the ownership requirements or to make any other changes to the present-use value program at this time.

Central Appraisal of Wireless Companies

At the January 5, 2011 meeting, the committee reviewed proposed legislation that would authorize the Department of Revenue to add wireless telephone companies and tower aggregate companies to the public service companies that are centrally appraised by the Department for property tax purposes. This proposal was recommended by the Department of Revenue in discussions with the wireless companies and tower aggregate companies. Currently the property of these companies is appraised by each county in which the property is located. The property of public service companies such

as gas companies, electric membership corporations, landline telephone companies, bus line companies, airline companies, and motor freight carrier companies are centrally appraised by the Department. If these companies are operating both inside and outside the State, then the Department apportions the reasonable share of these companies for taxation in North Carolina using property, business, and mileage factors. In determining the true value of a public service company's property, the Department considers any information that has a bearing on the true value including the market value of the company's capital stock and debt, the book value of the property, replacement value less depreciation, and gross receipts and operating income. The proposal would relieve the wireless providers and tower aggregate companies of listing their property in every county in which their property is located and provide a more accurate determination of the true value of the companies' property. In practice, most counties use only the cost approach to determine true value, since they do not have the capability to consider other approaches such as the gross receipts and operating income of a company.

The Committee decided not to recommend the proposed legislation at this time.

SPECIAL APPORTIONMENT FORMULA FOR PUBLISHERS, BROADCASTERS, AND TELECOMMUNICATIONS SERVICE PROVIDERS

A corporation that does business in more than one state must pay income tax to each of the states in which it has nexus. The U.S. Supreme Court cases have upheld the

right of states to tax the income of multistate corporations so long as the income is fairly sourced to the taxing state. The conventional method used by states to source income has been the apportionment formula, which is used to derive an apportionment percentage. Generally speaking, a taxpayer multiplies its taxable income by its apportionment percentage to determine the amount of its income sourced to a state. The state's corporate income tax rate is applied to the corporation's income apportionable to that state.

Most states use an apportionment formula based on or substantially similar to the Uniform Division of Income for Tax Purposes Act (UDITPA).[16] The UDITPA formula is a composite of three factors: a property factor, a payroll factor, and a sales factor. The property factor represents the ratio of the taxpayer's real and tangible personal property in the taxing state to its real and tangible personal property everywhere. Likewise, the payroll factor and the sales factor represent a ratio of the taxpayer's payroll and sales in the taxing state to its payroll and sales everywhere. Under UDITPA, the sum of the three factors is divided by three, resulting in a taxpayer's apportionment percentage. North Carolina shifted to a double-weighted sales factor[17] apportionment formula in 1988.[18] Under North Carolina's current

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[16] UDITPA dates back to 1957.

[17] A double-weighted sales factor tends to favor home-state industries that have a concentration of their total facilities in a state but sell their products all over the country.

[18] RJR Nabisco requested the change because it had plans for a large automated bakery in the Garner area. After the change was adopted, RJR Nabisco was bought out and forced to cut back on capital expenditures. The company never built the plant.

apportionment formula, the payroll and property factors are each weighted 25% and the sales factor is weighted at 50%; the sum of the four factors is divided by four.

An industry-specific formula may be used when the general formula does not accurately reflect the income of the corporation derived from North Carolina. North Carolina has an industry-specific formula for railroads[19], telephone companies[20], motor carriers[21], public utilities[22], and air and water carriers[23]. The Department of Revenue brought to the Revenue Laws Study Committee's attention three industries whose income from North Carolina may not be accurately reflected by the apportionment formula: publishers, broadcasters, and telecommunications service providers.[24]

The Multi-State Tax Commission (MTC) has proposed industry-specific apportionment formulas for publishers, broadcasters, and telecommunications service providers. MTC originally proposed model legislation for broadcasters in 1990, and revised it in 1996. Eight states have adopted some version of this model legislation.[25] MTC proposed model legislation for publishers in 1993 and at least four states[26] have adopted some version of this legislation. North Carolina currently has an industry-specific apportionment formula for telephone companies; however, it only applies to

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[19] Railroad operating revenue.
[20] Operating revenue from local service.
[21] Vehicle miles.
[22] Sales factor only.
[23] Revenue ton miles.
[24] Lennie Collins, the director of the Corporate Income Tax Division, Department of Revenue, made three presentations on this issue at the November 10th, December 1st,and January 5th committee meetings.
[25] Alabama, Arizona, California, Colorado, Hawaii, Idaho, New Hampshire, and North Dakota.
[26] Alabama, California, Idaho, and North Dakota.

landline companies. The MTC model legislation, developed in 2008, applies to all telecommunications service providers.[27] The sourcing rules in the model legislation closely mirror the telecommunications service sourcing rules for sales tax purposes under the Streamlined Sales and Use Tax Agreement.

The MTC model legislation, recommended to the Committee by the Department of Revenue, would modify the sales factor for each of these industries. Under the general apportionment formula, the numerator includes receipts from the income producing activity in this State. The issue is whether these receipts accurately reflect the benefit derived from the services received in this State when the income producing service is performed outside the State. The MTC model legislation moves away from sourcing sales based upon where the revenue generating activity occurs (i.e., where the equipment is located) and towards where the revenue receipts are generated (i.e., where the market for the service is located). The change in the sales tax factor differed for each of the three industries:

- Publishers. - The numerator would include receipts from advertising and from the sale, rental, and other use of its customer lists. The receipts would be sourced based upon a circulation factor.[28]

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[27] Illinois has adopted a modified version of the model legislation. Massachusetts has adopted the model legislation.

[28] The circulation factor is the ratio of the corporation's NC purchasers and subscribers of a publication to the corporation's total purchasers and subscribers of the publication.

- Broadcasters. - The numerator would include receipts from video and audio programming. The receipts would be sourced based upon an audience factor.[29]
- Telecommunications service providers. - The numerator would include receipts from telecommunications service, using the same sourcing rules as applied in the sales tax statutes. The denominator would exclude gross receipts from the sale of service that is not taxable in the state to which it would be apportioned.

In all three instances, the Department recommended changing the property factor of the apportionment formula to exclude outer jurisdictional property. Outer jurisdictional property is tangible personal property that is not physically located in any state and therefore is not taxable in any state. Examples of outer jurisdictional property include orbiting satellites and undersea transmission cables. Excluding the property from the apportionment formula would prevent the dilution of income sourced to the State. The Committee briefly discussed a draft that excluded outer jurisdictional property from the property factor for all corporations and created an industry-specific formula for publishers, broadcasters, and telecommunications service providers. Appendix G contains a copy of the draft legislation.

[29] The audience factor is the ratio of the corporation's NC listening or viewing audience to the corporation's total listening or viewing audience.

The Committee's staff met with interested parties for both the broadcasters and telecommunications service providers to discuss the draft proposal.[30] None of the interested parties supported change at this time. The parties expressed concern about the fiscal impact of a change in the apportionment formula. Neither the Department of Revenue nor the fiscal staff could quantify the impact based upon the information they have at this time. The meetings also highlighted other issues:

- Whether the audience factor accurately reflects the benefits derived in a state by a broadcaster?[31]
- Whether wireless telecommunications service providers should be taxed in a similar manner as landline telephone companies?[32]
- Whether the income of broadcasters is apportioned in similar manner? And if not, should they be apportioned in a similar manner?[33]

Based upon the unknown fiscal impact and the unresolved issues, the Committee chose not to recommend legislation on this issue at this time.

