

1997

**HOUSE
COMMERCE**

MINUTES

HOUSE COMMITTEE ON COMMERCE

1997 SESSION

NORTH CAROLINA GENERAL ASSEMBLY

CO-CHAIRS

Representative David Miner, Senior Ranking Co-Chair

Representative Cherie Berry

Representative Walter Church

Representative William Hiatt

Representative Tim Tallent

RESEARCH DIVISION

Karen Cochrane-Brown, Staff Attorney

Bill Gilkeson, Staff Attorney

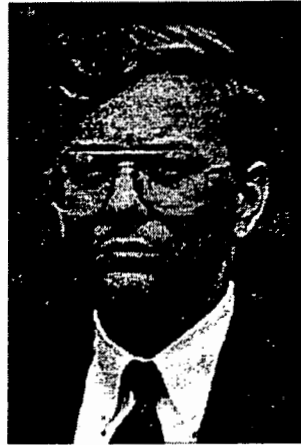
Walker Reagan, Staff Attorney

Steve Rose, Staff Attorney

COMMITTEE CLERK

Stephanie Mansur

HOUSE COMMITTEE ON COMMERCE
1997-98 SESSION
CHAIRS



REP. DAVID MINER
SENIOR CHAIR



REP. CHERIE BERRY



REP. WALTER
CHURCH



REP. WILLIAM HIATT



REP. TIM TALLENT

HOUSE COMMITTEE ON COMMERCE

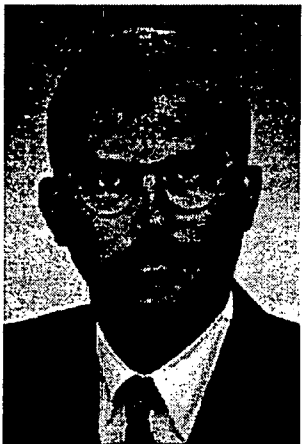
1997-98 SESSION
SUB-COMMITTEE CHAIRS



REP. DON DAVIS
CHAIR, BUSINESS AND LABOR



REP. BOBBY HALL
CHAIR, FINANCIAL INSTITUTIONS



REP. DANNY MCCOMAS
CHAIR, PUBLIC UTILITIES



REP. EDGAR STARNES
CHAIR, TRAVEL AND TOURISM

HOUSE COMMITTEE ON COMMERCE
1997-98 SESSION
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ALEXANDER**



REP. CARY ALLRED



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REP. DANIEL BLUE



REP. DONALD BONNER



REP. JOANNE BOWIE



**REP. FLOSSIE BOYD-
MCINTYRE**



REP. JERRY BRASWELL



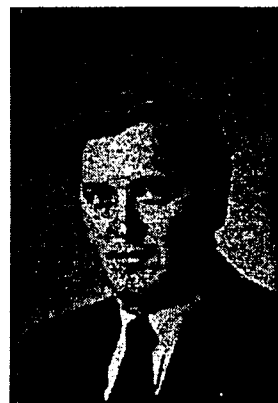
REP. ROBERT BRAWLEY



REP. LANIER CANSLER



REP. JAMES CRAWFORD



REP. BILLY CREECH

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1997-98 SESSION
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REP. WAYNE GOODWIN



REP. ROBERT GRADY



**REP. THOMAS
HARDAWAY**



REP. SANDY HARDY



REP. DEWEY HILL



REP. GEORGE HOLMES

HOUSE COMMITTEE ON COMMERCE
1997-98 SESSION
MEMBERS



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REP. JOHN HURLEY



REP. BILL IVES



REP. LARRY JUSTUS



**REP. MARY
MCALLISTER**



REP. EUGENE MCCOMBS



REP. PAUL MCCRARY



REP. ED MCMAHAN



REP. FRANK MITCHELL



REP. RICHARD MORGAN



REP. MIA MORRIS



REP. CHARLES NEELEY

HOUSE COMMITTEE ON COMMERCE
1997-98 SESSION
MEMBERS



REP. JOHN NICHOLS



REP. EDD NYE



REP. JEAN PRESTON



REP. LISTON RAMSEY



REP. JOHN RAYFIELD



REP. DAVID REDWINE



REP. DENNIS REYNOLDS



REP. GENE ROGERS



REP. DREW SAUNDERS



REP. WILMA SHERRILL



REP. RONALD SMITH



REP. GREGG THOMPSON

HOUSE COMMITTEE ON COMMERCE
1997-98 SESSION
MEMBERS



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REP. LARRY WOMBLE



REP. THOMAS WRIGHT

HOUSE COMMITTEE ON COMMERCE
1997-98 SESSION

MEMBER (Clerk)	TEL.	OFFICE	SEAT
REP. DAVID MINER, CHAIR Stephanie Mansur, Committee Clerk	3-5749	2219	16
REP. CHERIE K. BERRY, CO-CHAIR Betty Smith	3-5861	1006	41
REP. TIMOTHY N. TALLENT, CO-CHAIR Joyce Bulluck	3-5934	1104	73
REP. WILLIAM S. HIATT, CO-CHAIR Edna Pearce	3-5862	531	14
REP. WALTER CHURCH, SR., CO-CHAIR Joyce Fuller	3-5805	1311	33
REP. DONALD DAVIS Audrey Johnson	5-3003	419C	89
REP. BOBBY HALL Billie Stevens	3-5906	637	87
REP. DANNY McCOMAS Rita Quinn	3-5758	2123	63
REP. EDGAR STARNES Pattie Fleming	5-3012	418A	88
REP. MARTHA ALEXANDER Margy Blackmon	3-5605	1209	34
REP. CARY ALLRED Jean Allred	3-5773	2223	11
REP. REX BAKER Jo Hinton	3-5758	632	50
REP. DANIEL BLUE, JR. Lin Threatt	5-2528	1227	80

REP. DONALD BONNER Lucy Johnson	5-9664	617	109
REP. JOANNE BOWIE Sharon Gaudette	3-5853	1206	26
REP. FLOSSIE BOYD-McINTYRE Angel Artis	3-5905	507	84
REP. JERRY BRASWELL Dianna Gilmore	3-5809	539	96
REP. ROBERT BRAWLEY Bonnie Trivette	3-5931	513	3
REP. LANIER CANSLER Barbara Cansler	5-3007	419A	53
REP. JAMES CRAWFORD, JR. Linda Winstead	3-5824	1301	24
REP. BILLY CREECH Betty Anne Lennon	3-5829	635	42
REP. BILL CULPEPPER Dot Crocker	3-5802	604	36
REP. ANDREW DEDMON Donna Abu Harb	3-5654	1211	114
REP. W.W. (DUB) DICKSON Joyce Langdon	3-5662	530	25
REP. JERRY DOCKHAM Nell Edwards	3-5822	1106	18
REP. RUTH EASTERLING Judy Willis	3-5786	606	79
REP. STAN FOX Sue Buehlmann	3-5757	1217	46
REP. WAYNE GOODWIN Ann Smith	3-4838	502	111

REP. ROBERT GRADY Peggy Murray	5-3024	402	37
REP. THOMAS HARDAWAY Jan Brooks	3-5775	1323	56
REP. SANDY HARDY Joel Raupe	5-3019	417A	100
REP. DEWEY HILL Ginny McCann	3-5830	1309	21
REP. GEORGE HOLMES Glenda Jacobs	3-5900	631	6
REP. ROBERT HUNTER Ferebee Stainback	3-5987	1201	107
REP. JOHN HURLEY Dot Anderson	3-5859	1004	71
REP. WILLIAM IVES Jayne Walton	3-5784	633	90
REP. LARRY JUSTUS Carolyn Justus	3-5956	2204	2
REP. MARY McALLISTER Annecia Norwood	3-5706	603	70
REP. EUGENE McCOMBS Suzanne Erskine	3-5881	514	10
REP. PAUL McCrARY Barbara Berry	3-5780	610	55
REP. W. EDWIN McMAHAN Sharon Cram	3-5732	2213	28
REP. FRANK MITCHELL Susan Thomason	3-5959	638	9
REP. RICHARD MORGAN Dixie Epps	5-3028	404	17

REP. MIA MORRIS Monty Floyd	3-5741	1315	99
REP. CHARLES NEELY, JR. Betty Harrison	5-3001	420	29
REP. JOHN NICHOLS Bonnie Jones	5-9644	616	66
REP. EDD NYE Jo Bobbitt	3-5477	639	23
REP. JEAN PRESTON Alice Falcone	5-3026	403	38
REP. LISTON RAMSEY Dot Barber	3-5606	2217	48
REP. JOHN RAYFIELD Karen George	5-3009	418C	97
REP. DAVID REDWINE Katie Shull	3-4948	1204	117
REP. DENNIS REYNOLDS Tina Covington	3-5820	533	76
REP. GENE ROGERS Judy Veorse	5-3023	416A	35
REP. DREW SAUNDERS Ruth Fish	3-5530	1017	110
REP. WILMA SHERRILL Rosa Kelley	3-5601	2215	51
REP. RONALD SMITH Edna Collar	3-5827	1221	104
REP. GREGG THOMPSON Edna Sykes	3-5828	1002	15
REP. NURHAM WARWICK Carolyn Honeycutt	3-5886	1015	113

REP. CYNTHIA WATSON Ebern Watson	5-3015	417C	19
REP. MICHAEL WILKINS Lillie Pearce	3-5746	1220	32
REP. CONSTANCE WILSON Joanna Mills	3-7663	529	40
REP. GENE WILSON Rebecca Jones	3-7727	1109	52
REP. LARRY WOMBLE Phyllis Cameron	3-5751	540	105
REP. THOMAS WRIGHT Clarestene Stewart	3-5754	528	93

ATTENDANCE

COMMERCE

(Name of Committee)

DATES	2/12/97	2/19	3/5	3/12	3/19	3/26	4/2	4/23	4/25	5/14	5/21	5/28	6/11	6/25	7/2	7/9
REP. STAN FOX	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
REP. WAYNE GOODWIN	✓	✓	✓	✓		✓	✓	✓		EX	✓	✓	✓			
REP. ROBERT GRADY	✓	✓														
REP. BOBBY HALL	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
REP. THOMAS HARDAWAY	✓	X	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓			
REP. SANDY HARDY	✓	✓		✓		✓	✓			✓	✓	✓		✓	✓	✓
REP. DEWEY HILL	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓		
REP. GEORGE HOLMES	✓	✓	✓	✓	✓	✓	✓	✓			✓				✓	✓
REP. BOB HUNTER	✓	✓		✓	✓	✓	✓			✓	✓	✓				
REP. JOHN HURLEY	✓	EX	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	✓
REP. BILL IVES	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓		✓
REP. LARRY JUSTUS	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓
REP. MARY MCALLISTER	X	X														
REP. DANNY McCOMAS	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
REP. EUGENE McCOMBS	✓	✓	✓	✓	✓	✓	✓	✓		✓	EX	✓	✓	✓	✓	✓
REP. PAUL McCRARY	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	
REP. EDWIN McMAHAN	✓	X		✓		EX	✓	✓	✓	✓	✓	✓	✓	✓		✓
REP. FRANK MITCHELL	X	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓		✓	
REP. RICHARD MORGAN	✓	X			✓		✓		✓							✓
REP. MIA MORRIS	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	✓
REP. CHARLES NEELY	X	X	✓	✓			✓			✓			✓			✓
REP. JOHN NICHOLS	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓	✓	✓
REP. EDD NYE	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		
REP. JEAN PRESTON	✓	X	✓	✓	✓							✓			✓	✓
REP. LISTON RAMSEY	✓	✓	✓	✓		✓	✓	✓				✓	✓		✓	✓
REP. JOHN RAYFIELD	X	✓	✓	✓	✓	✓	EX	✓		✓	✓	✓	✓	✓	✓	✓

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1997-98 Regular Session

HOUSE: COMMERCE

Valid Through 26-AUG-1997

<u>BILL</u>	<u>INTRODUCER</u>	<u>SHORT TITLE</u>	<u>LATEST ACTION ON BILL</u>	<u>IN DATE</u>	<u>OUT DATE</u>
H 12=	DICKSON	STUDY FUTURE OF ELECTRIC SERVICE	H -REF TO COM ON COMM	02-03-97	
H 18=	HOWARD	JOB TRAINING STUDY	H -ASSIGNED TO APP-CAP	02-03-97	02-12-97
H 95	IVES	BUILDING CODE CHANGES	*R -CH. SL 97-0026	02-27-97	03-17-97
H 119=	SMITH	REMOVE SUNSET/PORTS TAX CREDIT	*H -RE-REF COM ON FINANCE	03-20-97	05-28-97
H 257	MCCOMAS	RR PORTS USE INCENTIVE STUDY	*H -RE-REF COM ON RULES	02-17-97	07-14-97
H 282	STARNES	EXEMPT CONTRACTORS' INVENTORY	H -REF TO COM ON COMM	02-19-97	
H 325	GAMBLE	CONFORM BANK TAX TO FEDERAL	H -ASSIGNED TO COMM-FIN	02-26-97	
H 343	ADAMS	RAISE MINIMUM WAGE	H -REF TO COM ON COMM	02-26-97	
H 368=	OWENS	AMEND BILL LEE ACT	*H -RE-REF COM ON FINANCE	03-03-97	03-19-97
H 400	TALLENT	BANK ASSESSMENTS	*R -CH. SL 97-0285	03-05-97	04-02-97
H 401=	DICKSON	RAISE HOUSING BOND LIMIT	H -RE-REF COM ON FINANCE	03-05-97	03-26-97
H 414=	BERRY	UNEMPL. BENEFITS/SEVERANCE PAY	*R -CH. SL 97-0120	03-06-97	04-24-97
H 424=	GOODWIN	OSHA WITNESS STATEMENTS	H -REF TO COM ON COMM	03-06-97	
H 447=	CARPENTER J	WORKERS COMP. TECH. ASSIST./FUNDS	H -REF TO COM ON COMM	03-10-97	
H 450	REDWINE	UNEMPLOYMENT INS. TAX CHANGE	H -REF TO COM ON COMM	03-10-97	
H 451	REDWINE	ESC BENEFITS CHANGES	*H -RE-REF COM ON FINANCE	03-10-97	04-28-97
H 453	REDWINE	REDEFINE UNEMPL. BASE PERIOD	H -REF TO COM ON COMM	03-10-97	
H 461	TALLENT	INTERSTATE TRUST COMPANY ACT	H -REF TO COM ON COMM	03-10-97	
H 467	GAMBLE	TAX ON BANK FEE RECEIPTS	H -REF TO COM ON COMM	03-10-97	
H 471=	TALLENT	CLARIFY FOOD ESTAB. DEFINITIONS	H -REF TO COM ON COMM	03-10-97	
H 487=	BARBEE	PHYSICIAN SERVICES FEE	H -REF TO COM ON COMM	03-10-97	
H 495	OWENS	NATURAL GAS	*R -CH. SL 97-0426	03-11-97	05-12-97
H 497	WILSON C	EXTEND ESC ZERO TAX RATE	H -RE-REF COM ON FINANCE	03-11-97	05-12-97
H 499	THOMPSON	GIS RECORD EXCEPTION	*R -CH. SL 97-0193	03-11-97	04-23-97
H 547=	CULP	RENEWABLE RESOURCE ENERGY	H -ASSIGNED TO COMM-UTL	03-19-97	
H 598=	ADAMS	REQUIRE WORK BREAKS	H -REF TO COM ON COMM	03-25-97	
H 617	SHERRILL	NO COMPETITION BY SCHOOL BUS	*R -CH. SL 97-0315	03-26-97	04-28-97
H 651	HUNTER H	INTERSTATE ECON. DEVELOP. ZONE	*R -CH. SL 97-0395	03-27-97	04-28-97
H 651	HUNTER H	INTERSTATE ECON. DEVELOP. ZONE	*R -CH. SL 97-0395	07-01-97	07-30-97
H 672	HALL	FORESTRY BLDG PRIVATIZATION PROJECT	*S -RE-REF COM ON APPROPR	03-31-97	04-28-97

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.

* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.

BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1997-98 Regular Session

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<u>BILL</u>	<u>INTRODUCER</u>	<u>SHORT TITLE</u>	<u>LATEST ACTION ON BILL</u>	<u>IN DATE</u>	<u>OUT DATE</u>
H 719	HARDY	WASHINGTON/BELHAVEN ELECTRIC RATES	H -RE-REF COM ON COMM	04-28-97	
H 739=	DICKSON	MV DEALERS/MANUFACTURERS LIC. LAW	*R -CH. SL 97-0319	07-01-97	07-07-97
H 795=	BAKER	ROLLER SKATING RINK LIABILITY	H -RE-REF COM ON JUDICI	04-03-97	04-28-97
H 871	BERRY	WAGE & HOUR AMENDMENTS	R -CH. SL 97-0146	04-07-97	04-24-97
H 899	HOWARD	RESIDENTIAL PROP. DISCLOSURE ACT	*H -PRES. TO GOV. 08-22	04-08-97	04-24-97
H 903=	MOSLEY	NO LOW-LEVEL FACILITY/FLOOD PLAIN	H -REF TO COM ON COMM	04-09-97	
H 916=	HARDAWAY	PROHIBIT ATM SURCHARGE	H -REF TO COM ON COMM	04-10-97	
H 940	REDWINE	WORKER'S COMP/REALTOR STATUS	S -REF TO COM ON COMMERCE	04-14-97	04-24-97
H 990	CHURCH	EXEMPT CERTAIN NONPROFIT UTILITIES	*H -RATIFIED	04-17-97	04-24-97
H 994	WILSON G	COMPETITIVE PAY TELEPHONE	R -CH. SL 97-0207	04-17-97	04-28-97
H1005=	DAVIS D	WORKERS COMP/PHYSICIAN SELECTION	H -REF TO COM ON COMM	04-21-97	
H1027	OWENS	STATE TREASURER VENTURE CAPITAL	*S -REF TO COM ON FINANCE	04-21-97	05-15-97
H1057=	GRADY	EXEMPT AUDIOVISUAL MASTERS	*S -PLACED ON CAL FOR 08-26	04-21-97	05-20-97
H1059	WRIGHT	CAMA/URBAN WATERFRONT REDEVELOP	*R -CH. SL 97-0337	04-21-97	04-28-97
H1068	HARDY	MERCHANTS' SALES TAX DISCOUNT	H -REF TO COM ON COMM	04-21-97	
H1074	HALL	REPRESENTATIONS TO CONSOLIDATE DEBTS	S -REF TO COM ON COMMERCE	04-21-97	04-28-97
H1075	HALL	APPRECIATION OF REVERSE MORTGAGES	*S -RE-REF COM ON COMMERCE	04-21-97	04-28-97
H1080	HACKNEY	NC WITHDRAWAL FROM S.E. COMPACT	H -REF TO COM ON COMM	04-21-97	
H1088	WARNER	NO ADS TO CELLULAR PHONES	H -REF TO COM ON COMM	04-21-97	
H1091	BRASWELL	CRIM. RECORD CHECK BY PRIVATE BUS.	*S -REF TO COM ON JUDIC	04-21-97	04-28-97
H1108	MCMAHAN	BREW ON PREMISES	*H -PRES. TO GOV. 08-22	04-21-97	05-22-97
H1109	MCMAHAN	WORTHLESS CHECKS/COMMERCIAL DEBTS	H -REF TO COM ON COMM	04-21-97	
H1125	MINER	STUDY MORTGAGE LENDERS	*H -RE-REF COM ON RULES	04-21-97	07-09-97
H1126	MINER	NO SALES TAX ON PAY PHONES	*S -REF TO COM ON FINANCE	04-21-97	07-07-97
H1129	MINER	REIMBURSEMENT FOR LOW-LEVEL FACILITY	H -REF TO COM ON COMM	04-21-97	
H1131	NESBITT	COLLECTION AGENCY DEFINITION	H -REF TO COM ON COMM	04-21-97	
H1141	THOMPSON	AMEND BUILDING/HOUSING CODES	H -REF TO COM ON COMM	04-21-97	
H1170	BUCHANAN	EXEMPT SEVERANCE PAY	H -REF TO COM ON COMM	04-29-97	
H1173=	DEDMON	CONSTRUCTION WORKER TRAINING CREDIT	H -ASSIGNED TO COMM-B&L	04-29-97	
H1189	DECKER	FOOD TAX DOWN/ALCOHOL TAX UP	H -REF TO COM ON COMM	05-01-97	

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BOLD LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

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BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 23	REEVES	REQUIRE RENTAL PROPERTY HEAT	*H -CAL PURSUANT RULE 36 (A)	03-24-97	07-09-97
S 96	KERR	PAWNSHOP RECORDS ACCESS	H -REF TO COM ON COMM	04-03-97	
S 142=	RAND	PORT USER ON PORTS BOARD	*R -CH. SL 97-0235	03-03-97	05-29-97
S 208=	FOXX	LODGING ESTABLISHMENTS/SANITATION	*R -CH. SL 97-0367	04-07-97	07-09-97
S 253	WINNER	TELEPHONE CONSUMER PROTECTION	*S -RATIFIED	05-15-97	07-09-97
S 263	ODOM	WORKERS' COMP/NONRESIDENT ALIENS	*R -CH. SL 97-0301	05-01-97	06-12-97
S 312	JORDAN	REGULATE CHECK CASHING	*R -CH. SL 97-0391	04-15-97	06-26-97
S 329	DALTON	SAVINGS BANK NAME	*R -CH. SL 97-0241	03-24-97	06-05-97
S 330	DALTON	SAFE-DEPOSIT BOXES	*R -CH. SL 97-0311	04-02-97	06-26-97
S 333	DALTON	COMMODITIES ACT AMENDMENT	*H -CAL PURSUANT RULE 36 (A)	03-25-97	07-10-97
S 339	CONDER	CREDIT FOR TIER ONE COUNTIES	H -REF TO COM ON COMM	05-14-97	
S 382	WINNER	REDEFINE UNEMPL. BASE PERIOD-2	*R -CH. SL 97-0404	04-28-97	07-10-97
S 418	SHAW L	SMALL BUSINESS PROCUREMENT ACT	*H -REF TO COM ON COMM	04-07-97	
S 425	MILLER B	REFRIGERATION CONTRACTORS	H -RE-REF COM ON FINANCE	04-15-97	07-10-97
S 447	WEINSTEIN	LUMBERTON ECONOMIC DEV. DIST.	*R -CH. SL 97-0182	04-08-97	05-15-97
S 447	WEINSTEIN	LUMBERTON ECONOMIC DEV. DIST.	*R -CH. SL 97-0182	05-20-97	05-22-97
S 483=	LUCAS	PHYSICIAN SERVICES FEE	*H -CAL PURSUANT RULE 36 (A)	07-02-97	08-18-97
S 486=	LUCAS	CLARIFY FOOD ESTAB. DEFINITION	*H -REPTD TO COMM	04-30-97	
S 531	ALBERTSON	STATE PHONE SYSTEMS	*R -CH. SL 97-0351	04-24-97	07-14-97
S 562	WARREN	INCREASE FEES FOR RETURNED CHECKS	*R -CH. SL 97-0334	04-22-97	07-09-97
S 564	REEVES	AMEND FINANCIAL PRIVACY ACT	*H -RE-REF COM ON RULES	07-10-97	08-07-97
S 565	REEVES	VARIABLE RATE LOANS	*H -CONF COM APPOINTED	05-01-97	07-09-97
S 699	HORTON	MODIFY VEHICLE DEALER REQUIREMENTS	*R -CH. SL 97-0429	04-30-97	07-09-97
S 730	BALLANCE	INDUSTRIAL REVENUE BOND CHANGES	*S -PRES. TO GOV. 08-22	06-18-97	07-10-97
S 791=	BALLANCE	OSHA WITNESS STATEMENTS	*H -REF TO COM ON COMM	05-05-97	
S 801	WELLONS	N.C. PLANNED COMMUNITY ACT	H -REF TO COM ON COMM	04-28-97	
S 811	SOLES	SOUTHEASTERN REGIONAL COMM'N STAFF	R -CH. SL 97-0155	04-30-97	05-22-97
S 814	ODOM	IN-STAND ABC SALES	*R -CH. SL 97-0167	04-28-97	05-22-97
S 819=	SHAW L	DOWNTOWN DATABASE	*H -REF TO COM ON COMM	05-05-97	
S 821=	SHAW L	HOUSING TRUST FUND/DOWNTOWNS	H -REF TO COM ON COMM	05-01-97	

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.

* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.

BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

HOUSE: COMMERCE

Valid Through 26-AUG-1997

1997-98 Regular Session

<u>BILL</u>	<u>INTRODUCER</u>	<u>SHORT TITLE</u>	<u>LATEST ACTION ON BILL</u>	<u>IN DATE</u>	<u>OUT DATE</u>
S 824=	SHAW L	BUILDING CODE COUNCIL MEMBERSHIP	H -REF TO COM ON COMM	05-01-97	
S 837	BALLANCE	SPORTS CLUB ABC PERMITS	*H -RE-REF COM ON RULES	05-01-97	07-15-97
S 838	BALLANCE	TOURISM RESORT ABC PERMITS	*H -RE-REF COM ON RULES	05-01-97	07-16-97
S 844	HOYLE	STRENGTHEN OPEN GOVERNMENT	*R -CH. SL 97-0290	05-05-97	06-12-97
S 847	ODOM	NO SALES TAX/REUSEABLE CONTAINERS	*R -CH. SL 97-0397	05-26-97	06-26-97
S 848	DALTON	MUNICIPAL ELECTRIC AMENDMENTS	*R -CH. SL 97-0346	04-30-97	06-26-97
S 872	KERR	YOUTH WORKERS AT ABC PERMITTEES	*H -REF TO COM ON COMM	05-01-97	
S 959	HARTSELL	MODULAR HOME CERTIFYING AGENT	H -REF TO COM ON COMM	05-01-97	
S 974	FOXX	ESC LAW CHANGES	*R -CH. SL 97-0398	05-13-97	07-09-97
S 987	BALLANCE	INTERSTATE ECON. DEVELOP. PERMITS	*H -REF TO COM ON COMM	04-30-97	
S 994	RAND	NO DIRECT ABC SHIPMENTS-CONSUMERS	*R -CH. SL 97-0348	05-01-97	06-26-97
S1054	PAGE	ALLOW BURMA DIVESTITURE	H -RE-REF COM ON COMM	05-07-97	

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.

* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.

BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

MINUTES

HOUSE COMMITTEE ON COMMERCE

FEBRUARY 12, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

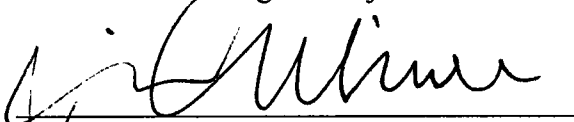
Cherie Berry, Co-Chair, Walter Church, Co-Chair, William Hiatt, Co-Chair, Martha Alexander, Cary Allred, Rex Baker, Donald Bonner, Joanne Bowie, Jerry Braswell, Robert Brawley, Lanier Cansler, James Crawford, Donald Davis, Andrew Dedmon, Dub Dickson, Jerry Dockham, Ruth Easterling, Stan Fox, Wayne Goodwin, Robert Grady, Thomas Hardaway, Sandy Hardy, Dewey Hill, George Holmes, Bob Hunter, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Paul McCrary, Ed McMahan, Richard Morgan, Mia Morris, John Nichols, Edd Nye, Jean Preston, Liston Ramsey, David Redwine, Dennis Reynolds, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Gregg Thompson, Nurham Warwick, Cynthia Watson, Michael Wilkins, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, February 12, 1997 in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order. Introductions of the co-chairs, the sub-committee chairmen, and the committee staff members were made. Each committee member was asked to introduce themselves and tell which districts they represented. Introductions were made of the minority leaders.

After the introductions, House Bill 18 was discussed. Bill Sponsor, Rep. Howard, explained the bill entitled AN ACT TO CREATE A LEGISLATIVE COMMISSION ON JOB TRAINING PROGRAMS TO REORGANIZE THE WORKFORCE DEVELOPMENT SYSTEM IN NORTH CAROLINA. Questions were taken from committee members and a motion was made by the committee to report the bill as favorable. After a voice vote was taken, the bill was given a favorable report.

The meeting was adjourned at 10:50.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

VISITOR REGISTRATION SHEET

COMMERCE

FEB. 12, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Patricia Yancey	SCSL
Sharon K... Brenda Summers	DSS
Helen Lipina	NC Equity
Rob Sch... Soren Sch...dt	Meck. County NCJCDC
Jessie Z... Alan Miles	NCARF
Jane Upchurch	Barley & Dixon LP
Calvin... John Rustie	CPTL
Joyce Peters	NCACC
Jon... McNeil Christmas	Hinton & Williams
Norris Tolson	Electronics
Angie Harris	Jordan Price with Gray, Jones, LP
Brad Woodhouse	AG's Office
Lisa Quinn	Commerce
Ron... John Burdick	Commerce
Byron Cooper	Woodhouse Consulting
Palmer Sugg	Rep. McCOMBS' OFFICE
Judith M... Gary Walker	Good Neighbors Assoc
Lynn Holmes	2nd Alley PA
	EST. corp
	BWWS
	360° Telecommunications
	ALUTEL
	BLL

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Rep. Miner for the Committee on COMMERCE

Committee Substitute for

H.B. 18, S.B. _____ A BILL TO BE ENTITLED AN ACT

H.J.R. _____, S.J.R. _____ A JOINT RESOLUTION

H.R. _____ A HOUSE RESOLUTION

TO CREATE A LEGISLATIVE COMMISSION ON JOB TRAINING PROGRAMS TO REORGANIZE THE WORKFORCE DEVELOPMENT SYSTEM IN NORTH CAROLINA.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance _____.

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee
on Appropriations Finance _____.

With a favorable report as to committee substitute bill (# _____), which changes the title, unfavorable as to
original bill (Committee Substitute Bill # _____). (and recommendation that the committee substitute bill (# _____)
be re-referred to the Committee on _____.)

With a favorable report as to House committee substitute bill (# _____), which changes the title, unfavorable
as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 18*

Short Title: Job Training Study.

(Public)

Sponsors: Representatives Howard; Shubert, Baker, Davis, Gardner, Capps, Watson, Rayfield, and Morris.

Referred to: Commerce.

February 3, 1997

1 A BILL TO BE ENTITLED

2 AN ACT TO CREATE A LEGISLATIVE COMMISSION ON JOB TRAINING
3 PROGRAMS TO REORGANIZE THE WORKFORCE DEVELOPMENT
4 SYSTEM IN NORTH CAROLINA.

5 The General Assembly of North Carolina enacts:

6 Section 1. (a) The General Assembly intends to reorganize its workforce
7 development system to improve the delivery of job training programs and services in
8 North Carolina.

9 (b) There is created a Legislative Study Commission on Job Training
10 Programs. The purpose of the Commission is to review State and federally funded
11 job training programs and services currently in existence to determine the feasibility
12 of eliminating or consolidating those which are duplicative, inefficient, or ineffective
13 in carrying out their purposes and activities.

14 (c) The Commission shall consist of six members appointed by the
15 Speaker of the House of Representatives, at least three of whom shall be members of
16 the House of Representatives, and six members appointed by the President Pro
17 Tempore of the Senate, at least three of whom shall be members of the Senate. The
18 Speaker shall designate one Representative as cochair and the President Pro Tempore
19 shall designate one Senator as cochair. Vacancies on the Commission shall be filled
20 by the same appointing officer who made the initial appointment. The Commission
21 shall expire upon delivering its final report to the 1997 General Assembly (1998
22 Regular Session).

1 The Commission, while in the discharge of official duties, may exercise
2 all powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1
3 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of
4 the cochairs. The Commission may meet in the Legislative Building or the
5 Legislative Office Building. The Commission may contract for professional, clerical,
6 or consultant services as provided by G.S. 120-32.02.

7 The Legislative Services Commission, through the Legislative
8 Administrative Officer, shall assign professional staff to assist the Commission in its
9 work. The House of Representatives' and the Senate's Supervisors of Clerks shall
10 assign clerical staff to the Commission, and the expenses relating to the clerical
11 employees shall be borne by the Commission. Members of the Commission shall
12 receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or
13 138-6, as appropriate.

14 (d) The Commission shall have the following powers and duties:

- 15 (1) To review State and federal laws, rules, and regulations pertaining
16 to job training programs to determine the purpose of each
17 program, the population served, and each program's annual
18 outcomes in terms of type of training received, work search efforts,
19 and job placement;
- 20 (2) To ascertain as far as possible the intention of the United States
21 Congress with respect to continued funding of federally mandated
22 job training programs and any changes in funding formulae;
- 23 (3) To review the amount of State and federal dollars appropriated for
24 each job training program conducted in this State and to review
25 federal requirements for continuous federal funding of the
26 programs;
- 27 (4) To review the number of different State agencies that administer
28 State and federal job training programs, the number of persons
29 employed to implement each job training program, and the amount
30 of State dollars needed annually to implement the program;
- 31 (5) To determine whether federally funded job training programs in
32 this State may lawfully be abolished or reduced in size by the
33 General Assembly, and the impact of such reduction or
34 elimination;
- 35 (6) To conduct public hearings to receive citizen, State agency, and
36 local government comment and experience with the job training
37 programs;
- 38 (7) To conduct other studies or activities to aid the Commission in
39 carrying out its purpose and duties, including reviewing
40 reorganization and consolidation efforts in other states; and
- 41 (8) To ensure program evaluation and accountability for all workforce
42 development programs and to create a comprehensive statewide
43 focus on workforce development.

1 (e) The Commission shall report to the 1997 General Assembly (1998
2 Regular Session), the Joint Legislative Commission on Governmental Operations, and
3 the Joint Legislative Education Oversight Committee not later than May 1, 1998.
4 The report shall identify each job training program operating in the State and
5 recommend whether each program should be expanded, continued without change,
6 abolished, consolidated with another program, or otherwise modified, including
7 implementation components.

8 (f) All State departments and agencies and local governments and their
9 subdivisions shall furnish the Commission with any information in their possession or
10 available to them.

11 (g) Notwithstanding G.S. 96-5(f), there is appropriated from the Worker
12 Training Trust Fund to the General Assembly the sum of fifty thousand dollars
13 (\$50,000) for the 1997-98 fiscal year to implement this section.

14 Section 2. This act is effective when it becomes law.



**North Carolina General Assembly
Legislative Services Office**

George R. Hall, Legislative Services Office
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

February 11, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochran Brown, Committee Counsel *KCB*

RE: House Bill 18 - Job Training Study.

House Bill 18 re-authorizes the Joint Legislative Study Commission on Job Training Programs which was established by the 1995 General Assembly. This bill was recommended by the Commission in its final report to the 1997 General Assembly. The 1995 Study Commission spent most of its time collecting data regarding the 49 different vocational and technical education/job training programs operated by 8 different state agencies. In its final report the Commission noted that although it had identified the job training programs existing as of January 1, 1995, it did not have sufficient reliable data to make a determination as to which programs should be expanded, continued without change, abolished, consolidated with another program or otherwise modified. The Commission recommended the enactment of this bill so that it could complete its work.

The Commission's charge is to review State and federally funded job training programs and services currently in existence to determine the feasibility of eliminating or consolidating those which are duplicative, inefficient, or ineffective in carrying out their purposes and activities. It is composed of 12 members, six appointed by the Speaker of the House and six appointed by the President Pro Tempore of the Senate. The Commission is directed to report to the General Assembly, the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee not later than May 1, 1998. The Commission would expire upon delivery of its report to the 1998 Session of the 1997 General Assembly.

The bill appropriates \$50,000 from the Worker Training Trust Fund to the General Assembly for the 1997-98 fiscal year to implement the study.

The act would become effective when it becomes law.

MINUTES

HOUSE COMMITTEE ON COMMERCE

FEBRUARY 19, 1997

10:00 AM

DAVID MINER, CHAIRMAN

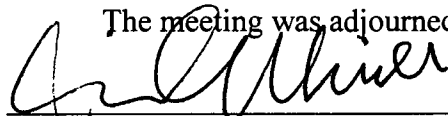
MEMBERS PRESENT

Cherie Berry, Co-Chair, Walter Church, Co-Chair, William Hiatt, Co-Chair, Timothy Tallent, Co-Chair, Martha Alexander, Cary Allred, Rex Baker, Donald Bonner, Joanne Bowie, Flossie Boyd-McIntyre, Jerry Braswell, Robert Brawley, James Crawford, Bill Culpepper, Donald Davis, Andrew Dedmon, Jerry Dockham, Ruth Easterling, Stan Fox, Wayne Goodwin, Robert Grady, Sandy Hardy, Dewey Hill, George Holmes, Bob Hunter, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Paul McCrary, Frank Mitchell, Mia Morris, John Nichols, Edd Nye, Liston Ramsey, John Rayfield, David Redwine, Dennis Reynolds, Gene Rogers, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Gregg Thompson, Nurham Warwick, Cynthia Watson, Michael Wilkins, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, February 19, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and recognized the Sub-Committee chairs. Each sub-committee chairman announced the time and location of their next scheduled committee meetings. Chairman Miner then introduced the Secretary of Commerce, The Honorable Norris Tolson. After Mr. Tolson's remarks on the Commerce Department, questions were taken from the committee members.

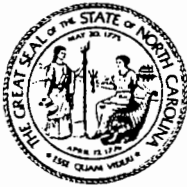
The meeting was adjourned at 10:50 am.



David Miner, Chairman



Stephanie Mansur, Committee Clerk



North Carolina Department of Commerce

The Department of Commerce is the state's lead agency for economic and community development. The department promotes a wide variety of opportunities to improve the economy of the entire Tar Heel State, rural and urban areas alike. Promoting tourism, exporting, film production, downtown revitalization and industry recruitment are some of the areas for which the Commerce Department is responsible. The department's goal is to create new jobs and more diverse employment opportunities for all North Carolinians.

Business/Industry Development Division: This division leads North Carolina's business and industrial recruitment efforts. Based in Raleigh, its staff works closely with other public and private development organizations to attract new industries to the state. In addition, the division's retention and expansion program -- designed to encourage existing North Carolina companies to stay and grow here -- operates out of nine regional offices to ensure better service and equal access to companies throughout the state.

Division of Community Assistance: This division has a threefold mission. First, it administers the federally funded Small Cities Community Development Block Grant program, which assists low- and moderate-income North Carolinians through the creation of jobs, housing and improved infrastructure. CDBGs are awarded to local governments on a competitive basis. The division also administers the state's Main Street program, which helps communities revitalize their downtown areas. Finally, planners in the division's seven regional offices assist local governments with other planning needs, such as annexations and zoning regulations.

Division of Employment and Training: This division administers North Carolina's share of federal Job Training Partnership Act funds. Economically disadvantaged people, people laid off from work, and people with serious barriers to employment are trained for jobs, or retrained for a different kind of job, through JTPA programs. Also designated as the state's Dislocated Worker Unit, this division receives notice of all plant closings

and mass layoffs in the state to ensure timely assistance to affected workers.

Energy Division: This division is the state's official source for energy planning and management, energy information and energy technical assistance. The division's key responsibilities include promoting renewable energy and energy efficiency in every sector of the economy, preparing energy forecasts and updating and developing North Carolina's energy emergency plans.

Film Office: The Film Office promotes North Carolina as a site for motion picture, television and commercial production. The Film Office staff works closely with film producers and others to keep movie making in North Carolina practical, pleasant and profitable.

Finance Center: To help businesses that want to locate or expand operations in the Tar Heel State, the Commerce Finance Center administers a variety of economic development financing programs: the Industrial Building Renovation Fund, the Basic Building Fund and the Community Development Block Grant program for economic development projects. The agency also administers Industrial Revenue Bonds and the William S. Lee Quality Jobs and Business Expansion Act. This Act provides tax credits to companies that invest in jobs, equipment, research and development and worker training.

International Trade Division: Responsible for the state's foreign trade activities, this division's primary goal is to help small and mid-sized firms market their products overseas through its Export Outreach Program, Trade Events Program and the Shared Foreign Sales Corporation Program.

Sports Development Office: The Sports Development Office works with local groups, other state agencies and sports organizations to attract amateur and professional sporting events to North Carolina.

Division of Travel and Tourism: The Division of Travel and Tourism promotes North Carolina as a vacation destination to travelers worldwide in an effort to increase travel expenditures, create additional employment and strengthen the overall economy of the state.

North Carolina Department of Commerce
301 N. Wilmington St.
Raleigh, North Carolina 27626
(919) 733-4962 Fax: (919) 733-8356

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VISITOR REGISTRATION SHEET

COMMERCE

FEBRUARY 19, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Bernard Allen	Secy. of State
Antal Krasovics	Mr.
Alan Miles	Ries & Dixon
Laura Hartsell	MCIC
David Simmons	Zeb Alley, PA
John Bowdish	Zeb Alley PA
John Long	Martin Marrella
John Kurstin	Huntout Williams
Hudmy Johnson	Rep. Don Davis - Clerk
Paul Lander	Lander Consulting
Jim Linton	WCAFE
Brad Woodcock	
Leanne Wimmer	EBHAS
FRAN PRESTON	NCRMA
DON MCCOQUODATE	NCRMA
Ken Wright	BCBS NC
Opie Gilman	Electricians
Leckie Street	PPA-B
Lucius PULLEN	ATTORNEY
PA	NC PD
Marshall Hurley	Attorney
Michael Thompson	North Carolina Power
Peter Keber	Nations Bank
Palmer Suggs	BWWS
JUSTIN PERRY COLE	Commall
Handa Gynn	ROD
William F. King	COMMERCE
Leo Lilly	"
Angie Harris	"
Ann Carlston	"

John Webb
John McAlistair

NE DOC
Duke Power

MINUTES

HOUSE COMMITTEE ON COMMERCE

March 5, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Cherie Berry, Co-Chair, William Hiatt, Co-Chair, Martha Alexander, Cary Allred, Rex Baker, Donald Bonner, Flossie Boyd-McIntyre, Jerry Braswell, Lanier Cansler, James Crawford, Donald Davis, Andrew Dedmon, Dub Dickson, Stan Fox, Wayne Goodwin, Thomas Hardaway, Dewey Hill, George Holmes, John Hurley, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Paul McCrary, Frank Mitchell, Mia Morris, Mia Morris Charles Neeley, John Nichols, Edd Nye, Jean Preston, Liston Ramsey, John Rayfield, David Redwine, Gene Rogers, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Gregg Thompson, Nurham Warwick, Cynthia Watson, Michael Wilkins, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, March 5, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and announced the agenda for next weeks Commerce meeting. He then asked Representative Danny McComas to introduce Mr. Erik Stromberg, who serves as executive director of the North Carolina State Ports Authority. Mr. Stromberg gave a multi-media presentation on the state ports. Additional speakers also addressed the committee concerning the state ports: Mr. Clyde Davis of PCS Phosphate, Mr. Scott Satterfield of Wilmington Industrial Development, Mr. Don Kirkman of Carteret County EDC, and Mr. James Lee of International Paper. Questions and comments were taken from the committee members.

The meeting was adjourned at 10:50 am.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

VISITOR REGISTRATION SHEET

COMMERCE

MARCH 5, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Clyde Davis	PCS Phosphate Raleigh, NC
JACK TILLEY, chr	Ports Advisory Council WILMINGTON
Bill Goldstein	Chm. NCSPA
Laura Hartsell	MCIC
James E. Lee	International Paper
Marie Munelubito	Poyner + Spriell
Bo Dempster	Poyner & Spriell
Hal Mills	NC - NC CWA Political Council
WYMAH COOPER	CSX CORP.
Leo Litley	Commerce
Angie Harris	"
Jim Brown	NC State Ports
Tim KENT	American Institute of Architects
John Cyrus	NC State Grange
DONNIE REDMOND	DAQ
Don Kirkman	Carteret County EDC
Jay Mullins	CPTL
R. Scott Sattfield	Wilmington Industrial Development
PIA A. GUNN	Rep. Sarah McCrory, STATE
LUCIUS PULLEN	ATTORNEY
Alice Garland	Electricity
Ann Johnson	Hutton & Williams
John Kustin	Hutton & Williams
John McAlister	Duke Power

MINUTES

HOUSE COMMITTEE ON COMMERCE

March 12, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Cherie Berry, Co-Chair, William Hiatt, Co-Chair, Martha Alexander, Cary Allred, Rex Baker, Donald Bonner, Joanne Bowie, Flossie Boyd-McIntyre, , Robert Brawley, Lanier Cansler, Billy Creech, Donald Davis, Andrew Dedmon, Dub Dickson, Jerry Dockham, Ruth Easterling, Stan Fox, Wayne Goodwin, Thomas Hardaway, Sandy Hardy, Dewey Hill, George Holmes, Bob Hunter, John Hurley, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Paul McCrary, Ed McMahan, Frank Mitchell, Mia Morris, Charles Neeley, John Nichols, Edd Nye, Jean Preston, Liston Ramsey, John Rayfield, David Redwine, Dennis Reynolds, Gene Rogers, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Gregg Thompson, Nurham Warwick, Cynthia Watson, Michael Wilkins, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, March 12, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bills were discussed:

House bill 282, entitled AN ACT TO EXEMPT FROM PROPERTY TAX THE INCREASE IN VALUE OF CERTAIN RESIDENTIAL REAL PROPERTY HELD FOR SALE BY A BUILDER, TO THE EXTENT THE INCREASE IS ATTRIBUTABLE TO SUBDIVISION OR IMPROVEMENT BY THE BUILDER. Rep. Edgar Starnes, the bill sponsor, introduced the bill. Questions were taken by members of the committee. Chairman Miner recognized Karen Cochrane-Brown, Staff Counsel, to answer questions. Chairman Miner referred the bill to a sub-subcommittee and appointed Rep. Alexander, to chair and Rep. Dockham and Rep. Hardy to hear it and report back to the Committee.

House bill 95, entitled AN ACT TO ESTABLISH A THREE-YEAR CYCLE FOR BUILDING CODE AMENDMENTS BEGINNING IN 1999 AND TO MAKE RELATED CHANGES CONCERNING THE ADMINISTRATION AND ENFORCEMENT OF THE STATE BUILDING CODE. Rep. Ives, bill sponsor, explained the bill. Questions were taken from the floor. Rep. Ives offered an Amendment. Rep. Bowie moves to adopt the Amendment. Amendment was adopted

and a copy is attached. A committee substitute was ordered and HB 95 was given a favorable report.

House bill 368, entitled AN ACT TO AMEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT. Rep. Owens, bill sponsor, explained the bill. Rep. Hiatt offered a technical Amendment. The amendment was adopted. Rep. Hiatt offered another Amendment, which was also adopted. Questions were taken from the committee. Rick Carlyle, from the Commerce Department, answered questions. Rep. Berry offers an Amendment. Questions were taken on the Amendment. Chairman Miner calls for adjournment and the bill will be taken up at the next meeting.

Committee was adjourned at 10:50.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 282

Short Title: Exempt Contractors' Inventory.

(Public)

Sponsors: Representatives Starnes; Hardy and Morris.

Referred to: Commerce, if favorable, Finance.

February 19, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT FROM PROPERTY TAX THE INCREASE IN VALUE OF
3 CERTAIN RESIDENTIAL REAL PROPERTY HELD FOR SALE BY A
4 BUILDER, TO THE EXTENT THE INCREASE IS ATTRIBUTABLE TO
5 SUBDIVISION OR IMPROVEMENTS BY THE BUILDER.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 105-273 is amended by adding a new subdivision to read:
8 "(3a) 'Builder' means a taxpayer engaged in the business of buying real
9 property, making improvements to it, and then reselling it."
10 Section 2. Article 12 of Chapter 105 of the General Statutes is amended
11 by adding a new section to read:
12 "§ 105-277.12. Certain real property held for sale by builders classified for taxation at
13 reduced valuation.
14 Real property held by a builder for sale as single family residential property is
15 designated a special class of property under authority of Section 2(2) of Article V of
16 the North Carolina Constitution. Any increase in value of this classified property
17 attributable to subdivision of or other improvements made to the property by the
18 builder is excluded from taxation under this Subchapter as long as the builder
19 continues to hold the property for sale. The builder must apply for this exclusion as
20 provided in G.S. 105-282.1. In appraising property classified under this section, the
21 assessor shall specify what portion of the value is an increase attributable to
22 subdivision or other improvement by the builder."
23 Section 3. G.S. 105-282.1(a)(3) reads as rewritten:

1 "(3) After an owner of property entitled to exemption under G.S. 105-
2 278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8 or
3 full or partial exclusion under G.S. 105-275(3), (7), (8), (12), (17)
4 through (19), (21) or (39), G.S. 105-277.1, G.S. 105-277.12, or G.S.
5 105-278 has applied for exemption or exclusion and the exemption
6 or exclusion has been approved, the owner is not required to file
7 an application in subsequent years except in the following
8 circumstances:

- 9 a. New or additional property is acquired or improvements are
10 added or removed, necessitating a change in the valuation of
11 the property; or
12 b. There is a change in the use of the property or the
13 qualifications or eligibility of the taxpayer necessitating a
14 review of the exemption or exclusion."

15 Section 4. This act is effective for taxes imposed for taxable years
16 beginning on or after July 1, 1998.



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March 10, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: **House Bill 282 - Exempt Contractors' Inventory.**

House Bill 282 defines the term "builder" as a taxpayer engaged in the business of buying real property, making improvements to it and then reselling it. It further adds a new section to Article 12 of Chapter 105 to provide that increases in the value of real property attributable to subdivision or other improvements made by a builder are exempt from taxation as long as the builder holds the property for sale. The builder must apply for the exclusion as provided in G.S. 105-282.1. The tax assessor must specify what portion of the increase in value is attributable to subdivision or other improvement by the builder.

This act is effective for taxes imposed for taxable years beginning on or after July 1, 1998.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **David Miner** for the Committee on **COMMERCE**.

- Committee Substitute for
H.B. 95 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A THREE-YEAR CYCLE FOR BUILDING CODE AMENDMENTS BEGINNING IN 1999 AND TO MAKE RELATED CHANGES CONCERNING THE ADMINISTRATION AND ENFORCEMENT OF THE STATE BUILDING CODE.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance
- With a favorable report as to committee substitute bill, unfavorable as to original bill.
- With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 95

Short Title: Building Code Changes.

(Public)

Sponsors: Representatives (Ives), Aldridge, Alexander, Allred, Bonner, Cansler, Capps, Davis, Easterling, Hall, McComas, Mitchell, Morris, Mosley, Rayfield, Sexton, Sherrill, Shubert, Smith, and Yongue.

Referred to: State Government, if favorable, Commerce Subcommittee on Business and Labor.

February 11, 1997

1 A BILL TO BE ENTITLED

2 AN ACT TO ESTABLISH A THREE-YEAR CYCLE FOR BUILDING CODE
3 AMENDMENTS BEGINNING IN 1999 AND TO MAKE RELATED CHANGES
4 CONCERNING THE ADMINISTRATION AND ENFORCEMENT OF THE
5 STATE BUILDING CODE.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 143-138(a) reads as rewritten:

8 "(a) Preparation and Adoption. -- The Building Code Council is hereby
9 empowered to prepare and adopt, in accordance with the provisions of this Article, a
10 North Carolina State Building Code. Prior to the adoption of this Code, or any part
11 thereof, the Council shall hold at least one public hearing. A notice of such public
12 hearing shall be given once a week for two successive calendar weeks in a newspaper
13 published in Raleigh, said notice to be published the first time not less than 15 days
14 prior to the date fixed for said hearing. The Council may hold such other public
15 hearings and give such other notice as it may deem necessary.

16 The Council shall request the Office of State Budget and Management to prepare
17 a fiscal note for a proposed Code change that has a substantial economic impact, as
18 defined in G.S. 150B-21.4(b1). The Council shall not take final action on a proposed
19 Code change that has a substantial economic impact until at least 60 days after the
20 fiscal note has been prepared. The change can become effective only in accordance
21 with G.S. 143-138(d)."

1 Section 2. G.S. 143-138(c) reads as rewritten:

2 "(c) Standards to Be Followed in Adopting the Code. -- All regulations contained
3 in the North Carolina State Building Code shall have a reasonable and substantial
4 connection with the public health, safety, morals, or general welfare, and their
5 provisions shall be construed ~~liberally~~ reasonably to those ends. Requirements of the
6 Code shall conform to good engineering ~~practice, as evidenced generally by the~~
7 practice. The Council may use as guidance, but is not required to adopt, the
8 requirements of the National Building Code of the American Insurance Association,
9 formerly the National Board of Fire Underwriters, the Southern Standard Building
10 Code of the Southern Building Code Congress, the Uniform Building Code of the
11 Pacific Coast Building Officials Conference, the Basic Building Code of the Building
12 Officials Conference of America, Inc., the National Electric Code, the Life Safety
13 Code and Fire Prevention Code of the National Fire Protection Association, the
14 American Standard Safety Code for Elevators, Dumbwaiters, and Escalators, the
15 Boiler Code of the American Society of Mechanical Engineers, Standards of the
16 American Insurance Association for the Installation of Gas Piping and Gas
17 Appliances in Buildings, and standards promulgated by the United States of America
18 Standards Institute, formerly the American Standards Association, Underwriters'
19 Laboratories, Inc., and similar national agencies engaged in research concerning
20 strength of materials, safe design, and other factors bearing upon health and safety."

21 Section 3. G.S. 143-138(d) reads as rewritten:

22 "(d) Amendments of the Code. -- The Building Code Council may ~~from time to~~
23 ~~time~~ revise and amend the North Carolina State Building Code, either on its own
24 motion or upon application from any citizen, State agency, or political subdivision of
25 the State. In adopting any amendment, the Council shall comply with the same
26 procedural requirements and the same standards set forth above for adoption of the
27 Code. Code revisions and amendments adopted by the Building Code Council on or
28 after September 1, 1997, but prior to July 1, 1998, shall become effective January 1,
29 1999. Code revisions and amendments adopted by the Building Code Council on or
30 after July 1, 1998, shall become effective January 1, 2002, or each third anniversary
31 thereafter. A revision or amendment may be made effective on an earlier date if
32 determined by the Building Code Council to be necessary to address an imminent
33 threat to the public's health, safety, or welfare.

34 Handbooks providing explanatory material on Code provisions shall be provided
35 no later than January 1, 2000, and shall be updated with each triennial revision of the
36 Code or, in the discretion of the Council, more frequently. The Department may
37 charge a reasonable fee for the handbooks."

38 Section 4. G.S. 143-137 reads as rewritten:

39 "§ 143-137. Organization of Council; rules; meetings; staff; fiscal affairs.

40 (a) First Meeting; Organization; Rules. -- Within 30 days after its appointment, the
41 Building Code Council shall meet on call of the Commissioner of Insurance. The
42 Council shall elect from its appointive members a chairman and such other officers as
43 it may choose, for such terms as it may designate in its rules. The Council shall
44 adopt such rules not inconsistent herewith as it may deem necessary for the proper

1 discharge of its duties. The chairman may appoint members to such committees as
2 the work of the Council may require. In addition, the chairman shall establish and
3 appoint ad hoc code revision committees to consider and prepare revisions and
4 amendments to the Code volumes. Each ad hoc committee shall consist of members
5 of the Council, licensed contractors, and design professionals most affected by the
6 Code volume for which the ad hoc committee is responsible, and members of the
7 public. The subcommittees shall meet upon the call of their respective chairs and
8 shall report their recommendations to the Council.

9 (b) Meetings. -- The Council shall meet regularly, at least once every six months,
10 at places and dates to be determined by the Council. Special meetings may be called
11 by the chairman on his own initiative and must be called by him at the request of two
12 or more members of the Council. All members shall be notified by the chairman in
13 writing of the time and place of regular and special meetings at least seven days in
14 advance of such meeting. Seven members shall constitute a quorum. All meetings
15 shall be open to the public.

16 (c) Staff. -- Personnel of the Division of Engineering of the Department of
17 Insurance shall serve as a staff for the Council. Such staff shall have the duties of

18 (1) Keeping an accurate and complete record of all meetings, hearings,
19 correspondence, laboratory studies, and technical work performed
20 by or for the Council, and making these records available for
21 public inspection at all reasonable times;

22 (2) Handling correspondence for the Council.

23 (d) Fiscal Affairs of the Council. -- All funds for the operations of the Council
24 and its staff shall be appropriated to the Department of Insurance for the use of the
25 Council. All such funds shall be held in a separate or special account on the books
26 of the Department of Insurance, with a separate financial designation or code number
27 to be assigned by the Department of Administration or its agent. Expenditures for
28 staff salaries and operating expenses shall be made in the same manner as the
29 expenditure of any other Department of Insurance funds. The Department of
30 Insurance may hire such additional personnel as may be necessary to handle the work
31 of the Building Code Council, within the limits of funds appropriated for the Council
32 and with the approval of the Council."

33 Section 5. G.S. 143-138(e) reads as rewritten:

34 "(e) Effect upon Local Codes. -- The North Carolina State Building Code shall
35 apply throughout the State, from the time of its adoption. However, any political
36 subdivision of the State may adopt ~~a building code or building rules and regulations~~
37 ~~governing construction~~ or a fire prevention code within its jurisdiction. The territorial
38 jurisdiction of any municipality or county for this purpose, unless otherwise specified
39 by the General Assembly, shall be as follows: Municipal jurisdiction shall include all
40 areas within the corporate limits of the municipality and extraterritorial jurisdiction
41 areas established as provided in G.S. 160A-360 or a local act; county jurisdiction shall
42 include all other areas of the county. No such code or regulations, other than those
43 permitted by G.S. 160A-436, shall be effective until they have been officially
44 approved by the Building Code Council as providing adequate minimum standards to

1 preserve and protect health and safety, in accordance with the provisions of
2 subsection (c) above. ~~While it remains effective, such approval shall be taken as~~
3 ~~conclusive evidence that a local code or local regulations supersede the State~~
4 ~~Building Code in its particular political subdivision. Whenever the Building Code~~
5 ~~Council adopts an amendment to the State Building Code, it shall consider any~~
6 ~~previously approved local regulations dealing with the same general matters, and it~~
7 ~~shall have authority to withdraw its approval of any such local code or regulations~~
8 ~~unless the local governing body makes such appropriate amendments to that local~~
9 ~~code or regulations as it may direct.~~ In the absence of approval by the Building Code
10 Council, or in the event that approval is withdrawn, local codes and regulations shall
11 have no force and effect. Provided any local regulations approved by the local
12 governing body which are found by the Council to be more stringent than the
13 adopted statewide fire prevention code and which are found to regulate only
14 activities and conditions in buildings, structures, and premises that pose dangers of
15 fire, explosion or related hazards, and are not matters in conflict with the State
16 Building Code, shall be approved. Local governments may enforce the fire
17 prevention code of the State Building Code using civil remedies authorized under
18 G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of Insurance or other
19 State official with responsibility for enforcement of the Code institutes a civil action
20 pursuant to G.S. 143-139, a local government may not institute a civil action under
21 G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from
22 the assessment or imposition of such civil remedies shall be as provided in G.S.
23 160A-434."

24 Section 6. Article 9 of Chapter 143 of the General Statutes is amended
25 by adding the following new section:

26 "**§ 143-138.1. Introduction and instruction of the North Carolina Building Code.**

27 Prior to the effective date of Code changes each three years pursuant to G.S. 143-
28 138, the State Building Code Council and Department of Insurance shall provide for
29 instructional classes for the various trades affected by the Code. The Department of
30 Insurance shall develop the curriculum for each class but shall consult the affected
31 licensing boards and trade organizations. The curriculum shall include explanations
32 of the rationale and need for each Code amendment or revision. Classes may also be
33 conducted by, on behalf of, or in cooperation with licensing boards, trade
34 associations, and professional societies. The Department of Insurance may charge
35 fees sufficient to recover the costs it incurs under this section. The Council shall
36 ensure that courses are accessible to persons throughout the State."

37 Section 7. G.S. 143-141(b) reads as rewritten:

38 "(b) Interpretations of the Code. -- The Building Code Council shall have the
39 duty, in hearing appeals, to give interpretations of such provisions of the Building
40 Code as shall be pertinent to the matter at issue. Where the Council finds that an
41 enforcement agency was in error in its interpretation of the Code, it shall remand the
42 case to the agency with instructions to take such action as it directs. Interpretations
43 by the Council and local enforcement officials shall be based on a reasonable
44 construction of the Code provisions."

1

Section 8. This act is effective when it becomes law.



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Legislative Services Agency**

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March 11, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel and Giles Perry, State Government Committee Counsel

RE: **HOUSE BILL 95 - BUILDING CODE CHANGES** - Representative Ives.

House Bill 95 establishes three-year cycles for Building Code changes, beginning in 1999, and makes several other related changes to the statutes governing the State Building Code.

Section 1 is a conforming change that make it clear that Code changes with a fiscal impact are subject to the same three-year cycle provided for in Section 3 of the bill.

Section 2 changes the standard for (judicial) interpretation of the Building Code from "construed liberally" to "construed reasonably". This section also clarifies that the Building Code Council may use the various national construction standards listed in the statutes for guidance, but it is not required to adopt them as the standard in the Code.

Section 3 provides that changes to the Building Code adopted by the Building Code Council on or after September 1, 1997, but before July 1, 1998, will become effective January 1, 1999. Thereafter changes will be made on a three-year cycle, unless determined by the Council to be needed earlier to address an imminent threat to public safety. Section 3 also requires an explanatory handbook on the Building Code to be provided no later than January 1, 2000, and updated at least every three years.

Section 4 directs the Chair of the Building Code Council to establish ad hoc revision committees that include persons in the building industry and the general public to consider and prepare revisions to the Code.

Section 5 eliminates local authority to adopt building codes, rules and regulations (local fire codes could continue to be adopted). Existing law permits the adoption of local building codes more stringent than the State Code when approved by the State Building Code Council. Currently no approved local building codes are being used anywhere in the state.



MEMORANDUM

Page 2

March 11, 1997

Section 6 requires the Department of Insurance to provide instruction in new Code changes prior to the effective date of any changes. A fee may be charged by the Department to cover the cost of a course.

Section 7 makes conforming changes consistent with the changes made in Section 2 of the bill to specify that the Building Code Council and local enforcement officers shall base interpretations of the Code on "reasonable construction" of its provisions.

The bill will be effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 95

AMENDMENT NO. 105
(to be filled in by
Principal Clerk)
Page 1 of

H95-ARU-001

Date March 12, 1997

Comm. Sub.
Amends Title

Representative

1 moves to amend the bill on page 2, lines 30 and 31,
2 by rewriting the lines to read:
3 "after July 1, 1998, but prior to July 1, 2001, shall become
4 effective January 1, 2002. All future revisions and amendments
5 shall be adopted prior to July 1 every three years after July 1,
6 2001 to become effective the first day of January of the following
7 year.";

8
9 and, on page 4. line 27,
10 by deleting the words "each three years";

11
12 and, on page 5, line 1,
13 by rewriting the line to read:
14 "Section 8. Sections 3 and 6 of this act become effective
15 September 1, 1997. The remainder of this act is effective when it
16 becomes law."

SIGNED [Signature]
Amendment Sponsor

SIGNED _____
Committee Chair if House Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

COMMERCE

March 12, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Stewart Dickinson	Commerce Finance
Arcie Harris	Commerce Dept.
William	"
COOPER SAWYER	NCDOI
Lee Hausler	Dept. of Insurance
John Boyd	Car. Elec. Conts. Assn.
Henry Jones	Attorney - NCAPHCC CECA
Patricia Peasants	Spectator
Billy Daniel	DOR
Nancy Pomeroy	
Sandra Keyser	State Court Office
Tim Kent	AIA North Carolina
Paul Lauer	Lauer Consulting
Li Mow	Attorney
William D Ferris	Visitor
George Ferris	Visitor
Wayne Crowson	Crowson Excor Sanford NC
John Rustin	Hunter & Williams
PAUL Stock	NC BANKERS ASSN.
Natalie Haskins	Charlotte Chamber
Kay Anderson	AT&T
Tom Minton	NC Assoc. of Realtors
Rt. Schfield	NCJCDC
Gordon Allen	NCBA
Meriel Chestnut	Assl. A.G. of NC Bankers Comm.
Anna Hartsell	MCIC
R. Paul Wilms	NCA/BSA
AL Adams	CONSULTING ENGINEERS COUNCIL/NC
Alicia Parland	Electricity

Neslie Zwager

Phil Kirk

Joyce Petrus

Joan Blackburn

LYNN HOLMES

Rich Carlyle

NCCBI

NCCBI

elect. Cities

Friend of Phil Kirk

Bozell

Commerce Dept.

MINUTES

HOUSE COMMITTEE ON COMMERCE

March 19, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Cherie Berry, Co-Chair, Walter Church, Co-Chair, William Hiatt, Co-Chair, Martha Alexander, Rex Baker, Donald Bonner, Joanne Bowie, Flossie Boyd-McIntyre, Jerry Braswell, Robert Brawley, Lanier Cansler, Billy Creech, Donald Davis, Andrew Dedmon, Dub Dickson, Jerry Dockham, Ruth Easterling, Stan Fox, Thomas Hardaway, Dewey Hill, George Holmes, Bob Hunter, John Hurley, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Paul McCrary, Frank Mitchell, Richard Morgan, Mia Morris, John Nichols, Edd Nye, Jean Preston, John Rayfield, David Redwine, Dennis Reynolds, Gene Rogers, Drew Saunders, Wilma Sherrill, Edgar Starnes, Gregg Thompson, Nurham Warwick, Cynthia Watson, Michael Wilkins, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, March 19, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

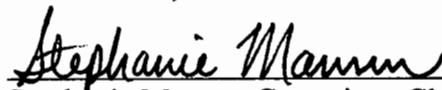
Chairman Miner called the meeting to order and the following bills were discussed:

House bill 368, AN ACT TO AMEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT. The bill was before the committee at the last meeting when time ran out. The discussion continues as Representative Berry offers an amendment. This is the third amendment offered on the bill. Representative Sherrill moves for adoption of the amendment. A vote was taken and the amendment was adopted. Questions were taken from the committee. Mr. Rick Carlisle of the Commerce Department addressed the concerns and questions of the committee members as did staff counsel Karen Cochrane-Brown. The amended bill was rolled into a committee substitute. Representative Church moved for a favorable report on the committee substitute bill, unfavorable to the original bill and that the bill be re-referred to Finance Committee. A vote was taken and the bill was given a favorable report and re-referred to Finance.

The meeting was adjourned at 10:50 am.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

AGENDA

COMMERCE COMMITTEE

WEDNESDAY, MARCH 19, 1997

10:00 AM

ROOM 643 LOB

OPENING REMARKS

REP. DAVID MINER, CHAIRMAN

BILLS TO BE CONSIDERED

HB-368 AMEND BILL LEE ACT
HB-48 DOWNTOWN DATABASE

ADJOURNMENT

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **DAVID MINER** for the Committee on **COMMERCE**.

Committee Substitute for

H.B. 368 A BILL TO BE ENTITLED AN ACT TO AMEND THE WILLAM S. LEE
QUALITY JOBS AND BUSINESS EXPANSION ACT.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance

With a favorable report as to a committee substitute bill, unfavorable as to the original bill
and recommendation that the bill be re-referred to the committee on Finance.

With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 368*
Proposed Committee Substitute H368-PCS6114

Short Title: Amend Bill Lee Act/AB.

(Public)

Sponsors:

Referred to:

March 3, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS
3 EXPANSION ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 3A of Chapter 105 of the General Statutes reads as
6 rewritten:

7 "ARTICLE 3A.

8 "Tax Incentives for New and Expanding Businesses.

9 "§ 105-129.2. (Repealed effective January 1, 2002 -- see note) Definitions.

10 The following definitions apply in this Article:

- 11 (1) ~~Cost. -- Defined in section 179 of the Code.~~
- 12 (2) Data processing. -- Defined in the Standard Industrial
13 Classification Manual issued by the United States Bureau of the
14 Census.
- 15 (3) Enterprise tier. -- The classification assigned to an area pursuant to
16 G.S. 105-129.3.
- 17 (4) Full-time job. -- A position that requires at least 1,600 hours of
18 work per year and is intended to be held by one employee during
19 the entire year. A full-time employee is an employee who holds a
20 full-time job.
- 21 (5) Machinery and equipment. -- Engines, machinery, tools, and
22 implements that are capitalized by the taxpayer for tax purposes
23 under the Code and are used or designed to be used in

1 manufacturing or processing, warehousing and distribution, or data
2 processing. The term does not include real property as defined in
3 G.S. 105-273 or rolling stock as defined in G.S. 105-333.

4 (6) Manufacturing and processing. -- Defined in the Standard
5 Industrial Classification Manual issued by the United States Bureau
6 of the Census.

7 ~~(7) Purchase. -- Defined in section 179 of the Code.~~

8 (8) Warehousing and distribution. -- Defined in the Standard Industrial
9 Classification Manual issued by the United States Bureau of the
10 Census.