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[30] No one associated with the publishing industry contacted the staff and the staff could not identify a person or lobbyist representative of this industry.

[31] The audience factor does not appear to differentiate between the different tiers of service. A better indicator may be a factor based upon subscriber revenue.

[32] Landline telephone companies are subject to an industry-specific apportionment formula. G.S. 105-130.4(n).

[33] Cable companies are considered a regulated public utility under G.S. 105-130.4(r) and as such their income is apportioned under G.S. 105-130.4(l), which is a sales factor only formula.

NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

JANET COWELL
TREASURER

T. VANCE HOLLOMAN
DEPUTY TREASURER

November 1, 2010

Revenue Laws Study Committee
North Carolina General Assembly

Per G.S. 105-330.10, the following report is submitted detailing the receipts and expenditures of interest on motor vehicle tax payments for the fiscal year ended June 30, 2010.

Division of Motor Vehicles Taxation Interest Fund for Integrated Computer System
(Report of funds transferred to and distributed from account)
For the Fiscal Year Ended June 30, 2010

Beginning balance, July 1, 2009	$18,555,265.16
Annual receipts	
Contributions	5,686,725.71
Interest Earnings	339,563.28
	6,026,288.99
Annual expenditures	($1,920,861.67)
Ending balance, June 30, 2010	$22,660,692.48

Please contact me if you need additional information regarding this matter.

Sincerely,

T. Vance Holloman
Deputy Treasurer

TVH/se

325 NORTH SALISBURY STREET, RALEIGH, NORTH CAROLINA 27603-1385
Courier #56-20-45 Telephone (919) 807-2350 Fax (919) 807-2352
Physical Address: 4505 Fair Meadow Lane, Blue Ridge Plaza, Suite 102, Raleigh, NC 27607
Website: www.nctreasurer.com

North Carolina Department of Commerce

Clawback Report-October 1, 2010

This report is made to the Revenue Laws Study Committee, pursuant to N.C. Gen. Stat. § 143B-435.1(d).

Citation of Law or Resolution:	2007-515, s.6
Section Number:	Section 143B-435.1
Due Date:	Oct. 1, 2010
Submission Date:	Sept 30, 2010

Receiving Entities:
The Revenues Laws Study Committee
The Joint Legislative Commission on Governmental Operations
The Fiscal Research Division

Submitting Entity:
North Carolina Department of Commerce

NORTH CAROLINA DEPARTMENT OF COMMERCE

As of: Oct. 1, 2010
This report is made to the Revenue Laws Study Committee, pursuant to N.C. Gen. Stat. § 143B-435.1(d).

The following provides information on clawbacks in various programs administered by the Dept. of Commerce.

PROGRAM	COMPANY	TOTAL AMT TO BE REPAID	AMT REPAID	Date Recovered	AMT TO BE REPAID	TRIGGERING EVENT
One NC[i]	AmeriKart (NC) Corp	$11,616.00	$11,616.06	7/27/2010	$0.00	Local match not completed.
One NC	IWCO	$93,750.00	$52,083.30	Mo pymt due thru 5/21/11	$41,666.70	Facility closed.
One NC	Menlo Logistics	$15,000.00	$15,000.00	5/27/2010	$0.00	Facility closed.
One NC	Philip Morris USA	$750,000.00	$750,000.00	7/5/2007	$0.00	Facility closed.
One NC	Pulte Mortgage	$55,000.00	$55,000.00	10/6/2008	$0.00	Facility closed.
JDIG[ii]	Brunswick Corporation	$83,524.00	$83,524.00	4/23/2009	$0.00	Facility closed.
JDIG	Chris-Craft Corporation	$54,212.00	$13,552.76	Qtrly pymt due thru 12/1/12	$40,659.24	Termination of project activities
JDIG	Dell Products LP	$1,512,680.00	$1,512,680.00	11/16/09	$0.00	Termination of project activities
JDIG	General Electric Company II	$411,692.00	$411,692.00	5/30/2010	$0.00	Termination of grant.
	Headway Corporation	$50,175.00	$40,140.00	Mo pymt due thru 10/30/10	$10,035.00	Termination of project activities
JDIG	ITG Automotive Safety Textiles, LLC (Narricot Industries)	$13,780.00	$13,780.00	9/1/2010	$0.00	Termination of project activities.
JDIG	Volvo Construction Equipment	$69,247.00	$69,247.00	1/4/2010	$0.00	Termination of project activities.
Green Business Fund[iii]	Evans Environmental Energies, Inc.	$15,540.42	$15,540.42	10/28/09	$0.00	Project terminated due to industrial accident & declining economy.

[i] The One North Carolina Fund statute requires that grant agreement include, and grant agreements do include, the ability to recapture funds for a grantee's failure to comply with the agreement. *See N.C. Gen. Stat. §143B-437.72(b)(7)*. Section 2.7 of The Guidelines for One North Carolina, promulgated under the One NC Statute also requires that agreements contain recapture provisions for nonperformance.

[ii] Job Development Investment Grant Program. The ability to recapture funds for failing to maintain operations at the project location for at least 150% of the grant term is statutorily required to be, and is in fact, reflected in JDIG Agreements. This requirement is also reiterated in Section 11.3 of the Criteria for Operation and Implementation of the Job Development Investment Grant Program.

[iii] The ability to recapture funds for performance failures is statutorily required to be, and is in fact, reflected in the N.C. Green Business Fund grant agreements. *See* §143B-437.6(5).

Contact: Karen West, General Counsel, Commerce kwest@nccommerce.com 919 715-5579

North Carolina Department of Commerce

Clawback Report-October 1, 2010

This report is made to the Revenue Laws Study Committee, pursuant to N.C. Gen. Stat. § 143B-435.1(d).

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Section Number:	Section 143B-435.1
Due Date:	Oct. 1, 2010
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Receiving Entities:
The Revenues Laws Study Committee
The Joint Legislative Commission on Governmental Operations
The Fiscal Research Division

Submitting Entity:
North Carolina Department of Commerce

NORTH CAROLINA
DEPARTMENT OF COMMERCE

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One NC	Menlo Logistics	$15,000.00	$15,000.00	5/27/2010	$0.00	Facility closed.
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JDIG	General Electric Company II	$411,692.00	$411,692.00	5/30/2010	$0.00	Termination of grant.
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JDIG	ITG Automotive Safety Textiles, LLC (Narricot Industries)	$13,780.00	$13,780.00	9/1/2010	$0.00	Termination of project activities.
JDIG	Volvo Construction Equipment	$69,247.00	$69,247.00	1/4/2010	$0.00	Termination of project activities.
Green Business Fund[iii]	Evans Environmental Energies, Inc.	$15,540.42	$15,540.42	10/28/09	$0.00	Project terminated due to industrial accident & declining economy.

[i] The One North Carolina Fund statute requires that grant agreement include, and grant agreements do include, the ability to recapture funds for a grantee's failure to comply with the agreement. *See N.C. Gen. Stat. §143B-437.72(b)(7)*. Section 2.7 of The Guidelines for One North Carolina, promulgated under the One NC Statute also requires that agreements contain recapture provisions for nonperformance.

[ii] Job Development Investment Grant Program. The ability to recapture funds for failing to maintain operations at the project location for at least 150% of the grant term is statutorily required to be, and is in fact, reflected in JDIG Agreements. This requirement is also reiterated in Section 11.3 of the Criteria for Operation and Implementation of the Job Development Investment Grant Program.

[iii] The ability to recapture funds for performance failures is statutorily required to be, and is in fact, reflected in the N.C. Green Business Fund grant agreements. *See* §143B-437.6(5).

Contact: Karen West, General Counsel, Commerce kwest@nccommerce.com 919 715-5579

State of North Carolina
Department of the Secretary of State

ELAINE F. MARSHALL
SECRETARY OF STATE

MEMORANDUM

To: Revenue Laws Study Committee

From: Jana M. Hightower, Securities Division

Date: September 29, 2010

Subject: **Qualified Business Registration 2010 Annual Report**

Enclosed for your review is the Qualified Business Registration 2010 Annual Report pursuant to §105-163.013(g). The report has been created in an Excel spreadsheet format. The information is divided into four (4) parts. The format is as follows:

Report to the Revenue Laws Study Committee
Attachment A – Business Name and Place of Business
Attachment B – Number of Jobs Created, Average Wages Paid, & Minority Status
Attachment C – Brief Description of Business Activity

If you have any questions, I may be contacted at 919-733-3924.

REPORT TO THE REVENUE LAWS STUDY COMMITTEE

Qualified Business Registration 2010 Annual Report

(As of September 2010)

Number of Registrations	**119**
Number of Minority Owned Businesses	**6**
Number of Jobs Created	**304**
Total Average Wages Paid	**$32,783.21**

Company	Type	Authorized Representative	Address	Address 2	City	State	Zip
A Bunch of Us Productions, LLC	Qualified Business Venture	Mr. Terry J. Linehan, Manager	517 Charlotte Ave.		Carolina Beach	NC	28428
AC-2, LLC	Qualified Business Venture	Mr. David M. Yates	204 Joseph Street		Greenville	NC	27858
Advanced Digital Systems, Inc.	Qualified Business Venture	Ms. Carolee E. Nail	4601 Creekstone Drive, #130		Durham	NC	27703
Advanced Liquid Logic Inc.	Qualified Grantee Business	Mr. Richard M. West, President & CEO	615 Davis Drive, Suite 800	P.O. Box 14025	Research Triangle Park	NC	27709
Affinergy, Inc.	Qualified Grantee Business	Mr. Jonathan Gindes, CFO & Sr. VP	617 Davis Drive, Suite 100	P.O. Box 14650	RTP	NC	27709
Angel Paws, LLC	Qualified Business Venture	Mr. Travis Phillips, Jr.	1541 S. Eastern Blvd.		Fayetteville	NC	28306
Applied Catheter Technologies, Inc.	Qualified Business Venture	Mr. Jon S. Wilson, President & CEO	101 N. Chestnut Street	Suite 300	Winston-Salem	NC	27104
Arbovax, Inc.	Qualified Business Venture	Mr. Malcolm Thomas, President &CEO	617 Hutton Street	Suite 101	Raleigh	NC	27606
Asklepios Biopharmaceutical, Inc.	Qualified Grantee Business	Mr. Jade Samulski	45 N. Chatham Pkwy		Chapel Hill	NC	2-7510
Aurora Ventures IV, L.L.C.	Qualified Grantee Business	Mr. B. Jefferson Clark/Manager	790 SE Cary Parkway	Suite 204	Cary	NC	27511
Aurora Ventures V, L.P.	Qualified Grantee Business	Mr. B. Jefferson Clark/Manager	790 SE Cary Parkway	Suite 204	Cary	NC	27511
BioMarck Pharmaceuticals, Ltd.	Qualified Grantee Business	Mr. Allen F. Grant	2619 St. Mary's Street		Raleigh	NC	27609
Bioptigen, Inc.	Qualified Business Venture	Mr. Eric L. Buckland, President, CEO	112 Mariners Point Lane		Hickory	NC	28601
BioResource International, Inc.	Qualified Business Venture	Dr. Giles C. Shih, President	627 Davis Drive	Suite 600	Morrisville	NC	27560
Biotechnology Research & Development, LLC	Qualified Business Venture	Mr. David M. Yates	204 Joseph Street		Greenville	NC	27858
Blue Ridge Analytics, Inc.	Qualified Business Venture	Mr. Michael Detwiler, President & CEO	101 W. Worthington Ave.	Suite 206	Charlotte	NC	28203
BoProcess, LLC	Qualified Business Venture	Dr. Ven Subbiah	1800 H North Greene Street		Greenville	NC	27834
Boxlock Development Company, LLC	Qualified Business Venture	Mr. Richard F. Shaffner	8720 Red Oak Blvd.	Suite 102	Charlotte	NC	28217
BUILDERadius, Inc.	Qualified Business Venture	Mr. William S. Ward, President &CEO	16 Biltmore Avenue	Suite 300	Asheville	NC	28801
Carolina Wellness Group, Inc.	Qualified Business Venture	Mr. Peter M. Mohr, President	5318 Highgate Drive	Suite 135	Durham	NC	27713
Charlotte Angel Partners, LLC	Qualified Grantee Business	Mr. W. Brent Kulman, Fund Executive	1907 Baytree Drive		Greensboro	NC	27455
Charlotte Angels LLC	Qualified Grantee Business	Mr. Charlton Owensby	3700 Moorland Drive		Charlotte	NC	28226