11 **"§ 105-129.3. (Repealed effective January 1, 2002) Enterprise tier designation.**

12 (a) Tiers Defined. -- An enterprise tier one area is a county whose enterprise
13 factor is one of the 10 highest in the State. An enterprise tier two area is a county
14 whose enterprise factor is one of the next 15 highest in the State. An enterprise tier
15 three area is a county whose enterprise factor is one of the next 25 highest in the
16 State. An enterprise tier four area is a county whose enterprise factor is one of the
17 next 25 highest in the State. An enterprise tier five area is any area that is not in a
18 lower-numbered enterprise tier.

19 (b) Annual Designation. -- Each year, on or before December 31, the Secretary of
20 Commerce shall assign to each county in the State an enterprise factor that is the sum
21 of the following:

22 (1) The county's rank in a ranking of counties by average rate of
23 unemployment from lowest to ~~highest.~~ highest, for the preceding
24 three years.

25 (2) The county's rank in a ranking of counties by average per capita
26 income from highest to ~~lowest.~~ lowest, for the preceding three
27 years.

28 (3) The county's rank in a ranking of counties by percentage growth in
29 population from highest to lowest.

30 The Secretary of Commerce shall then rank all the counties within the State
31 according to their enterprise factor from highest to lowest, identify all the areas of the
32 State by enterprise tier, and provide this information to the Secretary of Revenue. An
33 enterprise tier designation is effective only for the calendar year following the
34 designation.

35 In measuring rates of unemployment and per capita income, the Secretary shall use
36 the latest available data published by a State or federal agency generally recognized
37 as having expertise concerning the data. In measuring population growth, the
38 Secretary shall use the most recent estimates of population certified by the State
39 Planning Officer.

40 (c) Exception for Enterprise Tier One Areas. -- Notwithstanding the provisions of
41 this section, an enterprise tier one area may not be redesignated as a
42 higher-numbered enterprise tier area until it has been an enterprise tier one area for
43 at least two consecutive years.

44 **"§ 105-129.4. (Repealed effective January 1, 2002) Eligibility; forfeiture.**

1 (a) Type of Business. -- A taxpayer is eligible for a credit allowed by this Article if
2 the taxpayer engages in manufacturing or processing, warehousing or distributing, or
3 data processing, and the jobs with respect to which a credit is claimed are created in
4 that business, the machinery and equipment with respect to which a credit is claimed
5 are used in that business, and the research and development for which a credit is
6 claimed are carried out as part of that business.

7 (b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the
8 credit for worker training if the jobs for which the credit is claimed are located in an
9 enterprise tier one area or meet the wage standard at the time the taxpayer applies
10 for the credit. A taxpayer is eligible for the credit for investing in machinery and
11 equipment or the credit for research and development if the jobs at the location with
12 respect to which the credit is claimed are located in an enterprise tier one area or
13 meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the
14 wage standard if they pay an average weekly wage that is at least ten percent (10%)
15 above the ~~average weekly wage paid in the county in which the jobs will be located.~~
16 ~~In calculating the average weekly wage of jobs, positions that pay a wage or salary at~~
17 ~~a rate that exceeds one hundred thousand dollars (\$100,000) a year shall be excluded.~~
18 ~~For the purpose of this subsection, the average wage in a county is the average wage~~
19 ~~for all insured industries in the county as computed by the Employment Security~~
20 ~~Commission for the most recent period for which data are available.~~ applicable
21 average weekly wage for the county in which the jobs will be located, as computed by
22 the Secretary of Commerce from data compiled by the Employment Security
23 Commission for the most recent period for which data are available. The applicable
24 average weekly wage is the lowest of the following: (i) the average wage for all
25 insured private employers in the county, (ii) the average wage for all insured private
26 employers in the State, and (iii) the average wage for all insured private employers in
27 the county multiplied by the county income/wage adjustment factor. The county
28 income/wage adjustment factor is the county income/wage ratio divided by the State
29 income/wage ratio. The county income/wage ratio is the average per capita income
30 in the county divided by the annualized average wage for all insured private
31 employers in the county. The State income/wage ratio is the average per capita
32 income in the State divided by the annualized average wage for all insured private
33 employers in the State.

34 (c) Worker Training. -- A taxpayer is eligible for the tax credit for worker training
35 only for training workers who occupy jobs for which the taxpayer is eligible to claim
36 an installment of the credit for creating jobs or which are full-time positions at a
37 location with respect to which the taxpayer is eligible to claim an installment of the
38 credit for investing in machinery and equipment for the taxable year.

39 The credit for worker training is allowed only with respect to employees in
40 positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. §
41 213(a)(1) and for expenditures for training that would be eligible for expenditure or
42 reimbursement under the Department of Community Colleges' New and Expanding
43 Industry Program, as determined by guidelines adopted by the State Board of
44 Community Colleges. To establish eligibility, the taxpayer must obtain as part of the

1 application process under G.S. 105-129.6 the certification of the Department of
2 Community Colleges that the taxpayer's planned worker training would satisfy the
3 requirements of this paragraph. A taxpayer shall apply to the Department of
4 Community Colleges for this certification. The application must be on a form
5 provided by the Department of Community Colleges, must provide a detailed plan of
6 the worker training to be provided, and must contain any information required by the
7 Department of Community Colleges to determine whether the requirements of this
8 paragraph will be satisfied. If the Department of Community Colleges determines that
9 the planned worker training meets the requirements of this paragraph, the
10 Department of Community Colleges shall issue a certificate describing the location
11 with respect to which the credit is claimed and stating that the planned worker
12 training meets the requirements of this paragraph. The State Board of Community
13 Colleges may adopt rules in accordance with Chapter 150B of the General Statutes
14 that are needed to carry out its responsibilities under this paragraph.

15 (d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the
16 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit.
17 A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided
18 as a result of the credit plus interest at the rate established under G.S. 105-241.1(i),
19 computed from the date the taxes would have been due if the credit had not been
20 allowed. The past taxes and interest are due 30 days after the date the credit is
21 forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is
22 subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for
23 creating jobs or the credit for investing in machinery and equipment, the taxpayer
24 also forfeits any credit for worker training claimed for the jobs for which the credit
25 for creating jobs was claimed or the jobs at the location with respect to which the
26 credit for investing in machinery and equipment was claimed.

27 (e) Change in Ownership of Business. -- The sale, merger, acquisition, or
28 bankruptcy of a business, or any other transaction by which an existing business
29 reformulates itself as another business, does not create new eligibility in a succeeding
30 business with respect to credits for which the predecessor was not eligible under this
31 Article. A successor business may, however, take any installment of or carried-over
32 portion of a credit that its predecessor could have taken if it had a tax liability.

33 **"§ 105-129.5. (Repealed effective January 1, 2002) Tax election; cap.**

34 (a) Tax Election. -- The credits provided in this Article are allowed against the
35 franchise tax levied in Article 3 of this Chapter and the income taxes levied in
36 Article 4 of this Chapter. The taxpayer shall elect the tax against which a credit will
37 be claimed when ~~filing the application for the credit.~~ filing the return on which the
38 first installment of the credit is claimed. This election is binding. Any carryforwards
39 of the credit must be claimed against the same ~~tax elected in the application.~~ tax.

40 (b) Cap. -- The credits allowed under this Article may not exceed fifty percent
41 (50%) of the tax against which they are claimed for the taxable year, reduced by the
42 sum of all other credits allowed against that tax, except tax payments made by or on
43 behalf of the taxpayer. This limitation applies to the cumulative amount of credit,
44 including carryforwards, claimed by the taxpayer under this Article against each tax

1 for the taxable year. Any unused portion of the credit may be carried forward for the
2 succeeding five years.

3 **"§ 105-129.6. (Repealed effective January 1, 2002) Application; reports.**

4 (a) Application. -- To claim the credits allowed by this Article, the taxpayer must
5 provide with the tax return the certification of the Secretary of Commerce that the
6 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to
7 each credit. A taxpayer shall apply to the Secretary of Commerce for certification of
8 eligibility. The application must be on a form provided by the Secretary of
9 ~~Commerce, must specify the credit and the tax against which it will be claimed;~~
10 Commerce and must contain any information necessary for the Secretary of
11 Commerce to determine whether the taxpayer meets the eligibility requirements. If
12 the Secretary determines that the taxpayer meets all of the eligibility requirements of
13 G.S. 105-129.4 with respect to a credit, the Secretary shall issue a certificate
14 describing the location with respect to which the credit is claimed, ~~specifying the tax~~
15 ~~against which the credit will be claimed~~, outlining the eligibility requirements for the
16 credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary
17 determines that the taxpayer does not meet all of the eligibility requirements of G.S.
18 105-129.4 with respect to a credit, the Secretary must advise the taxpayer in writing of
19 the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce
20 may adopt rules in accordance with Chapter 150B of the General Statutes that are
21 needed to carry out the Secretary of Commerce's responsibilities under this section.

22 (b) Reports. -- The Department of Commerce shall report to the Department of
23 Revenue and to the Fiscal Research Division of the General Assembly by May 1 of
24 each year the following information for the 12-month period ending the preceding
25 April 1:

- 26 (1) The number of applications for each credit allowed in this Article.
27 (2) The number and enterprise tier area of new jobs with respect to
28 which credits were applied for.
29 (3) The cost of machinery and equipment with respect to which credits
30 were applied for.

31 **"§ 105-129.7. (Repealed effective January 1, 2002) Substantiation.**

32 To claim a credit allowed by this Article, the taxpayer must provide any
33 information required by the Secretary of Revenue. Every taxpayer claiming a credit
34 under this Article shall maintain and make available for inspection by the Secretary
35 of Revenue any records the Secretary considers necessary to determine and verify the
36 amount of the credit to which the taxpayer is entitled. The burden of proving
37 eligibility for the credit and the amount of the credit shall rest upon the taxpayer, and
38 no credit shall be allowed to a taxpayer that fails to maintain adequate records or to
39 make them available for inspection.

40 **"§ 105-129.8. (Repealed effective January 1, 2002) Credit for creating jobs.**

41 (a) Credit. -- A taxpayer that meets the eligibility requirements set out in G.S.
42 105-129.4, has five or more employees for at least 40 weeks during the taxable year,
43 and hires an additional full-time employee during that year to fill a position located
44 in this State is allowed a credit for creating a new full-time job. The amount of the

1 credit for each new full-time job created is set out in the table below and is based on
2 the enterprise tier of the area in which the position is located:

3 Area Enterprise Tier	Amount of Credit
4 Tier One	\$12,500
5 Tier Two	4,000
6 Tier Three	3,000
7 Tier Four	1,000
8 Tier Five	500

9 A position is located in an area if more than fifty percent (50%) of the employee's
10 duties are performed in the area. The credit may not be taken in the taxable year in
11 which the additional employee is hired. Instead, the credit shall be taken in equal
12 installments over the four years following the taxable year in which the additional
13 employee was hired and shall be conditioned on the continued employment by the
14 taxpayer of the number of full-time employees the taxpayer had upon hiring the
15 employee that caused the taxpayer to qualify for the credit.

16 If, in one of the four years in which the installment of a credit accrues, the number
17 of the taxpayer's full-time employees falls below the number of full-time employees
18 the taxpayer had in the year in which the taxpayer qualified for the credit, the credit
19 expires and the taxpayer may not take any remaining installment of the credit. The
20 taxpayer may, however, take the portion of an installment that accrued in a previous
21 year and was carried forward to the extent permitted under G.S. 105-129.5.

22 Jobs transferred from one area in the State to another area in the State shall not be
23 considered new jobs for purposes of this section. If, in one of the four years in which
24 the installment of a credit accrues, the position filled by the employee is moved to an
25 area in a higher- or lower-numbered enterprise tier, the remaining installments of the
26 credit shall be calculated as if the position had been created initially in the area to
27 which it was moved.

28 (b) Repealed by Session Laws 1989, c. 111, s. 1.

29 (b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

30 (d) Planned Expansion. -- A taxpayer that signs a letter of commitment with the
31 Department of Commerce to create at least twenty new full-time jobs in a specific
32 area within two years of the date the letter is signed qualifies for the credit in the
33 amount allowed by this section based on the area's enterprise tier for that year even
34 though the employees are not hired that year. The credit shall be available in the
35 taxable year after at least twenty employees have been hired if the hirings are within
36 the two-year commitment period. The conditions outlined in subsection (a) apply to a
37 credit taken under this subsection except that if the area is redesignated to a higher-
38 numbered enterprise tier after the year the letter of commitment was signed, the
39 credit is allowed based on the area's enterprise tier for the year the letter was signed.
40 If the taxpayer does not hire the employees within the two-year period, the taxpayer
41 does not qualify for the credit. However, if the taxpayer qualifies for a credit under
42 subsection (a) in the year any new employees are hired, the taxpayer may take the
43 credit under that subsection.

1 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for
2 taxable years beginning on or after January 1, 1996.

3 **"§ 105-129.9. (Repealed effective January 1, 2002) Credit for investing in machinery
4 and equipment.**

5 (a) Credit. -- ~~A~~ If a taxpayer that has purchased or leased machinery and
6 equipment ~~and~~ places it in service in this State during the taxable ~~year~~ year, the
7 taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible
8 investment amount over the applicable threshold. The credit may not be taken for the
9 taxable year in which the equipment is placed in service but shall be taken in equal
10 installments over the seven years following the taxable year in which the equipment is
11 placed in service.

12 (b) Eligible Investment Amount. -- The eligible investment amount is the lesser of
13 (i) the cost of the machinery and equipment and (ii) the amount by which the cost of
14 all of the taxpayer's machinery and equipment that is in service in this State on the
15 last day of the taxable year exceeds the cost of all of the taxpayer's machinery and
16 equipment that was in service in this State on the last day of the base year. The base
17 year is that year, of the three immediately preceding taxable years, in which the
18 taxpayer had the most machinery and equipment in service in this State.

19 (c) Threshold. -- The applicable threshold is the appropriate amount set out in the
20 following table based on the enterprise tier of the area where the machinery and
21 equipment are placed in service during the taxable year. If the taxpayer places
22 machinery and equipment in service in more than one area during the taxable year,
23 the threshold applies separately to the machinery and equipment placed in service in
24 each area.

25 Area Enterprise Tier	Threshold
26 Tier One	\$ -0-
27 Tier Two	100,000
28 Tier Three	200,000
29 Tier Four	500,000
30 Tier Five	1,000,000

31 (d) Expiration. -- If, in one of the seven years in which the installment of a credit
32 accrues, the machinery and equipment with respect to which the credit was claimed
33 are ~~sold~~ disposed of, taken out of service, or moved out of State, the credit expires
34 and the taxpayer may not take any remaining installment of the credit. The taxpayer
35 may, however, take the portion of an installment that accrued in a previous year and
36 was carried forward to the extent permitted under G.S. 105-129.5.

37 If, in one of the seven years in which the installment of a credit accrues, the
38 machinery and equipment with respect to which the credit was claimed are moved to
39 an area in a higher-numbered enterprise tier, the remaining installments of the credit
40 are allowed only to the extent they would have been allowed if the machinery and
41 equipment had been placed in service initially in the area to which they were moved.

42 **"§ 105-129.10. (Repealed effective January 1, 2002) Credit for research and
43 development.**

1 A taxpayer that claims for the taxable year a federal income tax credit under
2 section 41 of the Code for increasing research activities is allowed a credit equal to
3 five percent (5%) of the State's apportioned share of the taxpayer's expenditures for
4 increasing research activities. The State's apportioned share of a taxpayer's
5 expenditures for increasing research activities is the excess of the taxpayer's qualified
6 research expenses for the taxable year over the base amount, as determined under
7 section 41 of the Code, multiplied by a percentage equal to the ratio of the taxpayer's
8 qualified research expenses in this State for the taxable year to the taxpayer's total
9 qualified research expenses for the taxable year. As used in this section, the terms
10 'qualified research expenses' and 'base amount' have the meaning provided in
11 section 41 of the Code.

12 **"§ 105-129.11. (Repealed effective January 1, 2002) Credit for worker training.**

13 (a) Credit. -- A taxpayer that provides worker training for five or more of its
14 eligible employees during the taxable year is allowed a credit equal to fifty percent
15 (50%) of its eligible expenditures for the training. For positions located in an
16 enterprise tier one area, the credit may not exceed one thousand dollars (\$1,000) per
17 employee trained during the taxable year. For other positions, the credit may not
18 exceed five hundred dollars (\$500.00) per employee trained during the taxable year.
19 A position is located in an area if more than fifty percent (50%) of the employee's
20 duties are performed in the area.

21 (b) Eligibility. -- The eligibility of a taxpayer's expenditures and employees is
22 determined as provided in G.S. 105-129.4."

23 Section 2. Article 3B of Chapter 105 of the General Statutes reads as
24 rewritten:

25 "ARTICLE 3B.

26 "Business Tax Credit.

27 **"§ 105-129.15. (Repealed effective January 1, 2002) Definitions.**

28 The following definitions apply in this Article:

29 (1) Business property. -- Tangible personal property that is used by the
30 taxpayer in connection with a business or for the production of
31 income and is either capitalized by the taxpayer for tax purposes
32 under the ~~Code~~. Code or depreciable property the taxpayer elected
33 to expense under section 179 of the Code. The term does not
34 include, however, a luxury passenger automobile taxable under
35 section 4001 of the Code or a watercraft used principally for
36 entertainment and pleasure outings for which no admission is
37 charged.

38 (2) ~~Cost. -- Defined in section 179 of the Code.~~

39 (3) ~~Purchase. -- Defined in section 179 of the Code.~~

40 **"§ 105-129.16. (Repealed effective January 1, 2002) Credit for investing in business**
41 **property.**

42 (a) Credit. -- ~~A~~ If a taxpayer that has purchased or leased business property ~~and~~
43 places it in service in this State during the taxable ~~year~~ year, the taxpayer is allowed a
44 credit equal to four and one-half percent (4.5%) of the cost of the property. The

1 maximum credit allowed a taxpayer for property placed in service during a taxable
2 year is four thousand five hundred dollars (\$4,500). The entire credit may not be
3 taken for the taxable year in which the property is placed in service but must be
4 taken in five equal installments beginning with the taxable year in which the property
5 is placed in service.

6 (b) Expiration. -- If, in one of the five years in which the installment of a credit
7 accrues, the business property with respect to which the credit was claimed is ~~sold~~
8 disposed of, taken out of service, or moved out of State, the credit expires and the
9 taxpayer may not take any remaining installment of the credit. The taxpayer may,
10 however, take the portion of an installment that accrued in a previous year and was
11 carried forward to the extent permitted under G.S. 105-129.17.

12 (c) No Double Credit. -- A taxpayer that claims the credit allowed under Article
13 3A of this Chapter with respect to business property may not take the credit allowed
14 in this section with respect to the same property.

15 **"§ 105-129.17. (Repealed effective January 1, 2002) Tax election; cap.**

16 (a) Tax Election. -- The credit allowed in this Article is allowed against the
17 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article
18 4 of this Chapter. The taxpayer must elect the tax against which the credit will be
19 claimed when filing the return on which the first installment of the credit is claimed.
20 This election is binding. Any carryforwards of the credit must be claimed against the
21 same tax.

22 (b) Cap. -- The credit allowed in this Article may not exceed fifty percent (50%)
23 of the tax against which it is claimed for the taxable year, reduced by the sum of all
24 other credits allowed against that tax, except tax payments made by or on behalf of
25 the taxpayer. This limitation applies to the cumulative amount of credit, including
26 carryforwards, claimed by the taxpayer under this Article against each tax for the
27 taxable year. Any unused portion of the credit may be carried forward for the
28 succeeding five years.

29 **"§ 105-129.18. (Repealed effective January 1, 2002) Substantiation.**

30 To claim the credit allowed by this Article, the taxpayer must provide any
31 information required by the Secretary of Revenue. Every taxpayer claiming a credit
32 under this Article must maintain and make available for inspection by the Secretary
33 of Revenue any records the Secretary considers necessary to determine and verify the
34 amount of the credit to which the taxpayer is entitled. The burden of proving
35 eligibility for the credit and the amount of the credit rests upon the taxpayer, and no
36 credit may be allowed to a taxpayer that fails to maintain adequate records or to
37 make them available for inspection.

38 **"§ 105-129.19. (Repealed effective January 1, 2002) Reports.**

39 The Department of Revenue shall report to the Legislative Research Commission
40 and to the Fiscal Research Division of the General Assembly by May 1 of each year
41 the following information for the 12-month period ending the preceding April 1:

42 (1) The number of taxpayers that claimed the credit allowed in this
43 Article.

1 (2) The cost of business property with respect to which credits were
2 claimed.

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

4 Section 3. G.S. 105-129.3(c), as enacted by this act, is effective when this
5 act becomes law and, notwithstanding G.S. 105-129.3(b), applies retroactively to
6 designations for the 1997 and later calendar years; the other amendments to G.S. 105-
7 129.3 made by this act are effective when this act becomes law and apply to
8 designations for the 1998 and later calendar years. The amendments to G.S. 105-
9 129.5 and G.S. 105-129.6 made by this act are effective for taxable years beginning on
10 or after January 1, 1996. The remainder of this act is effective for taxable years
11 beginning on or after January 1, 1997.



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March 19, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: **Proposed Committee Substitute for House Bill 368
(Amend Bill Lee Act)**

House Bill 368 amends several provisions of the William S. Lee Quality Jobs and Business Expansion Act, which provides tax incentives for new and expanding businesses. The Proposed Committee Substitute incorporates several changes to the original bill recommended by the Committee. This summary describes the entire bill as amended.

Under current law, each county is designated into one of the five enterprise tiers annually, using an enterprise factor. The bill amends the formula for calculating the enterprise factor. Presently, the factor is computed annually by adding the county's ranking in unemployment, (from lowest to highest), per capita income (from highest to lowest), and percentage population growth (from highest to lowest). This bill changes the unemployment and per capita components from a one-year standing to a standing based on a three-year rolling average. In addition, this bill provides that a county which has been designated a tier one area may not be redesignated as a higher numbered tier for at least two years.

The bill also modifies the wage standard requirement of the present law, which mandates that in order to qualify for the credit, the new or expanding business must pay 110% of the average weekly wage in the county, excluding any positions which pay a wage exceeding \$100,000 per year. Under the bill, the wage standard requirement is modified in several respects; 1) jobs created in tier 1 areas are exempted from the wage standard altogether, 2) the requirement that employer's exclude positions that pay salaries in excess of \$100,000 when computing the average weekly wage is deleted, and 3) the calculation of the wage standard is modified by allowing counties to use a standard that is 10% above the lower of three calculations. The proposed committee substitute revises the three calculations as follows: 1) the average county private insured wage, 2) the average state private insured wage, or 3) the average county private insured wage multiplied by the county income/wage adjustment factor. This provision defines

the county income/wage adjustment factor as the county income/wage ratio divided by the state income/wage ratio. The income/wage ratio is the average per capita income divided by the annualized average private insured wage, in the county and state, respectively.