Chesson Laboratory Associates, Inc.	Qualified Business Venture	Mr. Scott Neuville, President & CEO	3100 Tower Blvd.	Suite 117	Durham	NC	27707
Civatech Oncology, Inc.	Qualified Business Venture	Mr. Robert D. Black, President	301 Village Crossing Drive	P.O. Box 2347	Chapel Hill	NC	27515
Clean Burn Fuels, LLC	Qualified Business Venture	Mr. Tom Williamson, CFO	269 Pate Road		Reeford	NC	28376
CleanTechnics International, Inc.	Qualified Business Venture	Mr. Bruce R. Thomas, President & CEO	311 Amhurst Avenue		High Point	NC	27260
Clear Advantage Collar, Inc	Qualified Business Venture	Mr. Cassmer Ward	1200 The Plaza	Suite B	Charlotte	NC	28202
ClearClosing, Inc.	Qualified Business Venture	Mr. Paul J. Michaels, President	107 Glenwood Avenue		Raleigh	NC	27603
Clinical Ink, LLC	Qualified Business Venture	Mr. Douglas Edward Pierce, Jr. CEO	P.O. Box 871		Lewisville	NC	27023
Companion Cabinet Software, LLC	Qualified Business Venture	Mr. Brent Jackson, President	8520 Cliff Cameron Drive	Suite 430	Charlotte	NC	28269
Consert Inc.	Qualified Business Venture	Ms. Kay Burgess	4700 Falls of Neuse Road	Suite 340	Raleigh	NC	27609
Creative Allies, Inc.	Qualified Business Venture	Mr. Greg Lucas	9 West Walnut St.	Suite 3B	Asheville	NC	28801
Destination Commerce Corporation	Qualified Business Venture	Mr. Charles J. Peller, Treasurer	110 Livingston Court		Clemmons	NC	27012
Endacea, Inc.	Qualified Grantee Business	Mr. Donald H. Wilson, III, Pres./CEO		P.O. Box 12076	RTP	NC	27709
EnSolve Biosystems, Inc.	Qualified Grantee Business	Mr. Jason A. Caplan, President & CEO	5805 Departure Drive	Suite B	Raleigh	NC	27616
ESP Systems LLC	Qualified Business Venture	Mr. Scott Boulware, Vice President	1422 East 4th Street		Charlotte	NC	28204
Field2Base, Inc.	Qualified Business Venture	Mr. Robert McKenzie	101 J. Morris Commons Lane	Suite 115	Morrisville	NC	27560
FloLogic, Inc.	Qualified Business Venture	Mr. Charles R. De Smet	7413-130 Six Forks Road		Raleigh	NC	27615
Focus 3, Inc.	Qualified Business Venture	Ms. Kristy Peters, President	201 Shannon Oaks Cir.	Suite 200	Cary	NC	27511
F-Origin, Inc.	Qualified Business Venture	Mr. Gary Hayes	2000 Aerial Center Parkway	Suite 114	Morrisville	NC	27560
Fosaaen Technologies, LLC	Qualified Business Venture	Mr. Ken E. Fosaaen	1800 N. Greene Street	Suite H	Greenville	NC	27834
Freedom Shopping, Inc.	Qualified Business Venture	Mr. Michael A. Dailey, President	920 Tate Blvd, SE	Suite #103/104	Hickory	NC	28602
Gentris Corporation	Qualified Business Venture	Ms. Dawn L. Bordeaux, Vice President	133 Southcenter Ct.	Ste. 400	Morrisville	NC	27560
Global Management Associates, Inc.	Qualified Business Venture	Mr. David A. Neal	15401 Weston Parkway	Suite 180	Cary	NC	27513
GMA Health Information Technology	Qualified Business Venture	Dr. Daniel Lee	266 Whichards Beach Road		Chocowinity	NC	27817
Greatwall Systems, Inc.	Qualified Grantee Business	Mr. Robert E. Anderson, President	635 West Fourth Street	Suite 200	Winston-Salem	NC	27101
Hatteras Venture Affiliates III, LP	Qualified Grantee Business	Mr. John C. Crumpler, Manager	280 South Mangum Street	Suite 350	Durham	NC	27701
HomeHealthNetwork, Inc.	Qualified Business Venture	Mr. Harold R. Bailes	2 Davis Drive		Research Triangle Park	NC	27709-3169
IMAF-Charlotte, LLC	Qualified Grantee Business	Mr. Timothy R. Janke, Organizer	1959 N. Peace Haven Road	Suite 111	Winston-Salem	NC	27106
IMAF-East, LLC	Qualified Grantee Business	Mr. Timothy R. Janke, Organizer	1959 N. Peace Haven Road	Suite 111	Winston-Salem	NC	27106
IMAF-RTP, LLC	Qualified Grantee Business	Mr. Timothy R. Janke, Organizer	4149 Chatham Hill Drive		Winston-Salem	NC	27104
IMAF-Triad 2, LLC	Qualified Grantee Business	Mr. Timothy R. Janke, Organizer	4149 Chatham Hill Drive		Winston-Salem	NC	27104
IMAF-West, LLC	Qualified Grantee Business	Mr. Timothy R. Janke, Organizer	1959 N. Peace Haven Road	Suite 111	Winston-Salem	NC	27106
ImagineOptix Corporation	Qualified Grantee Business	Mr. Erin K. Clark, Vice President	7202 Doverton Court		Raleigh	NC	27615
Improve Your Game LLC	Qualified Business Venture	Mr. Robert M. Autry, Manager	P.O. Box 99489		Raleigh	NC	27624
Inception Micro Angel Fund LLC	Qualified Grantee Business	Mr. Timothy R. Janke, Organizer	1959 N. Peace Haven Road	Suite 111	Winston-Salem	NC	27104
Intersouth Partners VI, L.P.	Qualified Grantee Business	Mr. Mitchell Mumma, Member Manager	406 Blackwell Street	Suite 200	Durham	NC	27701
Intersouth Partners VII, L.P.	Qualified Grantee Business	Mr. Mitchell Mumma, Member Manager	406 Blackwell Street	Suite 200	Durham	NC	27701

Company	Type	Authorized Representative	Address	Address 2	City	State	Zip
Intervolve, Inc.	Qualified Business Venture	Mr. William Kaluza, CEO	4141 ParkLake Avenue	Suite 530	Raleigh	NC	27612
Jimmy Productions LLC	Qualified Business Venture	Mr. Mark Freiburger	301 S. McDowell Street	Suite 410	Charlotte	NC	28204
KeraNetics, LLC	Qualified Business Venture	Mr. Kim Westmoreland	391 Technology Way	Suite 168	Winston-Salem	NC	27101
Krenitsky Pharmaceuticals, Inc.	Qualified Business Venture	Mr. Wayne R. Eberhardt, Vice President	Four University Place	4611 University Drive	Durham	NC	27707
LAAMScience, Inc.	Qualified Grantee Business	Mr. Walter Schwarz	633 Davis Drive	Suite 400	Morrisville	NC	27560
Learning Management Systems, Inc.	Qualified Business Venture	Mr. John Carl Zeigler, CEO	101 Hawthorne Avenue		Swannanoa	NC	28778
Liquidia Technologies, Inc.	Qualified Business Venture	Mr. Bruce Boucher, President	419 Davis Drive, Suite 100	P.O. Box 110085	Research Triangle Park	NC	27709
Listingbook, LLC	Qualified Business Venture	Mr. Randall R. Kaplin, Chairman	123 S. Elm Street	P.O. Box 10648	Greensboro	NC	27404
Mardil, Inc.	Qualified Business Venture	Mr. Gopal Muppirala	100 Glenspring Way		Morrisville	NC	27560
MediWave Star Technology Inc.	Qualified Business Venture	Mr. Thomas R. Sloan, Treasurer	705 Sunset Drive		Greensboro	NC	27408
Microelectronics Assembly Technologies, Inc.	Qualified Business Venture	Mr. Zak Fathi	P.O. Box 13279		Research Triangle Park	NC	27711
Modality, Inc.	Qualified Business Venture	Mr. Stephen Mark Williams, President	905 W. Main Street	Suite 24F, Box 2	Durham	NC	27701
Natty Greene's Brewing Company, LLC	Qualified Business Venture	Mr. Christopher Lester	1918 W. Lee Street		Greensboro	NC	27403
Nelson Pharmaceuticals, LLC	Qualified Business Venture	Mr. Howard L. Rice, Jr.	250 Quade Drive		Cary	NC	27513
Neuronex, Inc.	Qualified Business Venture	Mr. Moise Khayrallah	9001 Aerial Center Parkway	Suite 110	Morrisville	NC	27560
Novan, Inc.	Qualified Business Venture	Mr. Nathan Stasko, President	79 TW Alexander Dr, Research Commons, Suite 105	P.O. Box 110023	RTP	NC	27709
Oncoscope, Inc.	Qualified Business Venture	Mr. Perry A. Genova	324 Blackwell Street	Suite 1120	Durham	NC	27701
OptiVia Medical, LLC	Qualified Business Venture	Mr. Jack Snoke, CTO	301 North Main Street	Suite 2302	Winston-Salem	NC	27101
Orbit Energy, Inc.	Qualified Grantee Business	Mr. Reese Howle, President	3301 Benson Drive	Suite 535	Raleigh	NC	27609
Paula Lee Haller Productions LLC	Qualified Business Venture	Ms. Paula Lee Haller, Manager	P.O. Box 1042		Wrightsville Beach	NC	28480
Physcient, Inc.	Qualified Grantee Business	Mr. Hugh C. Crenshaw	112 South Duke Street	Suite 4A	Durham	NC	27701
PhytoChem Pharmaceuticals	Qualified Business Venture	Mr. Tom Gutierrez, President	1000 Centre Green Way	Suite 200	Cary	NC	27513
Piedmont Angel Network LLC	Qualified Grantee Business	Ms. Lou Anne Flanders-Stec, Fund Executive	22 Waterline Drive	P.O. Box 38724	Greensboro	NC	27438
Piedmont Angel Network TWO LLC	Qualified Grantee Business	Mr. W. B. Rodman, Organizer/Manager	300 N. Greene Street	Suite 200	Greensboro	NC	27401
Piedmont Global Solutions, Inc.	Qualified Business Venture	Mr. David M. Daniels, President & CEO	5904 Crutchfield Farm Road		Oak Ridge	NC	27310
Piedmont Pharmaceuticals LLC	Qualified Business Venture	Mr. Roland Johnson, Manager/President	204 Muirs Chapel Road	Suite 200	Greensboro	NC	27410
Pique Therapeutics, Inc.	Qualified Business Venture	Mr. Christopher S. Meldrum	2530 Meridan Parkway	Suite 200	Durham	NC	27713
PlotWatt, Inc.	Qualified Grantee Business	Mr. Lucas Fishback	1715 Six Gables Rd.		Durham	NC	27712
Pogo Health LLC	Qualified Business Venture	Ms. Alicia Paladin, President	211 Oxford Hills Drive		Chapel Hill	NC	27514
Polyglot Systems, Inc.	Qualified Grantee Business	Mr. Chung-Suk Charles Lee	2000 Aerial Center Parkway	Suite 101	Morrisville	NC	27560
Positioning Animals Worldwide, Inc.	Qualified Business Venture	Mr. Christopher Newton, President & CEO	543 Keisler Drive	Suite 104	Cary	NC	27518
Proficient, LLC	Qualified Business Venture	Mr. Andrew C. Lee	201 N. Church Street	Suite 238	Greensboro	NC	27401
Protochips, Inc.	Qualified Grantee Business	Mr. David Nackashi	617 Hutton Street	Suite 111	Raleigh	NC	27606
Quartek Corporation	Qualified Business Venture	Mr. Reyad Sawafta, President & CEO	4180 Piedmont Parkway		Greensboro	NC	27410
Regado Biosciences, Inc.	Qualified Business Venture	Mr. Chris Courts, VP - Finance	318 Blackwell Street	Suite 130	Durham	NC	27701
Remote Light Water, Inc.	Qualified Business Venture	Mr. J. Phillip L. Johnston, President	1634 N. Main Street		High Point	NC	27262
Renewable Fibers, LLC	Qualified Business Venture	Mr. David M. Yates	204 Joseph Street		Greenville	NC	27858
Scion NeuroStim, LLC	Qualified Business Venture	Dr. Lesco Rogers, MD	3105 Cone Manor Lane	Suite B	Raleigh	NC	27613
Sequentric Energy Systems, LLC	Qualified Business Venture	Mr. Daniel Flohr, Manager	2840 S. College Rd	#210	Wilmington	NC	28412
Simply Easier Payments	Qualified Business Venture	Mr. Bradley K. Reedstrom	3000 Croasdaile	PO Box 2936	Durham	NC	27715
Slate Pharmaceuticals, Inc.	Qualified Business Venture	Mr. Robert Whitehead, President	318 Blackwell Street	Suite 240	Durham	NC	27701
Solaro Armour, Inc.	Qualified Business Venture	Mr. Gregg W. Schmidt	170 Huckleberry Drive		Stokesdale	NC	27357
Southeast Techinventures, Inc.	Qualified Grantee Business	Ms. Karen LeVert, President	P.O. Box 13714		RTP	NC	27709
Southern Capitol Technology Fund II, LP	Qualified Grantee Business	Mr. Benjamin T. Brooks, III	21 Glenwood Avenue	Suite 105	Raleigh	NC	27603
SOV Therapeutics, Inc.	Qualified Business Venture	Mr. Om Dhingra	101 Guymon Court		Morrisville	NC	27560
Specialty Wood Components, Inc.	Qualified Business Venture	Mr. Blane E. Rockafellow, CEO	7405 Kemp Road		Raleigh	NC	27613
Sustainable Energy Community Development Company LLC	Qualified Business Venture	Mr. Michael David Bland	224 Sardis Grove Lane		Matthews	NC	28105
Synereca Pharmaceuticals, Inc.	Qualified Grantee Business	Mr. W. Bennett Love	112 Redbud Lane		Chapel Hill	NC	27514
Textile Film Initiative L.L.C.	Qualified Business Venture	Ms. Robin Grey, Registered Agent	2424 N. Davidson Street	Suite 103	Charlotte	NC	28205
The Center For Board Evaluations, LLC	Qualified Business Venture	Mr. J. Phillip L. Johnson, President	1634 N. Main Street		High Point	NC	27262
Thermocline Ventures, Inc.	Qualified Business Venture	Mr. Graham E. Snyder	2520 Kenmore Drive		Raleigh	NC	27608
Timing the Movie LLC	Qualified Business Venture	Mr. Keith Sweeney	P.O. Box 240117		Charlotte	NC	28224
Trana Discovery, Inc.	Qualified Licensee Business	Mr. Michael A. Gallucci, Jr. Treasurer & CFO	113 Lochinvar Ct		Cary	NC	27511
TransEnterix, Inc.	Qualified Business Venture	Mr. Todd M. Pope, President & CEO	3908 Patriot Drive	Suite 110	Durham	NC	27703
Triad Specialty Products LLC	Qualified Business Venture	Mr. Roland Johnson, Manager	204 Muirs Chapel Road	Suite 200	Greensboro	NC	27410
Tri-State Investment Group IV, LLC	Qualified Grantee Business	Mr. Stephen Clossick, Administrator	6002 Meadow Run Ct.		Chapel Hill	NC	27516
Vtflex, Inc.	Qualified Business Venture	Mr. Samir Hakooz, President	105 Lion's Gate Drive		Cary	NC	27518
Williams Innovations, LLC	Qualified Business Venture	Mr. James O'Connell	410 North Boylan Ave.		Raleigh	NC	[illegible]3