The proposed committee substitute also amends the definition of business property eligible for the Business Tax Credit to include depreciable property which the taxpayer elects to expense under section 179 of the Code. Under current law, the credit applies only to property the taxpayer purchases and capitalizes for tax purposes. This provision extends the credit to include leased business property.

This bill further amends the provision requiring the taxpayer to elect which tax the credit will be applied against in the application for the credit to the Secretary of Commerce. Under this bill the election would be made when the taxpayer files the return on which the first installment of the credit is claimed.

The provision in section 1 of the bill which prohibits the redesignation of tier one areas for at least two years is effective when this act becomes law and applies retroactively to designations for 1997 and later. The provisions in section 1 which modify the enterprise factor calculation is effective when it becomes law and applies to designations for 1998 and later. The amendments relating to the tax election are effective for taxable years beginning on or after January 1, 1996, and the remainder of this act is effective for taxable years beginning on or after January 1, 1997.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. 368

DATE 3-12-97

S. B. No. _____

Amendment No. 1

(to be filled in by
Principal Clerk)

Rep.) HIATT
Sen.) _____

moves to amend the bill on page 1, line 22-23

by removing the strike-through on those lines;

and on page 2, lines 1-5,
by deleting the underlined sentence;

and on page 4, line 40

by rewriting the line to read:

"of the credit must be claimed

against the same tax-elected in
the applications - tax."

and on page 8, lines 31-35, by
removing the strike-through and deleting the
underlined sentences on those lines."

SIGNED William S. Hiatt

ADOPTED X FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 368

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)
Page 1 of

H368-ALCX-3/6

Date 3-12, 1997

Comm. Sub.
Amends Title

1 moves to amend the bill on page 3, lines 32-34,
2 by rewriting the lines to read:
3 "the county multiplied by the county income/wage adjustment factor.
4 The county income/wage adjustment factor is the county income/wage
5 ratio divided by the State income/wage ratio. The county
6 income/wage ratio is average per capita income in the county divided
7 by the annualized average wage for all insured private employers in
8 the county. The State income/wage ratio is the average per capita
9 income in the State divided by the annualized average wage for all
10 insured private employers in the State."

SIGNED William A. Heath
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. 368, as amended

DATE _____

S. B. No. _____

Amendment No. 3
(to be filled in by
Principal Clerk)

Rep.) Berry
Sen.) _____

moves to amend the bill on page 8, line 31

by adding the word "either" before the
word "capitalized";

and on page 8, line 32, by deleting
"Code." and substituting

"~~Code.~~ Code or depreciable property
the taxpayer elected to expense
under section 179 of the Code."

SIGNED Cherie Berry

ADOPTED X FAILED _____ TABLED _____

1997 DISTRESSED COUNTY RANKING	COUNTY	JOBS TAX CREDIT (PER JOB)	INVESTMENT TAX CREDIT	MINIMUM INVESTMENT	WORKER TRAINING TAX CREDIT (PER JOB)
1	SWAIN	\$12,500	7%	\$0	Up to \$1,000
2	RICHMOND	\$12,500	7%	\$0	Up to \$1,000
3	GRAHAM	\$12,500	7%	\$0	Up to \$1,000
4	NORTHAMPTON	\$12,500	7%	\$0	Up to \$1,000
5	WARREN	\$12,500	7%	\$0	Up to \$1,000
5	HALIFAX	\$12,500	7%	\$0	Up to \$1,000
7	EDGEcombe	\$12,500	7%	\$0	Up to \$1,000
8	ALLEGHANY	\$12,500	7%	\$0	Up to \$1,000
9	HERTFORD	\$12,500	7%	\$0	Up to \$1,000
9	ANSON	\$12,500	7%	\$0	Up to \$1,000
11	HYDE	\$12,500	7%	\$0	Up to \$1,000
12	BERTIE	\$12,500	7%	\$0	Up to \$1,000
13	TYRELL	\$12,500	7%	\$0	Up to \$1,000
14	MITCHELL	\$12,500	7%	\$0	Up to \$1,000
14	WASHINGTON	\$4,000	7%	\$100,000	Up to \$500
16	ROBESON	\$4,000	7%	\$100,000	Up to \$500
17	MONTGOMERY	\$4,000	7%	\$100,000	Up to \$500
18	ASHE	\$4,000	7%	\$100,000	Up to \$500
19	BEAUFORT	\$4,000	7%	\$100,000	Up to \$500
20	VANCE	\$4,000	7%	\$100,000	Up to \$500
21	SCOTLAND	\$4,000	7%	\$100,000	Up to \$500
22	MARTIN	\$4,000	7%	\$100,000	Up to \$500
23	ONSLOW	\$4,000	7%	\$100,000	Up to \$500
24	BLADEN	\$4,000	7%	\$100,000	Up to \$500
25	YANCEY	\$4,000	7%	\$100,000	Up to \$500
26	COLUMBUS	\$3,000	7%	\$200,000	Up to \$500
27	MCDOWELL	\$3,000	7%	\$200,000	Up to \$500
28	CHEROKEE	\$3,000	7%	\$200,000	Up to \$500
29	PERQUIMANS	\$3,000	7%	\$200,000	Up to \$500
30	RUTHERFORD	\$3,000	7%	\$200,000	Up to \$500
31	CLAY	\$3,000	7%	\$200,000	Up to \$500
32	MADISON	\$3,000	7%	\$200,000	Up to \$500
33	PAMLICO	\$3,000	7%	\$200,000	Up to \$500
33	STANLY	\$3,000	7%	\$200,000	Up to \$500
35	WILSON	\$3,000	7%	\$200,000	Up to \$500
35	CASWELL	\$3,000	7%	\$200,000	Up to \$500
37	AVERY	\$3,000	7%	\$200,000	Up to \$500
37	JACKSON	\$3,000	7%	\$200,000	Up to \$500
39	CHOWAN	\$3,000	7%	\$200,000	Up to \$500
40	LENOIR	\$3,000	7%	\$200,000	Up to \$500
40	WAYNE	\$3,000	7%	\$200,000	Up to \$500
42	CLEVELAND	\$3,000	7%	\$200,000	Up to \$500
43	HOKE	\$3,000	7%	\$200,000	Up to \$500
44	PASQUOTANK	\$3,000	7%	\$200,000	Up to \$500
45	BRUNSWICK	\$3,000	7%	\$200,000	Up to \$500
46	WILKES	\$3,000	7%	\$200,000	Up to \$500
47	GASTON	\$3,000	7%	\$200,000	Up to \$500
48	ROCKINGHAM	\$3,000	7%	\$200,000	Up to \$500
49	CAMDEN	\$3,000	7%	\$200,000	Up to \$500
50	HAYWOOD	\$3,000	7%	\$200,000	Up to \$500

1997 DISTRESSED COUNTY RANKING	COUNTY	JOBS TAX CREDIT (PER JOB)	INVESTMENT TAX CREDIT	MINIMUM INVESTMENT	WORKER TRAINING TAX CREDIT (PER JOB)
51	PERSON	\$1,000	7%	\$500,000	Up to \$500
52	JONES	\$1,000	7%	\$500,000	Up to \$500
53	GATES	\$1,000	7%	\$500,000	Up to \$500
53	CRAVEN	\$1,000	7%	\$500,000	Up to \$500
55	GRANVILLE	\$1,000	7%	\$500,000	Up to \$500
56	CALDWELL	\$1,000	7%	\$500,000	Up to \$500
56	SURRY	\$1,000	7%	\$500,000	Up to \$500
58	PENDER	\$1,000	7%	\$500,000	Up to \$500
58	CUMBERLAND	\$1,000	7%	\$500,000	Up to \$500
60	DUPLIN	\$1,000	7%	\$500,000	Up to \$500
60	SAMPSON	\$1,000	7%	\$500,000	Up to \$500
62	HARNETT	\$1,000	7%	\$500,000	Up to \$500
63	BURKE	\$1,000	7%	\$500,000	Up to \$500
64	GREENE	\$1,000	7%	\$500,000	Up to \$500
65	CARTERET	\$1,000	7%	\$500,000	Up to \$500
66	FRANKLIN	\$1,000	7%	\$500,000	Up to \$500
67	WATAUGA	\$1,000	7%	\$500,000	Up to \$500
68	NASH	\$1,000	7%	\$500,000	Up to \$500
69	MACON	\$1,000	7%	\$500,000	Up to \$500
70	LINCOLN	\$1,000	7%	\$500,000	Up to \$500
71	TRANSYLVANIA	\$1,000	7%	\$500,000	Up to \$500
72	DARE	\$1,000	7%	\$500,000	Up to \$500
72	ROWAN	\$1,000	7%	\$500,000	Up to \$500
74	PITT	\$1,000	7%	\$500,000	Up to \$500
75	ALEXANDER	\$1,000	7%	\$500,000	Up to \$500
76	CATAWBA	\$500	7%	\$1,000,000	Up to \$500
76	DAVIE	\$500	7%	\$1,000,000	Up to \$500
78	YADKIN	\$500	7%	\$1,000,000	Up to \$500
79	ALAMANCE	\$500	7%	\$1,000,000	Up to \$500
80	DAVIDSON	\$500	7%	\$1,000,000	Up to \$500
81	STOKES	\$500	7%	\$1,000,000	Up to \$500
81	LEE	\$500	7%	\$1,000,000	Up to \$500
83	CURRITUCK	\$500	7%	\$1,000,000	Up to \$500
84	RANDOLPH	\$500	7%	\$1,000,000	Up to \$500
85	FORSYTH	\$500	7%	\$1,000,000	Up to \$500
86	BUNCOMBE	\$500	7%	\$1,000,000	Up to \$500
86	DURHAM	\$500	7%	\$1,000,000	Up to \$500
88	NEW HANOVER	\$500	7%	\$1,000,000	Up to \$500
89	GUILFORD	\$500	7%	\$1,000,000	Up to \$500
90	IREDELL	\$500	7%	\$1,000,000	Up to \$500
91	MOORE	\$500	7%	\$1,000,000	Up to \$500
92	CABARRUS	\$500	7%	\$1,000,000	Up to \$500
92	HENDERSON	\$500	7%	\$1,000,000	Up to \$500
94	UNION	\$500	7%	\$1,000,000	Up to \$500
95	JOHNSTON	\$500	7%	\$1,000,000	Up to \$500
95	POLK	\$500	7%	\$1,000,000	Up to \$500
97	CHATHAM	\$500	7%	\$1,000,000	Up to \$500
98	MECKLENBURG	\$500	7%	\$1,000,000	Up to \$500
99	ORANGE	\$500	7%	\$1,000,000	Up to \$500
100	WAKE	\$500	7%	\$1,000,000	Up to \$500

Note: Shaded counties are "grandfathered" and continue to receive Tier One benefits. Counties with improved rankings (from 1996-1997) that are not grandfathered receive the benefits of their new tier assignment.

VISITOR REGISTRATION SHEET

Commerce 3-19-97 10:00 a.m.

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
1. Roslyn Savitt	NC Coalition Against Domestic Violence
2. Lu Ann Coe	HSE
3. Beverly Kanner	Advancement for OMA Ctr
4. Patricia Creecher	NCAAC
5. Eileen Hennessy	Greensboro Chamber of Commerce
6. Malali Haskin	Charlotte Chamber of Commerce
7. Alice Garland	Electricities
8. Don Harrow	Piedmont Natural Gas
9. Joe Pennachia	PIEDMONT NATURAL GAS CO. INC
10. Paul Lander	Lander Consulting
11. K. Wright	Beasler
22. Chuck Bodson	NC Financial Svcs Assoc
23. Stewart Dickinson	Commerce Finance
24. Angie Harris	Commerce
25. Emery Dalesio	Associated Press
26. Willie Riddick	DOR
27.	
28.	
29.	
30.	
31.	

MINUTES

HOUSE COMMITTEE ON COMMERCE

March 26, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Cherie Berry, Co-Chair, Walter Church, Co-Chair, William Hiatt, Co-Chair, Martha Alexander, Cary Allred, Rex Baker, Daniel Blue, Donald Bonner, Joanne Bowie, Flossie Boyd-McIntyre, Jerry Braswell, Robert Brawley, Lanier Cansler, James Crawford, Billy Creech, Donald Davis, Andrew Dedmon, Dub Dickson, Jerry Dockham, Ruth Easterling, Stan Fox, Wayne Goodwin, Thomas Hardaway, Sandy Hardy, Dewey Hill, George Holmes, Bob Hunter, John Hurley, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Paul McCrary, Ed McMahan, Frank Mitchell, Mia Morris, Charles Neeley, John Nichols, Edd Nye, Liston Ramsey, John Rayfield, David Redwine, Dennis Reynolds, Gene Rogers, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Gregg Thompson, Cynthia Watson, Connie Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, March 26, 1997 in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bills were discussed:

House Bill 401, AN ACT TO RAISE THE CAP ON THE AMOUNT OF BONDS THAT MAY BE ISSUED BY THE NORTH CAROLINA HOUSING FINANCE AGENCY. The bill was introduced by the bill sponsor, Rep. Dickson. This bill removes the cumulative limit on the amount of revenue bonds that the N.C. Housing Finance Agency may issue and allows the agency to make repurchase agreements with a broader range of entities. This bill was requested by the North Carolina Housing Finance Agency. Questions were taken from the members. Robert Kucab, Executive Director of the Housing Finance Agency, also answered questions regarding the bill. Rep. Womble moved for a favorable report on the bill. A vote was taken and House Bill 401 was given a favorable report and re-referred to the Finance Committee.

House Bill 48, AN ACT TO REQUIRE THE DEPARTMENT OF COMMERCE TO MAINTAIN A DATABASE OF DOWNTOWN PROPERTIES AVAILABLE FOR INDUSTRIAL RECRUITMENT. The bill was introduced by the bill sponsor Rep. Davis. Rep. Davis explained the bill which was recommended by the Downtown Revitalization Study Committee. House Bill 48 had been reported favorably out of the Business and Labor Sub-Committee. Rep. Redwine offered an amendment and moved for adoption of the amendment. Questions were taken from the committee. Rep. Redwine offered a substitute amendment and moved for adoption of the amendment. A vote was taken and the amendment was adopted. Mr. Leo Tilly from the Commerce Department answered

questions from the Committee. Rep. Goodwin offered an amendment and moved for adoption of the amendment. A vote was taken and the amendment failed by a vote of 21-20. Rep. Davis offered an amendment and after questions from the committee, Rep. Davis withdrew his amendment. Rep. Ives moved that the bill be given a favorable report. A vote was taken and the bill was reported favorably by a vote of 22-13.

The meeting was adjourned at 10:50 am.



Representative David M. Miner, Chairman



Stephanie M. Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for
H.B. 401 A BILL TO BE ENTITLED AN ACT TO RAISE THE CAP ON THE AMOUNT
OF BONDS THAT MAY BE ISSUED BY THE NORTH CAROLINA HOUSING
FINANCE AGENCY.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 401*

Short Title: Raise HFA Bond Limit/AB.

(Public)

Sponsors: Representatives Dickson; and Dedmon.

Referred to: Commerce, if favorable, Finance.

March 5, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO RAISE THE CAP ON THE AMOUNT OF BONDS THAT MAY BE
3 ISSUED BY THE NORTH CAROLINA HOUSING FINANCE AGENCY.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 122A-8 reads as rewritten:
6 "**§ 122A-8. Bonds and notes.**
7 The Agency is hereby authorized to provide for the issuance, at one time or from
8 time to time, ~~of not exceeding one billion five hundred million dollars~~
9 ~~(\$1,500,000,000) bonds of the Agency to carry out and effectuate its corporate~~
10 ~~purposes; provided, however, that not more than fifty million dollars (\$50,000,000)~~
11 ~~bonds shall be issued prior to June 30, 1971.~~ of bonds and notes of the Agency to
12 carry out and effectuate its corporate purposes. The Agency also is hereby authorized
13 to provide for the issuance, at one time or from time to time of (i) bond anticipation
14 notes in anticipation of the issuance of such bonds and (ii) construction loan notes to
15 finance the making or purchase of mortgage loans to sponsors of residential housing
16 for the construction, rehabilitation or improvement of residential ~~housing; provided,~~
17 ~~however, that the housing.~~ The total amount of bonds, bond anticipation notes notes,
18 and construction loan notes outstanding at any one time shall not exceed one billion
19 five hundred million dollars (\$1,500,000,000) excluding therefrom any bond
20 anticipation notes for the payment of which bonds ~~shall~~ have been issued. The
21 principal of and the interest on such bonds or notes shall be payable solely from the
22 funds herein provided for such payment. Any such notes may be made payable from
23 the proceeds of bonds or renewal notes or, in the event bond or renewal note
24 proceeds are not available, such notes may be paid from any available revenues or

1 assets of the Agency. The bonds or notes of each issue shall be dated and may be
2 made redeemable before maturity at the option of the Agency at such price or prices
3 and under such terms and conditions as may be determined by the Agency. Any such
4 bonds or notes shall bear interest at such rate or rates as may be determined by the
5 Local Government Commission of North Carolina with the approval of the Agency.
6 Notes shall mature at such time or times not exceeding 10 years from their date or
7 dates and bonds shall mature at such time or times not exceeding 43 years from their
8 date or dates, as may be determined by the Agency. The Agency shall determine the
9 form and manner of execution of the bonds or notes, including any interest coupons
10 to be attached thereto, and shall fix the denomination or denominations and the
11 place or places of payment of principal and interest, which may be any bank or trust
12 company within or without the State. In case any officer whose signature or a
13 facsimile of whose signature shall appear on any bonds or notes or coupons attached
14 thereto shall cease to be such officer before the delivery thereof, such signature or
15 such facsimile shall nevertheless be valid and sufficient for all purposes the same as if
16 he had remained in office until such delivery. The Agency may also provide for the
17 authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes
18 may be issued in coupon or in registered form, or both, as the Agency may
19 determine, and provision may be made for the registration of any coupon bonds or
20 notes as to principal alone and also as to both principal and interest, and for the
21 reconversion into coupon bonds or notes of any bonds or notes registered as to both
22 principal and interest, and for the interchange of registered and coupon bonds or
23 notes. Upon the filing with the Local Government Commission of North Carolina of
24 a resolution of the Agency requesting that its bonds and notes be sold, such bonds or
25 notes may be sold in such manner, either at public or private sale, and for such price
26 as ~~said~~ the Commission shall determine to be for the best interest of the Agency and
27 best effectuate the purposes of this ~~Chapter provided that such sale shall be~~ Chapter,
28 as long as the sale is approved by the Agency.

29 The proceeds of any bonds or notes shall be used solely for the purposes for which
30 issued and shall be disbursed in such manner and under such restrictions, if any, as
31 the Agency may provide in the resolution authorizing the issuance of such bonds or
32 notes or in the trust agreement hereinafter mentioned securing the same.

33 Prior to the preparation of definitive bonds, the Agency may, under like
34 restrictions, issue interim receipts or temporary bonds, with or without coupons,
35 exchangeable for definitive bonds when such bonds shall have been executed and are
36 available for delivery. The Agency may also provide for the replacement of any
37 bonds or notes which shall become mutilated or shall be destroyed or lost.

38 Bonds or notes may be issued under the provisions of this Chapter without
39 obtaining, except as otherwise expressly provided in this Chapter, the consent of any
40 department, division, commission, board, body, bureau or agency of the State, and
41 without any other proceedings or the happening of any conditions or things other
42 than those proceedings, conditions or things which are specifically required by this
43 Chapter and the provisions of the resolution authorizing the issuance of such bonds
44 or notes or the trust agreement securing the same."

1 Section 2. G.S. 122A-11 reads as rewritten:

2 "§ 122A-11. Trust funds.

3 Notwithstanding any other provisions of law to the contrary, all moneys received
4 pursuant to the authority of this Chapter shall be deemed to be trust funds to be held
5 and applied solely as provided in this Chapter. The resolution authorizing any
6 obligations or the trust agreement securing the same may provide that any of such
7 moneys may be temporarily invested pending the disbursement thereof and shall
8 provide that any officer with whom, or any bank or trust company with which, such
9 moneys shall be deposited shall act as trustee of such moneys and shall hold and
10 apply the same for the purposes hereof, subject to such regulations as this Chapter
11 and such resolution or trust agreement may provide.

12 Any moneys received pursuant to the authority of this Chapter and any other
13 moneys available to the Agency for investment may be invested:

14 (1) As provided in G.S. 159-30, except that for purposes of G.S.
15 159-30(b) the Agency may deposit moneys at interest in banks or
16 trust companies outside as well as in this State, ~~provided any such~~
17 as long as any moneys at deposit outside this State are
18 collateralized to the same extent and manner as if at deposit in this
19 State;

20 (2) In evidences of ownership of, or fractional undivided interests in,
21 future interest and principal payments on either direct obligations
22 of the United States government or obligations the principal of and
23 the interest on which are guaranteed by the United States
24 government, which obligations are held by a bank or trust
25 company organized and existing under the laws of the United
26 States of America or any state in the capacity of custodian;

27 (3) In obligations which are collateralized by mortgage pass-through
28 securities guaranteed by the Government National Mortgage
29 Association, the Federal Home Loan Mortgage Corporation, or the
30 Federal National Mortgage Association;

31 (4) In a trust certificate or similar instrument evidencing an equity
32 investment in a trust or other similar arrangement which is formed
33 for the purpose of issuing obligations which are collateralized by
34 mortgage pass-through or participation certificates guaranteed by
35 the Government National Mortgage Association, the Federal Home
36 Loan Mortgage Corporation or the Federal National Mortgage
37 Association; and

38 (5) In repurchase agreements with respect to either direct obligations
39 of the United States government or obligations the principal of and
40 the interest on which are guaranteed by the United States
41 government if all of the following conditions are met: entered into
42 ~~with a broker or dealer, as defined by the Securities Exchange Act~~
43 ~~of 1934, which is a dealer recognized as a primary dealer by a~~
44 ~~Federal Reserve Bank, or any commercial bank, trust company or~~

1 national banking association, the deposits of which are insured by
2 the Federal Deposit Insurance Corporation or any successor
3 thereof if

4 a. The repurchase agreement is entered into with an institution
5 whose ability to pay its unsecured long-term obligations
6 (including, if the institution is an insurance company, its
7 claims paying ability) is rated in one of the two highest
8 ratings categories by a nationally recognized securities rating
9 agency. If the term of the repurchase agreement is for a
10 period of one year or less, however, the repurchase
11 agreement may be entered into with an institution that does
12 not have such a long-term rating if its ability to pay its
13 unsecured short-term obligations is rated in one of the two
14 highest ratings categories by a nationally recognized
15 securities rating agency. If the institution with which the
16 agreement is to be entered does not meet the ratings
17 requirement of this subparagraph, the repurchase agreement
18 may nevertheless be entered into with the institution if the
19 obligations of the institution under the repurchase
20 agreement are fully guaranteed by another institution that
21 does meet the ratings requirement of this subparagraph.