Company	Type	Authorized Representative	Address	Address 2	City	State	Zip
xChange Automotive, LLC	Qualified Business Venture	Ms. Brigitte M. Washington	P.O. Box 472821		Charlotte	NC	28247
Yap, Inc.	Qualified Business Venture	Mr. Victor Jablokov, CEO	800 West Hill Street	Suite 101	Charlotte	NC	28208
Zenph Sound Innovations, Inc.	Qualified Business Venture	Mr. Jim Ford	9660 Falls of Neuse Road	Suite 138-145	Raleigh	NC	27615
Number of Registrations	**119**						

Company	Number of Jobs Created	Average Wages Paid	Minority Business
A Bunch of Us Productions, LLC	0	$0.00	no
AC-2, LLC	0	$0.00	no
Advanced Digital Systems, Inc.	0	$0.00	no
Advanced Liquid Logic Inc.	5	$60,000.00	no
Affinergy, Inc.	6	$62,961.96	no
Angel Paws, LLC	0	$0.00	no
Applied Catheter Technologies, Inc.	1	$125,000.00	no
Arbovax, Inc.	2	$40,000.00	no
Asklepios Biopharmaceutical, Inc.	0	0	no
Aurora Ventures IV, L.L.C.	0	$0.00	no
Aurora Ventures V, L.P.	0	$0.00	no
BioMarck Pharmaceuticals, Ltd.	0	$0.00	no
Bioptigen, Inc.	1	$68,000.00	no
BioResource International, Inc.	4	$68,500.00	no
Biotechnology Research & Development, LLC	0	$0.00	no
Blue Ridge Analytics, Inc.	2	$68,500.00	no
BoProcess, LLC	0	$0.00	no
Boxlock Development Company, LLC	0	$0.00	no
BUILDERadius, Inc.	35	$59,484.00	no
Carolina Wellness Group, Inc.	13	$41,899.00	no
Charlotte Angel Partners, LLC	0	$0.00	no
Charlotte Angels LLC	0	$0.00	
Chesson Laboratory Associates, Inc.	0	$0.00	no
Civatech Oncology, Inc.	0	$0.00	no
Clean Burn Fuels, LLC	5	$38,766.00	no
CleanTechnics International, Inc.	1	$25,000.00	no
Clear Advantage Collar, Inc	4	$60,000.00	no
ClearClosing, Inc.	0	$0.00	no
Clinical Ink, LLC	0	$0.00	no
Companion Cabinet Software, LLC	1	$75,000.00	no
Consert Inc.	13	$88,000.00	no
Creative Allies, Inc.	3	$50,000.00	no
Destination Commerce Corporation	5	$55,000.00	no
Endacea, Inc.	2	$45,000.00	no
EnSolve Biosystems, Inc.	1	$45,000.00	no
ESP Systems LLC	4	$39,000.00	no
Field2Base, Inc.	0	$0.00	no
FloLogic, Inc.	1	$30,000.00	no
Focus 3, Inc.	0	$0.00	no
F-Origin, Inc.	0	$96,000.00	no
Fosaaen Technologies, LLC	0	$0.00	no
Freedom Shopping, Inc.	0	$0.00	no
Gentris Corporation	7	$42,143.00	no
Global Management Associates, Inc.	3	$60,000.00	no
GMA Health Information Technology	0	$0.00	yes
Greatwall Systems, Inc.	5	$49,240.00	no
Hatteras Venture Affiliates III, LP	0	$0.00	no
HomeHealthNetwork, Inc.	0	$0.00	no
IMAF-Charlotte, LLC	0	$0.00	no
IMAF-East, LLC	0	$0.00	no
IMAF-RTP, LLC	0	$0.00	no
IMAF-Triad 2, LLC	0	$0.00	no
IMAF-West, LLC	0	$0.00	no
ImagineOptix Corporation	0	$0.00	no
Improve Your Game LLC	0	$0.00	no

Company	Number of Jobs Created	Average Wages Paid	Minority Business
Inception Micro Angel Fund LLC	0	$0.00	no
Intersouth Partners VI, L.P.	0	$0.00	no
Intersouth Partners VII, L.P.	0	$0.00	no
Intervolve, Inc.	7	$116,380.94	no
Jimmy Productions LLC	0	$0.00	no
KeraNetics, LLC	2	$132,000.00	no
Krenitsky Pharmaceuticals, Inc.	0	$0.00	no
LAAMScience, Inc.	0	$0.00	no
Learning Management Systems, Inc.	1	$65,000.00	no
Liquidia Technologies, Inc.	14	$67,504.00	no
Listingbook, LLC	30	$59,897.00	no
Mardil, Inc.	0	$0.00	yes
MediWave Star Technology Inc.	3	$29,312.00	no
Microelectronics Assembly Technologies, Inc.	0	$0.00	no
Modality, Inc.	3	$62,900.00	no
Natty Greene's Brewing Company, LLC	0	$0.00	no
Nelson Pharmaceuticals, LLC	0	$0.00	yes
Neuronex, Inc.	0	$0.00	no
Novan, Inc.	4	$67,750.00	no
Oncoscope, Inc.	3	$70,000.00	no
OptiVia Medical, LLC	0	$0.00	no
Orbit Energy, Inc.	2	$50,000.00	no
Paula Lee Haller Productions LLC	0	$0.00	Yes
Physcient, Inc.	1	$50,000.00	no
PhytoChem Pharmaceuticals	1	$150,000.00	no
Piedmont Angel Network LLC	0	$0.00	no
Piedmont Angel Network TWO LLC	0	$0.00	no
Piedmont Global Solutions, Inc.	3	$80,000.00	no
Piedmont Pharmaceuticals LLC	0	$0.00	no
Pique Therapeutics, Inc.	0	$0.00	no
PlotWatt, Inc.	0	$0.00	no
Pogo Health LLC	1	$85,000.00	no
Polyglot Systems, Inc.	0	$0.00	no
Positioning Animals Worldwide, Inc.	5	$54,000.00	no
Proficient, LLC	7	$92,285.00	no
Protochips, Inc.	6	$17,413.00	no
Quartek Corporation	3	$44,000.00	no
Regado Biosciences, Inc.	11	$100,083.00	no
Remote Light Water, Inc.	5	$166,000.00	Yes
Renewable Fibers, LLC	2	$150,000.00	no
Scion NeuroStim, LLC	0	$0.00	no
Sequentric Energy Systems, LLC	0	$0.00	no
Simply Easier Payments	1	$180,000.00	no
Slate Pharmaceuticals, Inc.	17	$73,665.00	no
Solaro Armour, Inc.	2	$0.00	no
Southeast Techinventures, Inc.	2	$50,000.00	no
Southern Capitol Technology Fund II, LP	3	$85,000.00	no
SOV Therapeutics, Inc.	0	$0.00	no
Specialty Wood Components, Inc.	0	$0.00	no
Sustainable Energy Community Development Company LLC	0	$0.00	no
Synereca Pharmaceuticals, Inc.	0	$0.00	no
Textile Film Initiative L.L.C.	0	$0.00	no
The Center For Board Evaluations, LLC	3	$83,333.00	no
Thermocline Ventures, Inc.	0	$0.00	no
Timing the Movie LLC	0	$0.00	no