22 b. The repurchase agreement provides that it shall be
23 terminated, without penalty, if the institution with which the
24 repurchase agreement is entered or by whom the
25 institution's obligations are guaranteed fails to maintain (i)
26 in the event that the repurchase agreement was entered into
27 in reliance upon the rating of the institution's long-term
28 obligations, a rating of its long-term obligations in one of the
29 three highest ratings categories by at least one nationally
30 recognized securities rating agency, or (ii) in the event that
31 the repurchase agreement was entered into in reliance upon
32 the rating of the institution's short-term obligations, a rating
33 of its short-term obligations in one of the two highest ratings
34 categories by at least one nationally recognized securities
35 rating agency. The repurchase agreement does not have to
36 be terminated, however, if a new guarantor meeting the
37 rating requirement set forth in subparagraph a. as the
38 requirement necessary for the Agency to enter the
39 repurchase agreement agrees to fully guarantee the
40 obligations of the institution under the repurchase
41 agreement.

42 a. c. ~~such~~ The obligations that are subject to such the repurchase
43 agreement are delivered (in physical or in book entry form)
44 to the Agency, or any financial institution serving either as

- 1 trustee for obligations issued by the Agency or as fiscal
2 agent for the Agency or the State Treasurer or are
3 supported by a safekeeping receipt issued by a depository
4 satisfactory to the ~~Agency, provided that such~~ Agency. The
5 repurchase agreement must provide that the value of the
6 underlying obligations shall be maintained at a current
7 market value, calculated at least daily, of not less than one
8 hundred percent (100%) of the repurchase ~~price;~~ price. The
9 financial institution serving either as trustee or as fiscal
10 agent for the Agency holding the obligations subject to the
11 repurchase agreement hereunder or the depository issuing
12 the safekeeping receipt shall not be the provider of the
13 repurchase agreement.
- 14 b. d. a A valid and perfected first security interest in the
15 obligations which are the subject of ~~such~~ the repurchase
16 agreement has been granted to the Agency or its assignee or
17 book entry procedures, conforming, to the extent
18 practicable, with federal regulations and satisfactory to the
19 agency have been established for the benefit of the Agency
20 or its ~~assignee;~~ assignee.
- 21 e. e. ~~such~~ The securities are free and clear of any adverse ~~third~~
22 ~~party claims;~~ and third-party claims.
- 23 d. f. ~~such~~ The repurchase agreement is in a form satisfactory to
24 the Agency."
25
- Section 3. This act is effective when it becomes law.



**North Carolina General Assembly
Legislative Services Office**

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(919) 733-7044

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(919) 733-2578

March 26, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel and Sabra Faires, Counsel to the Senate Finance Committee

RE: **House Bill 401 - Raise Housing Finance Agency Bond Limit - Representative Dickson**

House Bill 401 removes the cumulative limit on the amount of revenue bonds that the N.C. Housing Finance Agency may issue and allows the agency to make repurchase agreements with a broader range of entities. This bill was requested by the North Carolina Housing Finance Agency.

Two limits currently apply to the amount of bonds the Agency can issue. One limit is a cumulative, life-of-the Agency, limit. Under this limit, the Agency cannot issue more than \$1.5 billion in bonds throughout the period of the Agency's existence. The other limit is a limit on how many bonds can be outstanding at any time. This limit is also \$1.5 billion. To determine if this limit has been reached, the amount of bonds that have been repaid are subtracted from the amount of bonds that have been issued. The bill deletes the first, cumulative limit but retains the second limit on the amount that can be outstanding at any one time. The Agency has thus far issued \$1.35 billion in bonds and has \$865 million outstanding.

Current law allows the Agency to invest its funds in repurchase agreements. A repurchase agreement is an agreement for the Agency to buy securities, such as U.S. obligations, from a person for a period of time and then, at the end of that period, to resell the securities to the person that sold them. This provides a way for the Agency to invest its funds in securities for a specified period of time while waiting to use the funds at a later date.

Under current law, the Agency can make a repurchase agreement only with brokers that have a certain status and banks whose deposits are federally insured. The solvency of the party to the repurchase agreement is important because, at the end of

MEMORANDUM

March 25, 1997

Page 2

the agreed-upon period, that party must have adequate resources to fulfill the obligation to repurchase the securities. The bill allows the agency to make a repurchase agreement with any of the following:

1. An entity that has a AAA or AA rating.
2. An entity that does not have the required rating, if the entity's performance of the agreement to repurchase the securities is guaranteed by an entity that has a AAA or AA rating.

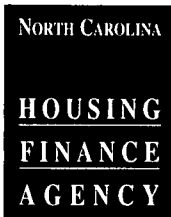
The bill requires a repurchase agreement to be canceled if the credit rating of the party to the agreement falls below a certain level. For long-term obligations, the entity must not fall below an A rating. For short-term obligations, the entity must not fall below an AA rating. The cancellation is not required, however, if an entity with the required rating guarantees the performance.

The bill adds a safeguard concerning repurchase agreements. It prohibits a person who has possession of the securities that are the subject of the agreement from being the same person that made the agreement.

The purpose of the Housing Finance Agency is to provide financing for residential housing for moderate and low-income individuals. It is governed by a 13-member board appointed by the General Assembly, the Governor, and these appointees.

The changes are effective when the bill becomes law.

If reported favorable, the bill will be serially referred to House Finance.



March 25, 1997

A self-supporting
public agency

Representative Dub Dickson
530 Legislative Office Building
Raleigh, NC 27601-2808

A. Robert Kucab
Executive Director

Dear Representative Dickson:

House Bill 401 removes the agency's "life time" limit of \$1.5 billion for bonds issued and updates language on investment agreements to increase the number of bidders.

PO Box 28066
Raleigh, NC
27611-8066

A few facts for the committee meeting:

3801 Lake Boone Trail
Suite 200
Raleigh, NC
27607-2926

- our limit for total bonds issued was set at \$200 million in 1974
- our bond limit has been raised 3 times to the current \$1.5 billion
- we have issued new bonds of \$1.35 billion and we will reach \$1.5 billion during 1997 (note: this does exclude refunding bonds)
- our statute will still have a limit of \$1.5 billion for active bonds outstanding
- we have \$865 million of bonds outstanding and all bonds have a AA credit rating
- we have helped 42,200 first-time buyers and produced 7,924 rental units
- we have supported 19,700 jobs and generated \$216.5 million of new tax revenue
- after each bond sale we need to "park" proceeds in investment agreements before we buy mortgages
- the current investment agreement language limits bidders to one or two firms
- the change in investment agreement language will increase the number of eligible bidders and enable us to earn \$50,000 more on a typical bond issue.
- all investment agreements are fully collateralized with a third party

TEL. 919-781-6115
FAX. 919-781-5623

The Treasurer's Office agrees with the changes. If you have questions, please call me at 571-4800.

Thanks for handling the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Robert Kucab".
A. Robert Kucab
Executive Director

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 48

Short Title: Downtown Database.

(Public)

Sponsors: Representatives Davis, Brawley, Fox, Hill; Allred, Moore, Mosley, Rogers, and Tolson.

Referred to: Commerce Subcommittee on Business and Labor.

February 5, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE DEPARTMENT OF COMMERCE TO MAINTAIN
3 A DATABASE OF DOWNTOWN PROPERTIES AVAILABLE FOR
4 INDUSTRIAL RECRUITMENT.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 143B-431 is amended by adding a new subsection (c1) to
7 read:
8 "(c1) The Department of Commerce shall maintain a computerized database of
9 downtown properties available for industrial recruitment and shall make information
10 contained in the database available to the public including industry, municipalities,
11 and counties."
12 Section 2. This act becomes effective July 1, 1997.



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March 19, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Counsel *KCB*

RE: House Bill 48 - Downtown Database

House Bill 48 was recommended by the Downtown Revitalization Study Committee. The bill adds a provision to G.S. 143B-431 to require the Department of Commerce to maintain a computerized database of properties in downtown areas which are available for industrial recruitment. The information is to be available to the public, particularly to industry and local governments.

The Study Committee found that a database in the Department of Commerce of downtown properties available for industrial use would provide valuable assistance to industries interested in locating in downtown areas and to local governments in recruiting such businesses. Currently, there is no central location where such information can be obtained on a Statewide basis. The Committee concluded that since downtown areas already possess the water, sewer, electric, telecommunications and road infrastructures necessary for business and industry, the State's past investments in these infrastructures areas are well served by the recruitment of business to downtowns.

The bill was considered by the Subcommittee on Business and Labor. The subcommittee adopted an amendment adding regional economic development partnerships to the entities having access to the database, and recommended a favorable report for the bill as amended.

This act would become effective July 1, 1997.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

S. B. No. _____

COMMITTEE SUBSTITUTE _____

DATE March 26, 1997

Amendment No. 1
(to be filled in by
Principal Clerk)

Rep.) Harry Redwire
Sen.) _____

1 moves to amend the bill on page 1, line 3 10 + 11

2 () WHICH CHANGES THE TITLE

3 by rewriting the lines to read:

4 _____
5 "contained in the database available to the
6 public."
7 _____

8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

SIGNED [Signature]

ADOPTED FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 48

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

H48-ARO-002

Date March 26, 1997

Comm. Sub. []
Amends Title []

Representative Goodwin

1 moves to amend the bill on page 1, line 11,
2 by adding the following sentence to the end of the line:

3
4 'The database shall include the location of such downtown property,
5 a description of the size, buildings present, available utilities
6 and infrastructure, plus any other data provided by the community,
7 such as cultural and educational data.'"
8

SIGNED Wayne Goodwin
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED TABLED _____

MINUTES

HOUSE COMMITTEE ON COMMERCE

April 2, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Cherie Berry, Co-Chair, Walter Church, Co-Chair, William Hiatt, Co-Chair, Timothy Tallent, Co-Chair, Martha Alexander, Cary Allred, Rex Baker, Donald Bonner, Joanne Bowie, Flossie Boyd-McIntyre, Robert Brawley, Lanier Cansler, Bill Culpepper, Donald Davis, Andrew Dedmon, Dub Dickson, Jerry Dockham, Ruth Easterling, Stan Fox, Wayne Goodwin, Thomas Hardaway, Sandy Hardy, Dewey Hill, George Holmes, Bob Hunter, John Hurley, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Paul McCrary, Ed McMahan, Richard Morgan, Mia Morris, Mia Morris Charles Neeley, John Nichols, Edd Nye, Liston Ramsey, David Redwine, Gene Rogers, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Gregg Thompson, Cynthia Watson, Michael Wilkins, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, April 2, 1997 in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bills were discussed:

House bill 400, entitled AN ACT TO REWRITE THE AUTHORITY OF THE STATE BANKING COMMISSION TO ASSESS BANKS AND CONSUMER FINANCE LICENSEES FOR THE MAINTENANCE AND OPERATION OF THE OFFICE OF THE COMMISSIONER OF BANKS. Rep. Tim Tallent, the bill sponsor, explained the bill. Hal Lingerfelt, Banking Commissioner, and Chuck Barber of NC Consumer Finance were recognized and addressed the committee. Questions were taken from several committee members. Rep. McCombs moved to give the bill a favorable report. The bill was voted on and given a favorable report.

House bill 447, entitled AN ACT TO PROVIDE TECHNICAL ASSISTANCE TO EMPLOYERS WITH HIGH WORKERS' COMPENSATION RATE MODIFIERS. Rep. Carpenter, the bill sponsor, explained the bill. This bill would require the Dept. of Labor to offer technical assistance on how to reduce injuries and illnesses in the workplace to employers who have workers compensation rate modifiers of 1.5 or greater. Questions were taken from the committee. Before a vote could be taken, it was time for adjournment.

House bill 495, was assigned to the Commerce sub-committee on Public Utilities.

The committee was adjourned at 10:50 am.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 400 A BILL TO BE ENTITLED AN ACT TO REWRITE THE AUTHORITY OF
THE STATE BANKING COMMISSION TO ASSESS BANKS AND CONSUMER
FINANCE LICENSEES FOR THE MAINTENANCE AND OPERATION OF THE OFFICE
OF THE COMMISSIONER OF BANKS.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance .
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(a), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The (committee substitute) bill/resolution (, as amended,) is placed on the Consent Calendar of _____. The original bill/resolution is placed on the Unfavorable Calendar.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(a), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered _____ sent to the Senate.

____ without engrossment. _____ by Special message.

____ sent to the Senate for concurrence in

____ House amendment (s).

____ House committee substitute.

____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 400

Short Title: Bank Assessments/AB.

(Public)

Sponsors: Representatives Tallent and Ramsey.

Referred to: Commerce, if favorable, Finance.

March 5, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REWRITE THE AUTHORITY OF THE STATE BANKING
3 COMMISSION TO ASSESS BANKS AND CONSUMER FINANCE LICENSEES
4 FOR THE MAINTENANCE AND OPERATION OF THE OFFICE OF THE
5 COMMISSIONER OF BANKS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 53-122 reads as rewritten:

8 "~~§ 53-122. Fees for examinations and other services and assessments.~~

9 (a) For the purpose of ~~paying the salaries and necessary traveling expenses~~
10 ~~operating and maintaining the office~~ of the Commissioner of Banks, ~~State bank~~
11 ~~examiners, assistant State bank examiners, clerks, stenographers and other employees~~
12 ~~of the Commissioner of Banks,~~ banks and consumer finance licensees doing business
13 under the authority of Chapter 53 of the General Statutes shall pay the following fees
14 and assessments shall be paid into the office of the Commissioner of Banks: Banks
15 within 10 days after the assessment:

16 (1) ~~Each bank and each branch and each limited service facility of any~~
17 ~~bank which under the laws of the State of North Carolina is~~
18 ~~subject to supervision and examination by the Commissioner of~~
19 ~~Banks and is authorized to do business or is in process of voluntary~~
20 ~~liquidation, shall, within 10 days after the assessment has been~~
21 ~~made, pay into the office of the Commissioner of Banks according~~
22 ~~to its total resources as shown by its report of condition made to~~
23 ~~the Commissioner of Banks at the close of business December 31,~~
24 ~~1978, and on the thirty first day of December, or the date most~~

1 ~~nearly approximating same of each year thereafter on which a~~
2 ~~report of condition is made to the Commissioner of Banks not in~~
3 ~~excess of the following fees for its annual examination: eighty five~~
4 ~~dollars (\$85.00) for the first one hundred thousand dollars~~
5 ~~(\$100,000) of assets or less, twelve dollars (\$12.00) for each one~~
6 ~~hundred thousand dollars (\$100,000) or fraction in excess thereof,~~
7 ~~and three dollars and fifty cents (\$3.50) for each one hundred~~
8 ~~thousand dollars (\$100,000) or fraction thereof of trust assets,~~
9 ~~which said trust assets shall not include real estate carried as such;~~
10 ~~provided, however, with respect to loan agencies or brokers subject~~
11 ~~to the provisions of Article 15 of Chapter 53 of the General~~
12 ~~Statutes, the fee shall be one hundred seventy dollars (\$170.00) for~~
13 ~~the first one hundred thousand dollars (\$100,000) of assets or less,~~
14 ~~and twelve dollars (\$12.00) for each one hundred thousand dollars~~
15 ~~(\$100,000) or fraction in excess thereof.~~

16 (2) ~~All examinations made other than those provided for in~~
17 ~~subdivision (1) hereof shall be deemed special examinations and~~
18 ~~for such special examination the bank shall pay into the office of~~
19 ~~the Commissioner of Banks the following fees for each special~~
20 ~~examination: eighty five dollars (\$85.00) for the first one hundred~~
21 ~~thousand dollars (\$100,000) of assets or less, twelve dollars (\$12.00)~~
22 ~~for each one hundred thousand dollars (\$100,000) or fraction in~~
23 ~~excess thereof, and three dollars and fifty cents (\$3.50) for each~~
24 ~~one hundred thousand dollars (\$100,000) or fraction thereof of~~
25 ~~trust assets, which said trust assets shall not include real estate~~
26 ~~carried as such; provided, however, with respect to loan agencies~~
27 ~~or brokers subject to the provisions of Article 15 of Chapter 53 of~~
28 ~~the General Statutes, the fee shall be one hundred seventy dollars~~
29 ~~(\$170.00) for the first one hundred thousand dollars (\$100,000) of~~
30 ~~assets or less, and twelve dollars (\$12.00) for each one hundred~~
31 ~~thousand dollars (\$100,000) or fraction in excess thereof. The fees~~
32 ~~paid for special examination shall be based on the assets of the~~
33 ~~bank examined as of the date of such examination.~~

34 (1) Banks. -- Each bank shall pay a cumulative assessment based on
35 its total assets, as shown on its report of condition made to the
36 Commissioner of Banks as of December 31 each year or the date
37 most nearly approximating the same, not to exceed the amount
38 determined by applying the following schedule: (i) on the first
39 fifty million dollars (\$50,000,000) of assets, or fraction thereof, six
40 thousand dollars (\$6,000); (ii) on assets over fifty million dollars
41 (\$50,000,000), but not more than two hundred fifty million dollars
42 (\$250,000,000), twelve dollars (\$12.00) per one hundred thousand
43 dollars (\$100,000), or fraction thereof; (iii) on assets over two
44 hundred fifty million dollars (\$250,000,000), but not more than five

1 hundred million dollars (\$500,000,000), nine dollars (\$9.00) per
2 one hundred thousand dollars (\$100,000), or fraction thereof; (iv)
3 on assets over five hundred million dollars (\$500,000,000), but not
4 more than one billion dollars (\$1,000,000,000), seven dollars
5 (\$7.00) per one hundred thousand dollars (\$100,000), or fraction
6 thereof; (v) on assets over one billion dollars (\$1,000,000,000), but
7 not more than ten billion dollars (\$10,000,000,000), five dollars
8 (\$5.00) per one hundred thousand dollars (\$100,000), or fraction
9 thereof; and (vi) on assets over ten billion dollars
10 (\$10,000,000,000), three dollars (\$3.00) per one hundred thousand
11 dollars (\$100,000), or fraction thereof. Additionally, each bank
12 shall pay an assessment on trust assets held by it in the amount of
13 one dollar (\$1.00) per one hundred thousand dollars (\$100,000) of
14 the assets, or fraction thereof; except that banks are not required to
15 pay assessments on real estate held as trust assets.

16 (2) Consumer Finance Licensees. -- Each consumer finance licensee
17 shall pay an assessment not to exceed eighteen dollars (\$18.00) per
18 one hundred thousand dollars (\$100,000) of assets, or fraction
19 thereof, plus a fee of three hundred dollars (\$300.00) per office;
20 provided, however, a consumer finance licensee shall pay a
21 minimum annual assessment of not less than five hundred dollars
22 (\$500.00). The assessment shall be determined on a consumer
23 finance licensee's total assets as shown on its report of condition
24 made to the Commissioner of Banks as of December 31 each year,
25 or the date most nearly approximating the same.

26 (3) Special Assessment. -- If the Commissioner of Banks determines
27 that the financial condition or manner of operation of a bank or
28 consumer finance licensee warrants further examination or an
29 increased level of supervision, or in the event of a merger or
30 conversion of a savings institution organized under State or federal
31 law into a bank, or conversion of a federally chartered bank into a
32 State bank, the institutions may be subject to assessment not to
33 exceed the amount determined in accordance with the schedule set
34 forth in subdivision (1) of subsection (a) of this section for banks
35 or subdivision (2) for consumer finance licensees.

36 ~~(3) (b)~~ The Commissioner of Banks State Banking Commission may by rule set
37 the amount to be collected for processing any application or ~~petition~~ proceeding
38 required by law to be filed with the Commissioner and for obtaining copies of any
39 ~~publication or~~ public record of the Banking Commission.

40 ~~(4) (c)~~ In all civil and criminal cases tried in any of the courts of this State
41 wherein any of the employees of the Commissioner of Banks are used as witnesses, a
42 ~~fee of ten dollars (\$10.00) per day~~ day, to be determined by the presiding judge, and
43 actual expenses incurred shall be allowed such witnesses and the same shall be paid
44 to the Commissioner of Banks by the clerk of the court of the county in which the

1 case is tried and thereafter charged in bill of costs as are other costs incurred in the
2 ~~trial; and in all civil actions tried in any of the courts of this State, wherein any of the~~
3 ~~employees of the Commissioner of Banks are required as witnesses, the party~~
4 ~~requiring such employee as witness shall deposit with the Commissioner of Banks~~
5 ~~when the subpoena is served a sufficient sum to cover the witness fee of ten dollars~~
6 ~~(\$10.00) per day and expenses, and such sums as may thus be advanced shall~~
7 ~~thereafter be charged in the bill of costs as other costs are charged. All sums paid~~
8 ~~under this subdivision shall be paid to the Commissioner of Banks as are fees for~~
9 ~~examination and used in like manner. matter.~~

10 (5) (d) The total ~~compensation and necessary traveling~~ expenses of the employees
11 office of the Commissioner of Banks shall not in any one year exceed the total fees
12 collected under the provisions of this section, provided ~~such~~ the expenses ~~and~~
13 ~~compensation~~ may exceed the total fees collected in any year when surplus funds are
14 available.

15 (6) (e) In the first half of each calendar year, the State Banking Commission shall
16 review the estimated cost of maintaining the office of the Commissioner of Banks for
17 the next fiscal year. If the estimated fees and assessments provided for under
18 ~~subdivisions (1) and (2) this section~~ shall exceed the estimated cost of maintaining the
19 office of the Commissioner of Banks for the next fiscal year, then the State Banking
20 Commission may reduce by uniform percentage the fees provided for in ~~subdivisions~~
21 ~~(1) and (2) of this section but not in a percentage greater than fifty percent (50%) nor~~
22 ~~to an amount which will reduce the amount of the fees to be collected below the~~
23 ~~estimated cost of maintaining the office of the Commissioner of Banks for the next~~
24 ~~fiscal year. this section.~~ If the estimated fees and assessments provided for under
25 ~~subdivisions (1) and (2) this section~~ shall be less than the estimated cost of
26 maintaining the office of the Commissioner of Banks for the next fiscal year, then the
27 State Banking Commission may increase by uniform percentage the fees provided for
28 in ~~subdivisions (1) and (2) of this section~~ to an amount which will increase the
29 amount of the fees and assessments to be collected to an amount at least equal to the
30 estimated cost of maintaining the office of the Commissioner of Banks for the next
31 fiscal year. ~~Such fees shall be reduced whenever a surplus exists which exceeds the~~
32 ~~estimated cost of operating the office of the Commissioner of Banks for one year,~~
33 ~~even if such reduction shall result in the collection of a smaller sum than the~~
34 ~~estimated cost of maintaining the office of the Commissioner of Banks for that year.~~
35 In no event shall any surplus at the end of any fiscal year resulting from the
36 collection of fees and assessments pursuant to this section revert to the general fund.

37 (f) The Commissioner of Banks may collect the assessments provided for in
38 subsection (a) of this section annually or in periodic installments as approved by the
39 State Banking Commission."