Company	Number of Jobs Created	Average Wages Paid	Minority Business
Trana Discovery, Inc.	0	$0.00	no
TransEnterix, Inc.	21	$116,018.00	no
Triad Specialty Products LLC	0	$0.00	no
Tri-State Investment Group IV, LLC	0	$0.00	no
Vtflex, Inc.	0	$0.00	no
Williams Innovations, LLC	0	$0.00	no
xChange Automotive, LLC	0	$0.00	yes
Yap, Inc.	12	$104,166.67	no
Zenph Sound Innovations, Inc.	5	$107,000.00	no
Number of Minority Business	6		
Number of Jobs Created	304		
Average Wages Paid	$32,783.21		

Company	Brief Description of Business Activity
A Bunch of Us Productions, LLC	Engaged in the development, financing, production, distribution, and exploitation of motion pictures.
AC-2, LLC	Development and commercialization technologies in the fields water supply, wastewater treatment, bio-energy, "green" structural material and enzymes.
Advanced Digital Systems, Inc.	Provide personal information management software by developing a pen-on-paper-based user-interface.
Advanced Liquid Logic Inc.	The company is in the business of design, development, manufacture and sale of equipment to manipulate fluids at the nanoscale.
Affinergy, Inc.	The company has developed the innovative technology of "interfacial biomaterials" or IFBMs.
Angel Paws, LLC	Provides pet cremation services on a wholesale basis to veterinary hospitals.
Applied Catheter Technologies, Inc.	Development & commercialization of proprietary, patent-protected catheters and catheter technologies, including urethral coated stents for surgical procedures.
Arbovax, Inc.	An early stage research and development company that will commercialize a vaccine targeting mosquito-borne diseases.
Asklepios Biopharmaceutical, Inc.	Focused on the development and production of vector-based delivery vehicles for genes and gene products for therapeutic applications.
Aurora Ventures IV, L.L.C.	The company will operate as a venture capital fund formed to invest primarily in seed and early stage investments.
Aurora Ventures V, L.P.	The company will invest primarily in seed, and early stage and follow on investments in information technology and life sciences .
BioMarck Pharmaceuticals, Ltd.	R&D directed to the discovery and preclinical development of new drugs for the treatment of diseases such as asthma, chronic bronchitis, and cystic fibrosis.
Bioptigen, Inc.	Bioptigen is developing Optical Coherence Tomography instrumentation for imaging of humans and small animals for pre-clinical research .
BioResource International, Inc.	Research and development of industrial enzymes for animal feed applications.
Biotechnology Research & Development, LLC	Development and commercialization technologies in the fields water supply, wastewater treatment, bio-energy, "green" structural material and enzymes.
Blue Ridge Analytics, Inc.	Provide a new Internet based outsourcing option for employers.
BoProcess, LLC	To process and manufacture natural products.
Boxlock Development Company, LLC	Developing, marketing, and managing internet websites.
BUILDERadius, Inc.	Develops and markets software for building departments and building contractors.
Carolina Wellness Group, Inc.	Provides education and assists with program development and staff training in the areas of health care management and vascular access development.
Charlotte Angel Partners, LLC	Venture capital investments.
Charlotte Angels LLC	Equity investment in a portfolio of early stage companies in high growth sectors such as biotechnology, life science, technology and software.
Chesson Laboratory Associates, Inc.	Discover, develop and commercialize therapeutic pharmaceutical systems and products.
Civatech Oncology, Inc.	Will develop and manufacture a medical device which will allow radiation therapy for the treatment of cancer.
Clean Burn Fuels, LLC	Process for the production of ethanol - dry milling.
CleanTechnics International, Inc.	Sell, market, manufacture, warehouse & distribute technology in fluid filtration.
Clear Advantage Collar, Inc	Manufacturing and distribution of patented transparent cervical collars.
ClearClosing, Inc.	The applicant is engaged in the business of developing, marketing, licensing, and selling software and other services.
Clinical Ink, LLC	Clinical Ink will develop data capture software for use in clinical trials.
Companion Cabinet Software, LLC	This is a software package for the cabinet industry.
Consert Inc.	An early stage technology company formed to research, develop and manufacture advanced communications technologies.

Company	Brief Description of Business Activity
Creative Allies, Inc.	Manufacturing, selling or distributing web-based (a) social networks enabling the licensing of proprietary user generated content and (b) services to musicians.
Destination Commerce Corporation	An information company organized to develop and communicate a wide range of in-depth destination content about tourism & residential communities.
Endacea, Inc.	Business intends to develop the endotoxin detection kit first for industrial use and subsequently for clinical diagnostic use, developing a drug for asthma.
EnSolve Biosystems, Inc.	Ensolve Biosystems develops bioremediation treatment systems for the maritime industry.
ESP Systems LLC	The ESP Systems has patented, pioneered and commercialized a state of the art wireless system that streamlines the service model at retail establishments.
Field2Base, Inc.	Offers highly mobile communication solution to its end users via use of the Tablet PC and certain proprietary software.
FloLogic, Inc.	Directs the design, development, manufacture and markets an automatic fluid shutoff valve for installation.
Focus 3, Inc.	Development and sales of web-based customer relationship management application for real estate sales and marketing businesses.
F-Origin, Inc.	Providing touch screen solutions to manufacturers who produce display devices who require that type of user interface.
Fosaaen Technologies, LLC	Design, build and market oxygen sensors for the small engine market targeting motorcycles, ATVs, marine and personal watercraft.
Freedom Shopping, Inc.	The company provides affordable and secure RFID solutions to the consuming public technology.
Gentris Corporation	Engaged in the R & D and commercialization of proprietary clinical pharmacogenomic product and services.
Global Management Associates, Inc.	Provides electronic medical records software to physician practices on a software as a service (SaaS) basis.
GMA Health Information Technology	Develops and implements electronic medical information software, hardware and other technology.
Greatwall Systems, Inc.	Research and development of network security products.
Hatteras Venture Affiliates III, LP	Intended to be a venture capital fund to invest primarily in companies engaged in the biotechnology, medical device and similar related industries.
HomeHealthNetwork, Inc.	Research and development to create the hardware interface and web-based network services.
IMAF-Charlotte, LLC	The applicant is a structured investment fund which will invest in capital stock or other equity interests.
IMAF-East, LLC	A investor investment fund which will invest in growth companies for technology opportunities.
IMAF-RTP, LLC	Member-managed investor investment fund which will invest in capital stock of growth companies or other business entities.
IMAF-Triad 2, LLC	Member-managed investor investment fund which will invest in capital stock of growth companies or other business entities.
IMAF-West, LLC	The applicant is a structured investment fund which will invest in capital stock or other equity interests.
ImagineOptix Corporation	A technology development company. Commercializing technology that will double the efficiency of video projector devices.
Improve Your Game LLC	Designed and created a web-based motion analysis tool.
Inception Micro Angel Fund LLC	Angel investor investment fund focusing on the Piedmont triad area.
Intersouth Partners VI, L.P.	Venture capital firm focusing on early stage investments in the high technology and life sciences industries.
Intersouth Partners VII, L.P.	Venture capital firm focusing on early stage investments in the high technology and life sciences industries.

Company	Brief Description of Business Activity
Intervolve, Inc.	Development, marketing and sale of customized solutions for the information technology needs of sales and distribution industries and small to medium-sized business.
Jimmy Productions LLC	Development, financing, production and exploitation of a feature-length motion picture.
KeraNetics, LLC	A continuous program of research, development, production & commercialization in the fields of Biotherapeutics.
Krenitsky Pharmaceuticals, Inc.	Engaged in the discovery and early development of drugs that provide new therapies or improve existing ones and lower overall medical costs.
LAAMScience, Inc.	R&D, Product Development & Manufacturing of antimicrobial chemicals and coatings.
Learning Management Systems, Inc.	Provides distance learning technology and professional services.
Liquidia Technologies, Inc.	Research and development of chemical compounds
Listingbook, LLC	Software solutions for real estate agents and their customers.
Mardil, Inc.	A medical device company focused on developing minimally invasive procedures and devices for the cardiovascular disease market.
MediWave Star Technology Inc.	Research and development of technology and devices which incorporate such technology, for use in the field of medical diagnostics.
Microelectronics Assembly Technologies, Inc.	Develops semiconductor multi-chip module architectures and corresponding module connectors.
Modality, Inc.	Engaged in software publishing.
Natty Greene's Brewing Company, LLC	Manufacturing an alcoholic beverage product and packaging the product in bottles or kegs to be sold at wholesale.
Nelson Pharmaceuticals, LLC	Research and development and subsequent reformation of previously released drugs.
Neuronex, Inc.	Engaged in the research and development of pharmaceutical products.
Novan, Inc.	Biotechnology pharmaceutical research and development company.
Oncoscope, Inc.	Develop and commercialize innovative optical biopsy technology for early detection of cancer.
OptiVia Medical, LLC	Medical device development
Orbit Energy, Inc.	Orbit energy is a renewable energy company with a proprietary technology that converts organic wastes into biogas and compost.
Paula Lee Haller Productions LLC	The business is engaged in the development, financing, production, distribution and exploitation of motion pictures.
Physcient, Inc.	Develops smart surgical instruments to reduce trauma of full access surgery.
PhytoChem Pharmaceuticals	Is engaged in research, development, manufacturing and distributing pharmaceutical and nutraceutical products.
Piedmont Angel Network LLC	Invests in capital stock or debt instruments of growth companies, including but not limited to, early stage privately-held companies.
Piedmont Angel Network TWO LLC	Will invest in capital stock or debt instruments of growth companies, including but not limited to early stage, privately-companies.
Piedmont Global Solutions, Inc.	Develop, manufacture, market and sell hospital beds.
Piedmont Pharmaceuticals LLC	Pharmaceutical research & development
Pique Therapeutics, Inc.	A biopharmaceutical company that engages in research and development, working on drugs for the treatment of cancer.
PlotWatt, Inc.	Research, development and commercialization of a web-based energy dashboard that analyses a home or building's electrical energy consumption.
Pogo Health LLC	Primarily engaged in providing a service & products business to business getting them to offer as part of companies hmo's.
Polyglot Systems, Inc.	Technology solutions that help the medical community to better communicate with patients, both in English and other languages.

Company	Brief Description of Business Activity
Positioning Animals Worldwide, Inc.	The company researches and develops global positioning system technology for pet so as to provide owners with tracking capabilities.
Proficient, LLC	A web based service for medical software provides.
Protochips, Inc.	Development of accessories and consumables for election microscopy.
Quartek Corporation	Quartek is a corp. that uses nanotechnology a combination for research and technology to create the use of structures and devices to measure distance.
Regado Biosciences, Inc.	Is a biopharmaceutical company developing antidote-controlled therapeutics, focusing on the acute care antithrombotic market.
Remote Light Water, Inc.	Technology licensing company in water and air purification.
Renewable Fibers, LLC	To develop and commercialization of state-of-the-art technologies of wastewater treatment, using the vehicle therefore the Hibiseus cannabinus plant (Kenaf).
Scion NeuroStim, LLC	Proprietary research and development of a medical device to provide neurological stimulation, with an initial focus on the brain.
Sequentric Energy Systems, LLC	Sequentric Energy Systems has developed and has a patent for management control system for business customers.
Simply Easier Payments	Providing data security and delivery services to the insurance industry and other such industry or industries as the Company may determine to pursue.
Slate Pharmaceuticals, Inc.	Research and development of pharmaceuticals.
Solaro Armour, Inc.	Manufacture skin care products.
Southeast Techinventures, Inc.	They are a technology accelerator focused on migrating technologies from universities into commercial marketplace.
Southern Capitol Technology Fund II, LP	Venture capital investments.
SOV Therapeutics, Inc.	Developing an alternative method for delivery of testosterone replacement therapy for optimal absorption via the lymphatic system.
Specialty Wood Components, Inc.	Research, development, manufacturing and marketing of treated wood products.
Sustainable Energy Community Development Company LLC	Service and manufacturing company engaged in turnkey financing, developing and component construction of renewable energy facilities.
Synereca Pharmaceuticals, Inc.	Engaged in the research and development of pharmaceutical products.
Textile Film Initiative L.L.C.	Engages in the financing, and exploitation of motion pictures.
The Center For Board Evaluations, LLC	A software company which develops board questionnaires for not-for-profit and for profit boards to evaluate the directors professionalism.
Thermocline Ventures, Inc.	Uses medical science and engineering ingenuity to develop rational, effective monitoring devices to protect children.
Timing the Movie LLC	Development, financing, production and exploitation of a feature-length motion picture.
Trana Discovery, Inc.	The company is engaged in research and development drug discovery technology.
TransEnterix, Inc.	Research and development of medical devices.
Triad Specialty Products LLC	Will function as an animal pharmaceutical company.
Tri-State Investment Group IV, LLC	Acquires capital stock or debt instruments of growth companies, including but not limited to early stage privately-held companies.

Company	Brief Description of Business Activity
Vtflex, Inc.	Design, engineer, manufacture, market VT Flex therapeutic exercise devices for consumers, hospitals, and physical therapy clinics.
Williams Innovations, LLC	Design and manufactures the TeleSwivel brand of trailer hitch systems and accessories that dramatically improve the reliability and safety of the transportation systems employed by military, commercial and consumer users of our products.
xChange Automotive, LLC	An online digital marketplace where automotive dealers can auction pre-owned vehicles B2B and B2C.
Yap, Inc.	Develops and markets speech and voice-enabled mobile software.
Zenph Sound Innovations, Inc.	Development of software to create, analyze and record music.

State tax return backlog will be eliminated by Christmas

Posted: 12:44 p.m. today
Updated: 51 minutes ago

RALEIGH, N.C. &MDASH North Carolina's new top tax collector says the Legislature needs to change a law so that thousands of people who overpaid years ago can get refunds.

Revenue Secretary David Hoyle told a General Assembly study committee Wednesday his agency expects to clear a backlog of 150,000 flagged returns dating to the mid-1990s before Christmas. But Hoyle says the department is barred by law from sending $2.3 million in refunds to 7,000 of those tax filers because a three-year statute of limitations exists on refunds for old overpayments.

He says the law should only apply to the current backlog.

Gov. Beverly Perdue replaced previous Secretary Kenneth Lay during a flap over the refunds. Hoyle served in the Senate before his new job.

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2009-2010
REVENUE LAWS STUDY COMMITTEE



REPORT TO THE 2011-2012 GENERAL ASSEMBLY OF NORTH CAROLINA 2011 SESSION