40 Section 2. G.S. 53-184(b) reads as rewritten:

41 "(b) Each licensee shall file annually with the Commissioner of Banks on or
42 before the thirty-first day of March for the 12 months' period ending the preceding
43 December 31, reports on forms prescribed by the Commissioner. ~~Such reports~~
44 Reports shall disclose in detail and under appropriate headings the ~~resources,~~ assets

1 and liabilities of ~~such licensee at the beginning and at the end of the period, the~~
2 licensee, the income, expense, gain, loss, ~~and a reconciliation of surplus or net worth~~
3 ~~with the balance sheets, the ratios of the profits to the assets reported, the monthly~~
4 ~~average number and amount of loans outstanding and a classification of loans made,~~
5 ~~by size and by security,~~ and ~~such~~ any other information as the Commissioner may
6 require. ~~Such reports~~ Reports shall be verified by the oath or affirmation of the
7 owner, manager, president, vice-president, cashier, secretary or treasurer of ~~such~~ the
8 licensee."

9 Section 3. G.S. 53-184(d) is repealed.

10 Section 4. This act becomes effective January 1, 1998, and applies to
11 assessments due for years beginning with 1998.



**North Carolina General Assembly
Legislative Services Office**

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March 26, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochran Brown, Committee Co-Counsel *KCB*

RE: **House Bill 400 - Bank Assessments/AB**

House Bill 400 amends G.S. 53-122 to rewrite the provisions relating to fees and assessments which banks and consumer finance licensees are charged for the maintenance and operation of the office of the Commissioner of Banks.

Under current law, banks are assessed \$85 for the first \$100,000 of assets and \$12 per \$100,000 for assets in excess of \$100,000. The assessment must be paid within ten days of the assessment which is based on the annual report of total assets which the bank makes to the Commissioner. Trust assets are currently assessed at the rate of \$3.50 for each \$100,000, and consumer finance licensees are assessed at \$170 for the first \$100,000 of assets and \$12 per \$100,000 for assets in excess of \$100,000.

This bill proposes the following schedule for banks: \$6,000 on the first \$50,000,000 of assets; \$12 per \$100,000 on assets between \$50,000,000 and \$250,000,000; \$9 per \$100,000 on assets between \$250,000,000 and \$500,000,000; \$7 per \$100,000 on assets between \$500,000,000 and \$1,000,000,000; \$5 per \$100,000 on assets between \$1,000,000,000 and \$10,000,000,000; and \$3 per \$100,000 on assets in excess of \$10,000,000,000. In addition, banks must pay an assessment of \$1 per \$100,000 on trust assets. Consumer finance licensees will be assessed at the rate of \$18 per \$100,000 of assets plus \$300 per office, with a minimum annual assessment of \$500.

The Commissioner of Banks is also authorized to make special assessments when it is determined that further examinations or increased supervision is necessary. A special assessment may not exceed the amount determined by the initial assessment.

The bill also changes the fee of \$10 per day which is charged in civil and criminal cases when employees of the Commissioner of Banks are used as witnesses. This bill allows the presiding

judge to determine the per day fee which will be charged at the end of the trial along with other costs.

The Commissioner retains the authority to increase or decrease assessments when warranted to meet the office's operating expenses. However, this bill deletes the provision that the Commissioner may not reduce the fees and assessments by more than fifty percent for any one year.

Section 2 of the bill revises the provision relating to the reports which must be filed by consumer finance licensees to update the language.

Section 3 deletes an outdated provision which requires consumer finance affiliates to file composite financial reports. The all now file consolidated reports.

The act is made effective January 1, 1998 and applies to assessments due for years beginning with 1998.

REVISION OF BANK AND CONSUMER FINANCE ASSESSMENTS
HOUSE BILL 400

In response to a state audit of the Office of the Commissioner of Banks, the North Carolina Banking Commission conducted a study of (1) the cost of examining the various industries under the supervision of the Banking Commission; (2) the method of calculating the annual assessment of state-chartered banks and consumer finance licensees; (3) fee structures of the Office of the Comptroller of the Currency and our sister states; (4) changes in the banking industry since the last revision of the assessment schedule in 1979; and (5) clarification of existing language within the current statute.

Findings of the study included:

- the current assessment schedule is not fair and causes a disproportionate burden on large banks, while the assessment on some banks did not cover the direct cost of their examinations;
- bank assessments are currently supplementing the cost of regulating non-bank operations in the agency; and
- our current assessment schedule places North Carolina at a competitive disadvantage in maintaining a state-chartered system in an interstate banking environment.

House Bill 400 addresses the concerns of the Banking Commission. The proposed bill more evenly distributes the cost of operating the Office of the Commissioner of Banks among the state-chartered banks and non-bank operations supervised by the agency. Flexibility is maintained in the proposed bill to allow the Banking Commissioner to adjust the assessments within a stated range to ensure adequate funding for the agency. The total assessments under the proposed bill will be less than the current statute. Most state-chartered banks will see a decrease in their assessments, and the consumer finance licensees will see an increase in their assessments.

The proposed bill has been discussed at several meetings of the State Banking Commission and with the trade associations of the banking and consumer finance industries. We know of no opposition to the bill.

BANK ASSESSMENT CALCULATIONS

CURRENT STATUTE	PROPOSED BILL
First \$100,000 of Assets \$85	First \$50 Million of Assets \$6,000
Assets Over \$100,000 \$12 per \$100,000	\$50 Million-\$250 Million \$12 Per \$100,000
	\$250 Million-\$500 Million \$9 Per \$100,000
	\$500 Million- \$1 Billion \$7 Per \$100,000
	\$1 Billion-\$10 Billion \$5 Per \$100,000
	Assets Over \$10 Billion \$3 Per \$100,000
Estimated Annual Assessment \$6,045,000	Estimated Annual Assessment \$3,071,000

CONSUMER FINANCE ASSESSMENT CALCULATION

CURRENT STATUTE	PROPOSED BILL
First \$100,000 of Assets \$170	\$18 Per \$100,000 of Assets
Assets over \$100,000 \$12 per \$100,000	Plus \$300 per Office
	Minimum Annual Assessment \$500
Estimated Annual Assessment \$ 304,000	Estimated Annual Assessment \$494,000

**STATE-CHARTERED COMMERCIAL BANK
HISTORICAL PROFILE
1979 - 1996**

<i>Year</i>	<i>No. of Banks</i>	<i>Total Assets</i>
1979	57	7,201,055,000
1980	56	7,641,345,000
1981	52	8,675,501,000
1982	50	9,461,674,000
1983	50	10,213,510,000
1984	46	11,606,443,000
1985	46	10,361,363,000
1986	49	12,403,815,000
1987	53	13,590,301,000
1988	56	15,204,120,000
1989	62	16,845,388,000
1990	63	21,858,311,000
1991	66	23,759,310,000
1992	64	25,539,715,000
1993	57	30,617,010,000
1994	54	33,513,073,000
1995	50	44,915,467,000
1996	46	49,146,314,000

VISITOR REGISTRATION SHEET

COMMERCE

APRIL 2, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Joe Pennacchia	Piedmont Natural Gas - Charlotte
Stuart Dixon	N.C. Natural Gas Corp. - Fayetteville
Mitche Staderis	Charlotte Chamber
Dale Badgett	Greater Mount Airy Chamber
Deborah Lamm	Dept of Commerce / Energy
Ed Byrne	R W Byrne
Kay French	SEEF Bailey NC 27807
Gisele Rankin	Public Staff - NCUC
Sam Kirby	NCUC
Doug Lyberty	N.C. DOC
Judith Smith	NC OCOB
St. J. Swanson	Deputy Commissioner of Banks
McNeil Chestnut	AG's Office
Hal Lingerfelt	Comm. Bks.
Rob Sch. held	NCUDC
Paul Stock	NC BANKERS Association
LYMAN COOPER	GSX CORP
Paul Jackson	INFORM Inc. / CHA
Charles H. Blum	NC Financial Svcs Assoc
Gordon Allen	NC BA
JUE M. Ives	M. C. Ives Cons. H. W.
Becky Brown	Labor
Bill McAulay	PSNC
Doug Hawes	NCPMA
W. Jerry Williams	NC Retail Assn.
Charles Jeffers	Labor Dept
Mary Pemberton	Payment Special
Betsy Jones	NC ITHA

MINUTES

HOUSE COMMITTEE ON COMMERCE

April 23, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Cherie Berry, Co-Chair, Walter Church, Co-Chair, William Hiatt, Co-Chair, Martha Alexander, Rex Baker, Daniel Blue, Donald Bonner, Joanne Bowie, Flossie Boyd-McIntyre, Robert Brawley, Lanier Cansler, Billy Creech, Bill Culpepper, Donald Davis, Andrew Dedmon, Dub Dickson, Jerry Dockham, Ruth Easterling, Stan Fox, Wayne Goodwin, Thomas Hardaway, Dewey Hill, George Holmes, John Hurley, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Paul McCrary, Ed McMahan, Frank Mitchell, Mia Morris, John Nichols, Edd Nye, Liston Ramsey, John Rayfield, David Redwine, Dennis Reynolds, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Gregg Thompson, Nurham Warwick, Cynthia Watson, Michael Wilkins, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, April 23, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bills were discussed:

House Bill 990, entitled AN ACT TO EXEMPT CERTAIN NONPROFIT AND CONSUMER-OWNED WATER OR SEWER UTILITIES FROM REGULATION BY THE UTILITIES COMMISSION. Rep. Church, the bill sponsor, explained the bill. Rep. Church offered an amendment. The amendment was adopted. The amended bill was made into a committee substitute. Rep. Creech moved for a favorable report as to the committee substitute and unfavorable to the original bill. The motion passed. The bill was voted upon and given a favorable report for the committee substitute.

House Bill 899, entitled AN ACT TO MODIFY THE REQUIREMENTS FOR DISCLOSURES UPON THE SALE OF RESIDENTIAL PROPERTIES. Rep. Howard, the bill sponsor, explained the bill and moved for adoption of a committee substitute. The motion was adopted and the committee substitute was before the committee. Questions were offered by the committee. Tim Minton, from the North Carolina Realtors Association, addressed the committee and their questions. Steve Reinhard of Johnson, Mercer, and Hearn Attorneys at Law addressed the committee. Chairman Miner recognized Walker Reagan, Staff Counsel, to answer questions. Rep. Nye moved for a favorable report as to the committee substitute and unfavorable to the original bill. The

motion passed. The bill was voted upon and given a favorable report for the committee substitute.

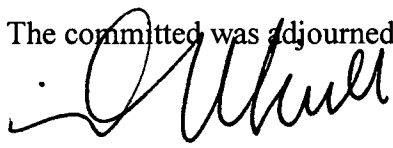
House Bill 940, entitled AN ACT TO CLARIFY THAT A REAL ESTATE BROKER AND REAL ESTATE SALESPERSON ARE NOT EMPLOYEES WITHIN THE MEANING OF THE WORKERS' COMPENSATION ACT. Rep. Redwine, the bill sponsor, explained the bill. Questions were offered by the committee. Tim Minton, from the North Carolina Realtors Association, addressed the committee and their questions. Rep. Blue moved for a favorable report and be re-referred to the House Insurance Committee. The bill was voted upon and given a favorable report. The bill was re-referred to the House Insurance Committee.

House Bill 414, entitled AN ACT RELATING TO SEVERANCE PAY FOR THE PURPOSES OF UNEMPLOYMENT INSURANCE BENEFITS. Rep. Redwine, the bill sponsor, explained the bill. Rep. Redwine offered an amendment. The amendment was adopted. The amended bill was made into a committee substitute. Rep. Redwine moved for a favorable report as to the committee substitute and unfavorable to the original bill. The bill was voted upon and given a favorable report to the committee substitute.

House Bill 871, entitled AN ACT AMENDING THE WAGE AND HOUR ACT TO RAISE THE STATE MINIMUM WAGE, TO PERMIT EMPLOYERS SUBJECT TO THE STATE MINIMUM WAGE TO TAKE THE SAME TIP CREDIT AS FEDERALLY COVERED EMPLOYERS, AND TO EXEMPT COMPUTER PROFESSIONALS FROM MINIMUM WAGE AND OVERTIME PROVISIONS. Rep. Berry, the bill sponsor, explained the bill. Rep. Womble moved for a favorable report. The bill was voted upon and given a favorable report.

Chairman Miner assigned House Bill 1125, entitled AN ACT TO REVISE THE CLASSIFICATION OF LENDERS WHO MAY CONTRACT FOR THE PAYMENT OF CHARGES IN CERTAIN CIRCUMSTANCES, to the House Commerce Subcommittee on Financial Institutions.

The committee was adjourned at 10:55 a.m.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 990 A BILL TO BE ENTITLED AN ACT TO EXEMPT CERTAIN NONPROFIT
AND CONSUMER-OWNED WATER OR SEWER UTILITIES FROM REGULATION BY
THE UTILITIES COMMISSION.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill, unfavorable as to the original bill.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-437
HOUSE BILL 990

AN ACT TO EXEMPT CERTAIN NONPROFIT AND CONSUMER-OWNED
WATER OR SEWER UTILITIES AND CERTAIN SMALL WATER OR SEWER
UTILITIES FROM REGULATION BY THE UTILITIES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-3(23) reads as rewritten:

"(23) a. 'Public utility' means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:

1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term 'public utility' shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is for such person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation;
2. Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation, or operating a public sewerage system for compensation; provided, however, that the term 'public utility' shall not include any person or company whose sole operation consists of selling water to less than ~~40~~ 15 residential customers, except that any person or company which constructs a water system in a subdivision with plans for ~~40~~ 15 or more lots and which holds itself out by contracts or other means at the time of said construction to serve an area containing more than ~~40~~ 15 residential building lots shall be a public utility at the time of such planning or holding out to serve such ~~40~~ 15 or more building lots, without regard to the number of actual customers connected;
3. Transporting persons or household goods by street, suburban or interurban bus or railways for the public for compensation;

4. Transporting persons or household goods by railways or motor vehicles, or any other form of transportation for the public for compensation, except motor carriers exempted in G.S. 62-260, and except carriers by air;
 5. Transporting or conveying gas, crude oil or other fluid substance by pipeline for the public for compensation;
 6. Conveying or transmitting messages or communications by telephone or telegraph, or any other means of transmission, where such service is offered to the public for compensation.
- b. The term 'public utility' shall for rate-making purposes include any person producing, generating or furnishing any of the foregoing services to another person for distribution to or for the public for compensation.
 - c. The term 'public utility' shall include all persons affiliated through stock ownership with a public utility doing business in this State as parent corporation or subsidiary corporation as defined in G.S. 55-2 to such an extent that the Commission shall find that such affiliation has an effect on the rates or service of such public utility.
 - d. The term 'public utility,' except as otherwise expressly provided in this Chapter, shall not include a municipality, an authority organized under the North Carolina Water and Sewer Authorities Act, electric or telephone membership ~~corporation or nonprofit water membership or consumer owned corporations financed by the Farmers Home Administration, the United States Department of Housing and Urban Development, or any similar or successor federal financing agency, provided, that (i) any such financing administration, department or agency exercise substantial control over and regulation of any such corporation's rates and terms and conditions of service, and (ii) the members or consumer owners of any such corporation, pursuant to the corporation's articles of incorporation and bylaws, shall elect the governing board of the corporation;~~ corporation; or any person not otherwise a public utility who furnishes such service or commodity only to himself, his employees or tenants when such service or commodity is not resold to or used by others; provided, however, that any person other than a nonprofit organization serving only its members, who distributes or provides utility service to his employees or tenants by individual meters or by other coin-operated devices with a charge for metered or coin-operated utility service shall be a public utility within the definition and meaning of this Chapter with respect to the regulation of rates and provisions of service rendered through such meter or coin-operated device imposing such separate metered utility charge. If any person conducting a public utility shall also conduct any enterprise not a public utility, such enterprise is not subject to the provisions of this Chapter. A water or sewer system owned by a homeowners' association that

provides water or sewer service only to members or leaseholds of members is not subject to the provisions of this Chapter.

- e. The term 'public utility' shall include the University of North Carolina insofar as said University supplies telephone service, electricity or water to the public for compensation from the University Enterprises defined in G.S. 116-41.1(9).
- f. The term 'public utility' shall include the Town of Pineville insofar as said town supplies telephone services to the public for compensation. The territory to be served by the Town of Pineville in furnishing telephone services, subject to the Public Utilities Act, shall include the town limits as they exist on May 8, 1973, and shall also include the area proposed to be annexed under the town's ordinance adopted May 3, 1971, until January 1, 1975.
- g. The term 'public utility' shall not include a hotel, motel, time share or condominium complex operated primarily to serve transient occupants, which imposes charges to occupants for local, long-distance, or wide area telecommunication services when such calls are completed through the use of facilities provided by a public utility, and provided further that the local services received are rated in accordance with the provisions of G.S. 62-110(d) and the applicable charges for telephone calls are prominently displayed in each area where occupant rooms are located.
- h. The term 'public utility' shall not include the resale of electricity by (i) a campground operated primarily to serve transient occupants, or (ii) a marina; provided that (i) the campground or marina charges no more than the actual cost of the electricity supplied to it, (ii) the amount of electricity used by each campsite or marina slip occupant is measured by an individual metering device, (iii) the applicable rates are prominently displayed at or near each campsite or marina slip, and (iv) the campground or marina only resells electricity to campsite or marina slip occupants.
- i. The term 'public utility' shall not include the State, the Office of the State Controller, or the Microelectronics Center of North Carolina in the provision or sharing of switched broadband telecommunications services with non-State entities or organizations of the kind or type set forth in G.S. 143B-426.39.
- j. The term 'public utility' shall not include any person, not otherwise a public utility, conveying or transmitting messages or communications by mobile radio communications service. Mobile radio communications service includes one-way or two-way radio service provided to mobile or fixed stations or receivers using mobile radio service frequencies."

Section 2. Article 6 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-110.5. Commission may exempt certain nonprofit and consumer-owned water or sewer utilities.

The Commission may exempt any water or sewer utilities owned by nonprofit membership or consumer-owned corporations from regulation under this Chapter, subject to those conditions the Commission deems appropriate, if:

- (1) The members or consumer-owners of the corporation elect the governing board of the corporation pursuant to the corporation's articles of incorporation and bylaws; and
- (2) The Commission finds that the organization and the quality of service of the utility are adequate to protect the public interest to the extent that additional regulation is not required by the public convenience and necessity."

read: Section 3. G.S. 62-300(a) is amended by adding a new subdivision to

"(15) One hundred dollars (\$100.00) for each application for exemption filed by nonprofit and consumer-owned water or sewer utilities pursuant to G.S. 62-110.5."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of August, 1997.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:19 a.m. this 28th day of August, 1997

GENERAL ASSEMBLY OF NORTH CAROLINA

Amended

SESSION 1997

H

1

HOUSE BILL 990

*Lavor
to
Comm Hee
Sub*

Short Title: Exempt Certain Nonprofit Utilities.

(Public)

Sponsors: Representatives Church and Buchanan.

Referred to: Commerce.

April 17, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT CERTAIN NONPROFIT AND CONSUMER-OWNED
3 WATER OR SEWER UTILITIES FROM REGULATION BY THE UTILITIES
4 COMMISSION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 62-3(23) reads as rewritten:
7 "(23) a. 'Public utility' means a person, whether organized under the
8 laws of this State or under the laws of any other state or
9 country, now or hereafter owning or operating in this State
10 equipment or facilities for:
11 1. Producing, generating, transmitting, delivering or
12 furnishing electricity, piped gas, steam or any other
13 like agency for the production of light, heat or power
14 to or for the public for compensation; provided,
15 however, that the term 'public utility' shall not
16 include persons who construct or operate an electric
17 generating facility, the primary purpose of which
18 facility is for such person's own use and not for the
19 primary purpose of producing electricity, heat, or
20 steam for sale to or for the public for compensation;
21 2. Diverting, developing, pumping, impounding,
22 distributing or furnishing water to or for the public
23 for compensation, or operating a public sewerage
24 system for compensation; provided, however, that the

- 1 term 'public utility' shall not include any person or
2 company whose sole operation consists of selling
3 water to less than 10 residential customers, except
4 that any person or company which constructs a water
5 system in a subdivision with plans for 10 or more lots
6 and which holds itself out by contracts or other
7 means at the time of said construction to serve an
8 area containing more than 10 residential building lots
9 shall be a public utility at the time of such planning
10 or holding out to serve such 10 or more building lots,
11 without regard to the number of actual customers
12 connected;
- 13 3. Transporting persons or household goods by street,
14 suburban or interurban bus or railways for the public
15 for compensation;
- 16 4. Transporting persons or household goods by railways
17 or motor vehicles, or any other form of transportation
18 for the public for compensation, except motor carriers
19 exempted in G.S. 62-260, and except carriers by air;
- 20 5. Transporting or conveying gas, crude oil or other
21 fluid substance by pipeline for the public for
22 compensation;
- 23 6. Conveying or transmitting messages or
24 communications by telephone or telegraph, or any
25 other means of transmission, where such service is
26 offered to the public for compensation.
- 27 b. The term 'public utility' shall for rate-making purposes
28 include any person producing, generating or furnishing any
29 of the foregoing services to another person for distribution
30 to or for the public for compensation.
- 31 c. The term 'public utility' shall include all persons affiliated
32 through stock ownership with a public utility doing business
33 in this State as parent corporation or subsidiary corporation
34 as defined in G.S. 55-2 to such an extent that the
35 Commission shall find that such affiliation has an effect on
36 the rates or service of such public utility.
- 37 d. The term 'public utility,' except as otherwise expressly
38 provided in this Chapter, shall not include a municipality,
39 an authority organized under the North Carolina Water and
40 Sewer Authorities Act, electric or telephone membership
41 corporation or nonprofit water membership or
42 consumer-owned corporations financed by the Farmers
43 Home Administration, the United States Department of
44 Housing and Urban Development, or any similar or

1 ~~successor federal financing agency, provided, that (i) any~~
2 ~~such financing administration, department or agency~~
3 ~~exercise substantial control over and regulation of any such~~
4 ~~corporation's rates and terms and conditions of service, and~~
5 ~~(ii) the members or consumer owners of any such~~
6 ~~corporation, pursuant to the corporation's articles of~~
7 ~~incorporation and bylaws, shall elect the governing board of~~
8 ~~the corporation; corporation; or any person not otherwise a~~
9 public utility who furnishes such service or commodity only
10 to himself, his employees or tenants when such service or
11 commodity is not resold to or used by others; provided,
12 however, that any person other than a nonprofit
13 organization serving only its members, who distributes or
14 provides utility service to his employees or tenants by
15 individual meters or by other coin-operated devices with a
16 charge for metered or coin-operated utility service shall be a
17 public utility within the definition and meaning of this
18 Chapter with respect to the regulation of rates and
19 provisions of service rendered through such meter or coin-
20 operated device imposing such separate metered utility
21 charge. If any person conducting a public utility shall also
22 conduct any enterprise not a public utility, such enterprise is
23 not subject to the provisions of this Chapter. A water or
24 sewer system owned by a homeowners' association that
25 provides water or sewer service only to members or
26 leaseholds of members is not subject to the provisions of this
27 Chapter.

28 e. The term 'public utility' shall include the University of
29 North Carolina insofar as said University supplies telephone
30 service, electricity or water to the public for compensation
31 from the University Enterprises defined in G.S. 116-41.1(9).

32 f. The term 'public utility' shall include the Town of Pineville
33 insofar as said town supplies telephone services to the public
34 for compensation. The territory to be served by the Town of
35 Pineville in furnishing telephone services, subject to the
36 Public Utilities Act, shall include the town limits as they
37 exist on May 8, 1973, and shall also include the area
38 proposed to be annexed under the town's ordinance
39 adopted May 3, 1971, until January 1, 1975.

40 g. The term 'public utility' shall not include a hotel, motel,
41 time share or condominium complex operated primarily to
42 serve transient occupants, which imposes charges to
43 occupants for local, long-distance, or wide area
44 telecommunication services when such calls are completed

through the use of facilities provided by a public utility, and provided further that the local services received are rated in accordance with the provisions of G.S. 62-110(d) and the applicable charges for telephone calls are prominently displayed in each area where occupant rooms are located.

h. The term 'public utility' shall not include the resale of electricity by (i) a campground operated primarily to serve transient occupants, or (ii) a marina; provided that (i) the campground or marina charges no more than the actual cost of the electricity supplied to it, (ii) the amount of electricity used by each campsite or marina slip occupant is measured by an individual metering device, (iii) the applicable rates are prominently displayed at or near each campsite or marina slip, and (iv) the campground or marina only resells electricity to campsite or marina slip occupants.

i. The term 'public utility' shall not include the State, the Office of the State Controller, or the Microelectronics Center of North Carolina in the provision or sharing of switched broadband telecommunications services with non-State entities or organizations of the kind or type set forth in G.S. 143B-426.39.

j. The term 'public utility' shall not include any person, not otherwise a public utility, conveying or transmitting messages or communications by mobile radio communications service. Mobile radio communications service includes one-way or two-way radio service provided to mobile or fixed stations or receivers using mobile radio service frequencies."

Section 2. Article 6 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-110.5. Commission may exempt certain nonprofit and consumer-owned water or sewer utilities.

The Commission may exempt water or sewer utilities owned by nonprofit membership or consumer-owned corporations from regulation under this Chapter, subject to those conditions the Commission deems appropriate, if:

(1) The members or consumer-owners of the corporation elect the governing board of the corporation pursuant to the corporation's articles of incorporation and bylaws; and

(2) The Commission finds that the organization and the quality of service of the utility are adequate to protect the public interest to the extent that additional regulation is not required by the public convenience and necessity."

Section 3. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 990

DATE April 23, 1997

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) _____
) _____
Sen.) _____

1 moves to amend the bill on page 2, line 3, 5, 8 and 10

2 () WHICH CHANGES THE TITLE
3 by deleting the number 10 each time it appears and inserting in lieu
4 thereof the number 15

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____



**North Carolina General Assembly
Legislative Services Office**

George R. Hall, Legislative Services Officer
(919) 733-7044

Eraline W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
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Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

April 23, 1997

MEMORANDUM

TO: House Committee on Commerce

FROM:  Steven Rose, Committee Counsel for Public Utilities

RE: House Bill 990; Exempt nonprofit and consumer-owned water or sewer utilities

House Bill 990 amends Chapter 62 of the General Statutes to provide a regulatory exemption for nonprofit and consumer-owned water or sewer utilities.

Section 1 of the bill amends G.S. 62-3(23) by deleting the current exemption for nonprofit membership or consumer-owned corporations that supply water. One of the qualifications for eligibility for the exemption is that a federal financing agency has to exercise substantial control over and regulation of the corporation's rates and terms and conditions of service. In fact, no federal financing agency does, or ever has, exercised such control.

Section 2 of the bill adds a new G.S. 62-110.5 to Article 6 of Chapter 62 providing that the Utilities Commission may exempt nonprofit and consumer-owned water or sewer utilities from regulation, subject to conditions the Commission deems appropriate, provided that:

- (1) The members or consumer-owners of the corporation elect the governing board, and
- (2) The Commission finds that the organization and quality of service of the utility are adequate to protect the public interest.

The act is effective when it becomes law.

It should be pointed out that under G.S. 62-3(23)a.2., entities selling water to less than ten residential customers are not considered public utilities.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 899 A BILL TO BE ENTITLED AN ACT TO MODIFY THE REQUIREMENTS FOR
DISCLOSURES UPON THE SALE OF RESIDENTIAL PROPERTIES.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill, unfavorable to the original bill.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

SESSION LAW 1997-472
HOUSE BILL 899

AN ACT TO MODIFY THE REQUIREMENTS FOR DISCLOSURES UPON THE
SALE OF RESIDENTIAL PROPERTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47E-4 reads as rewritten:

"§ 47E-4. Required disclosures.

(a) With regard to transfers described in G.S. 47E-1, the owner of the real property shall furnish to a purchaser a residential property disclosure statement. The disclosure statement shall contain the language and be in the form set forth in subsection (b) of this section. The statement shall:

- (1) Disclose those items which are required to be disclosed relative to the characteristics and condition of the property and of which the owner has actual knowledge; or
- (2) State that the owner makes no representations as to the characteristics and condition of the real property or any improvements to the real property except as otherwise provided in the real estate contract.

(b) ~~A residential property disclosure statement shall read as follows:~~

~~"RESIDENTIAL PROPERTY DISCLOSURE STATEMENT~~

~~Notice to Seller and Purchaser~~

~~The North Carolina Residential Property Disclosure Act requires the owner of residential real property consisting of 1-4 units, whenever the property is to be sold, exchanged, optioned, or purchased pursuant to a lease with option to purchase, to furnish to the purchaser a RESIDENTIAL PROPERTY DISCLOSURE STATEMENT disclosing certain conditions of the property. Certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling.~~

~~Property Address/Description: _____~~

~~The undersigned owner(s) of the real property described above disclose the following present conditions of the real property of which the owner(s) has actual knowledge with regard to:~~

~~1. Any abnormality or malfunctioning of the water supply or sanitary sewage disposal system:~~

~~Yes None Known No Representations~~

~~If Yes, please describe _____~~

~~2. Any damage to or abnormality of the roof, chimneys, floors, foundation, basement, or load-bearing walls, or any leak in the roof or basement:~~

Yes None Known No Representations

If Yes, please describe _____

3. Any abnormality or malfunctioning of the plumbing, electrical, heating, or cooling systems:

Yes None Known No Representations

If Yes, please describe _____

4. Present infestation of wood-destroying insects or organisms or past infestation the damage for which has not been repaired:

Yes None Known No Representations

If Yes, please describe _____

5. The real property's violation of zoning laws, restrictive covenants or building codes; any encroachment of the real property from or to adjacent real property; or notice from any governmental agency affecting this real property:

Yes None Known No Representations

If Yes, please describe _____

6. Presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material (whether buried or covered):

Yes None Known No Representations

If Yes, please describe _____

The purchaser and owner may wish to obtain professional advice about, or inspections of, the real property. The owner has a duty to disclose any material inaccuracy in this statement or any material change in the real property which is discovered between the date of this statement and the closing of the transaction. The owner(s) acknowledge having examined this statement before signing below:

Owner Date Owner Date

The purchaser(s) acknowledge receipt of a copy of this disclosure statement and further acknowledge that they have examined it before signing below:

Purchaser Date Purchaser Date

(b) The North Carolina Real Estate Commission shall develop and require the use of a standard disclosure statement to comply with the requirements of this section. The disclosure statement shall specify that certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling, and shall include at least the following characteristics and conditions of the property:

- (1) The water supply and sanitary sewage disposal system;
- (2) The roof, chimneys, floors, foundation, basement, and other structural components and any modifications of these structural components;
- (3) The plumbing, electrical, heating, cooling, and other mechanical systems;
- (4) Present infestation of wood-destroying insects or organisms or past infestation the damage for which has not been repaired;
- (5) The zoning laws, restrictive covenants, building codes, and other land-use restrictions affecting the real property, any encroachment of the real property from or to adjacent real property, and notice from any governmental agency affecting this real property; and
- (6) Presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material

(whether buried or covered), and other environmental contamination.

The disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics or conditions, or the owner is making no representations as to any characteristic or condition.

(c) The rights of the parties to a real estate contract as to conditions of the property of which the owner had no actual knowledge are not affected by this Article unless the residential disclosure statement states that the owner makes no representations as to those conditions. If the statement states that an owner makes no representations as to the conditions of the property, then the owner has no duty to disclose those conditions, whether or not the owner should have known of them."

Section 2. G.S. 47E-5 reads as rewritten:

"§ 47E-5. Time for disclosure; cancellation of contract.

(a) The owner of real property subject to this Chapter shall deliver to the purchaser the ~~written disclosures~~ disclosure statement required by this Chapter no later than the time ~~such~~ the purchaser makes an offer to purchase, exchange, or option the property, or exercises the option to purchase the property pursuant to a lease with an option to purchase. The residential property disclosure statement may be included in the real estate contract, in an addendum, or in a separate document.

(b) If the disclosure statement required by this Chapter is not delivered to such the purchaser after prior to or at the time the purchaser makes an offer, the purchaser may ~~terminate cancel~~ any resulting real estate ~~contract or withdraw the offer no later than three days after the purchaser receives the disclosure statement.~~ contract. The purchaser's right to cancel shall expire if not exercised prior to the following, whichever occurs first:

- (1) The end of the third calendar day following the purchaser's receipt of the disclosure statement;
- (2) The end of the third calendar day following the date the contract was made;
- (3) Settlement or occupancy by the purchaser in the case of a sale or exchange; or
- (4) Settlement in the case of a purchase pursuant to a lease with option to purchase.

Any right of the purchaser to cancel the contract provided by this subsection is waived conclusively if not exercised in the manner required by this subsection.

In order to ~~terminate cancel~~ a real estate contract when permitted by this section, the purchaser shall, within the time required above, give written notice to the owner or the owner's agent either by hand delivery or by depositing into the United States mail, postage prepaid, and properly addressed to the owner or the owner's agent. If the purchaser ~~terminates cancels~~ a real estate contract ~~or withdraws an offer~~ in compliance with this subsection, the ~~termination or withdrawal of offer cancellation~~ shall be without penalty to the purchaser, and the purchaser shall be entitled to a refund of any deposit shall be promptly returned to the purchaser. Any rights of the purchaser to terminate the contract provided by this subsection are waived conclusively if not exercised prior to the earlier of settlement or occupancy by the purchaser in the case of a sale or exchange, or prior to settlement in the case of a purchase pursuant to a lease with option to purchase. the purchaser may have paid. Any rights of the purchaser to cancel or terminate the contract for reasons other than those set forth in this subsection are not affected by this subsection."

Section 3. G.S. 47E-6 reads as rewritten:

"§ 47E-6. Owner liability for disclosure of information provided by others.

~~If the owner chooses to provide a disclosure of property condition pursuant to G.S. 47E-4, the~~ The owner may discharge the duty to disclose imposed by this Chapter by

providing a written report attached to the residential property disclosure statement by a public agency or by an engineer, land surveyor, geologist, pest control operator, contractor, home inspector or other expert, dealing with matters within the scope of the public agency's functions or the expert's license or expertise. The owner shall not be liable for any error, inaccuracy, or omission of any information delivered pursuant to this section if the error, inaccuracy, or omission was made in reasonable reliance upon the information provided by the public agency or expert and the owner was not grossly negligent in obtaining the information or transmitting it."

Section 4. G.S. 47E-8 reads as rewritten:

"§ 47E-8. Agent's duty.

A real estate broker or salesman acting as ~~the an~~ an agent of the owner of in a residential real property estate transaction has the duty to inform ~~the owner each of the clients of the real estate broker or salesman~~ of the owner's client's rights and obligations under this Chapter. Provided the owner's real estate broker or salesman has performed this duty, the broker or salesman shall not be responsible for the owner's willful refusal to provide a prospective purchaser with a residential property disclosure statement. Nothing in this Chapter shall be construed to conflict with, or alter, the broker or salesman's duties under Chapter 93A of the General Statutes."

Section 5. G.S. 47E-1 reads as rewritten:

"§ 47E-1. Applicability.

This Chapter applies to the following transfers of residential real property consisting of not less than one nor more than four dwelling units, whether or not the transaction is with the assistance of a licensed real estate broker or salesman:

- (1) Sale or exchange,
- (2) Installment land sales contract,
- (3) Option, or
- (4) Lease with option to purchase, except as provided in ~~G.S. 47E-1-2(10)~~ G.S. 47E-2(10)."

Section 6. Section 1 of this act becomes effective October 1, 1998, and applies to contracts entered into on or after that date. Sections 2, 3, and 4 of this act become effective December 1, 1997, and apply to contracts entered into on or after that date. Section 5 of this act is effective when this act becomes law. Effective when this act becomes law, the North Carolina Real Estate Commission is authorized to develop the standard disclosure statement under the amendments made by this act to G.S. 47E-4(b) to become effective October 1, 1998.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 11:53 a.m. this 2nd day of September, 1997



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April 23, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **HOUSE BILL 899 - RESIDENTIAL PROPERTY DISCLOSURE ACT -**
Representative Howard.

House Bill 899 amends the Residential Property Disclosure Act by adding additional conditions that must be disclosed by the seller to the buyer of residential property. The bill also clarifies when the buyer's right to cancel a contract terminates when the disclosure is not furnished to the buyer at or prior to the time of the contract.

Section 1 of the bill amends G.S. 47E-4 by deleting the disclosure form in the statute and requiring the Real Estate Commission to develop a standard disclosure statement. This section also amends the matters that are to be included in a standard disclosure statement by adding disclosure of characteristics and conditions of: structural components and modifications to structural components, other mechanical systems, other land-use restrictions, and environmental contamination.

Section 2 amends the time for the buyer to cancel the contract in situations where the disclosure was not furnished to the buyer prior to or at the time of contract. Current law gives the buyer three days from the date the disclosure is given to cancel the contract. This bill provides that the right to cancel terminates either at the end of the third day following receipt of the disclosure, the end of the third day following the date the contract is made, upon settlement or occupancy in the case of sale or exchange, or settlement in the case of a purchase pursuant to a lease with option to purchase. The right to cancel is waived if not exercised within the applicable time limits, in writing, and either hand delivered or mailed to the seller or the seller's agent.

Section 3 makes a stylistic change.

MEMORANDUM

April 23, 1997

Page 2

Section 4 amends the duty of the agent to inform the owner of the property of the duty to disclose by requiring the agent to inform the agent's clients of their rights under this law, regardless whether they are the seller or the buyer.

The bill would become effective December 1, 1997.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for

H.B. 940 A BILL TO BE ENTITLED AN ACT TO CLARIFY THAT A REAL ESTATE
BROKER AND REAL ESTATE SALES PERSON ARE NOT EMPLOYEES WITHIN THE
MEANING OF THE WORKERS' COMPENSATION ACT.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
Insurance.

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance

With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)

With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

HOUSE BILL 940

*Law
to Insurance*

Short Title: Worker's Compensation/Realtor Status.

(Public)

Sponsors: Representatives Redwine; Boyd-McIntyre, Clary, Decker, Dedmon, Hill, Howard, McComas, McMahan, Sherrill, Smith, Thompson, and Wainwright.

Referred to: Commerce, if favorable, Insurance.

April 14, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT A REAL ESTATE BROKER AND REAL ESTATE
3 SALESPERSON ARE NOT EMPLOYEES WITHIN THE MEANING OF THE
4 WORKERS' COMPENSATION ACT.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 97-2(2) reads as rewritten:

7 "(2) Employee. -- The term 'employee' means every person engaged in
8 an employment under any appointment or contract of hire or
9 apprenticeship, express or implied, oral or written, including
10 aliens, and also minors, whether lawfully or unlawfully employed,
11 but excluding persons whose employment is both casual and not in
12 the course of the trade, business, profession or occupation of his
13 employer, and as relating to those so employed by the State, the
14 term 'employee' shall include all officers and employees of the
15 State, including such as are elected by the people, or by the
16 General Assembly, or appointed by the Governor to serve on a per
17 diem, part-time or fee basis, either with or without the
18 confirmation of the Senate; as relating to municipal corporations
19 and political subdivisions of the State, the term 'employee' shall
20 include all officers and employees thereof, including such as are
21 elected by the people. The term 'employee' shall include members
22 of the North Carolina national guard, except when called into the

1 service of the United States, and members of the North Carolina
2 State guard, and members of these organizations shall be entitled
3 to compensation for injuries arising out of and in the course of the
4 performance of their duties at drill, in camp, or on special duty
5 under orders of the Governor. The term 'employee' shall include
6 deputy sheriffs and all persons acting in the capacity of deputy
7 sheriffs, whether appointed by the sheriff or by the governing body
8 of the county and whether serving on a fee basis or on a salary
9 basis, or whether deputy sheriffs serving upon a full-time basis or a
10 part-time basis, and including deputy sheriffs appointed to serve in
11 an emergency, but as to those so appointed, only during the
12 continuation of the emergency. The sheriff shall furnish to the
13 board of county commissioners a complete list of all deputy sheriffs
14 named or appointed by him immediately after their appointment,
15 and notify the board of commissioners of any changes made
16 therein promptly after such changes are made. Any reference to
17 an employee who has been injured shall, when the employee is
18 dead, include also his legal representative, dependents, and other
19 persons to whom compensation may be payable: Provided, further,
20 that any employee as herein defined of a municipality, county, or
21 of the State of North Carolina while engaged in the discharge of
22 his official duty outside the jurisdictional or territorial limits of the
23 municipality, county, or the State of North Carolina and while
24 acting pursuant to authorization or instruction from any superior
25 officer, shall have the same rights under this Article as if such duty
26 or activity were performed within the territorial boundary limits of
27 his employer.

28 Every executive officer elected or appointed and
29 empowered in accordance with the charter and bylaws of a
30 corporation shall be considered as an employee of such
31 corporation under this Article.

32 Any such executive officer of a corporation may,
33 notwithstanding any other provision of this Article, be exempt
34 from the coverage of the corporation's insurance contract by such
35 corporation specifically excluding such executive officer in such
36 contract of insurance and the exclusion to remove such executive
37 officer from the coverage shall continue for the period such
38 contract of insurance is in effect, and during such period such
39 executive officers thus exempted from the coverage of the
40 insurance contract shall not be employees of such corporation
41 under this Article.

42 All county agricultural extension service employees who do
43 not receive official federal appointments as employees of the
44 United States Department of Agriculture and who are field faculty

1 members with professional rank as designated in the memorandum
2 of understanding between the North Carolina Agricultural
3 Extension Service, North Carolina State University, A & T State
4 University and the boards of county commissioners shall be
5 deemed to be employees of the State of North Carolina. All other
6 county agricultural extension service employees paid from State or
7 county funds shall be deemed to be employees of the county board
8 of commissioners in the county in which the employee is employed
9 for purposes of workers' compensation.

10 The term employee shall also include members of the Civil
11 Air Patrol currently certified pursuant to G.S. 143B-491(a) when
12 performing duties in the course and scope of a State approved
13 mission pursuant to Article 11 of Chapter 143B.

14 Employee shall not include any person performing voluntary
15 service as a ski patrolman who receives no compensation for such
16 services other than meals or lodging or the use of ski tow or ski lift
17 facilities or any combination thereof.

18 Employee shall not include any person who satisfies both of
19 the following conditions:

- 20 a. The person is a real estate broker or real estate
21 salesman within the meaning of G.S. 93A-2.
22 b. The person is an independent contractor within the
23 meaning of section 3508 of the Internal Revenue
24 Code, as defined in G.S. 105-228.90.

25 Any sole proprietor or partner of a business or any member
26 of a limited liability company may elect to be included as an
27 employee under the workers' compensation coverage of such
28 business if he is actively engaged in the operation of the business
29 and if the insurer is notified of his election to be so included. Any
30 such sole proprietor or partner or member of a limited liability
31 company shall, upon such election, be entitled to employee
32 benefits and be subject to employee responsibilities prescribed in
33 this Article."

34 Section 2. This act is effective when it becomes law.



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April 23, 1997

TO: House Commerce Committee.
FROM: William R. Gilkeson, Staff Attorney.
RE: House Bill 940 – Workers Comp/Realtor Status.

House Bill 940, introduced by Rep. Redwine, would exempt from the definition of "employee" for purposes of the Workers Compensation Act a real estate broker or real estate salesman who is an independent contractor within the meaning of a section of the federal tax code.

At stake is whether a real estate broker is required to provide Workers Comp coverage for a real estate salesman. Workers Comp law requires an "employer" to provide workers comp for the employer's "employee." If a person is not an "employee," the law does not require anyone to pay Workers Comp premiums for that person. The Workers Comp law also treats as void any agreement between an employer and employee for the employee to reimburse the employer for the cost of providing Workers Comp. It makes it a misdemeanor for an employer to deduct the cost of Workers Comp premiums from an employee's paycheck. (*G.S. 97-21.*)

The relationship between real estate broker and real estate salesman – whether the salesman is the broker's employee -- has a recent history. In 1995, the General Assembly amended the Real Estate License Law, Chapter 93A, to provide that a real estate salesman could agree for the salesman to reimburse the broker for Workers Comp premiums, if the salesman met the definition of non-employee in Section 3508 of the IRS Code. That act did not attempt to change the definition of "employee" in the Workers Comp Act, Chapter 97, to exclude real estate salesman from the definition of "employee," so it is still arguable that the salesman is the broker's employee and is required to provide Worker's Comp to the salesman.

House Bill 940 would amend the Workers Comp law's definition of "employee," removing "real estate salesman" from that definition if the salesman meets the definition in the Real Estate License Law and comes within the meaning of independent contractor in Section 3508 of the IRS Code. Section 3508 says that for IRS purposes a person is not an employee if that person is a "qualified real estate agent," that is:

1. The person is a licensed real estate agent.
2. Substantially all of the person's remuneration is directly related to sales or output rather than hours worked.
3. The person's services are performed pursuant to a contract that states that the person is not an employee for tax purposes.

The bill would become effective upon becoming law.

§ 93A-2. Definitions and exceptions.

(a) A real estate broker within the meaning of this Chapter is any person, partnership, corporation, limited liability company, association, or other business entity who for a compensation or valuable consideration or promise thereof lists or offers to list, sells or offers to sell, buys or offers to buy, auctions or offers to auction (specifically not including a mere crier of sales), or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or who sells or offers to sell leases of whatever character, or rents or offers to rent any real estate or the improvement thereon, for others.

(b) The term real estate salesman within the meaning of this Chapter shall mean and include any person who under the supervision of a real estate broker, for a compensation or valuable consideration is associated with or engaged with or on behalf of a licensed real estate broker to do, perform or deal in any act, acts or transactions set out or comprehended by the foregoing definition of real estate broker.

(c) The provisions of this Chapter shall not apply to and shall not include:

- (1) Any person, partnership, corporation, limited liability company, association, or other business entity who, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, where the acts are performed in the regular course of or as incident to the management of that property and the investment therein;
- (2) Any person acting as an attorney-in-fact under a duly executed power of attorney from the owner authorizing the final consummation of performance of any contract for the sale, lease or exchange of real estate;
- (3) The acts or services of an attorney-at-law;
- (4) Any person, while acting as a receiver, trustee in bankruptcy, guardian, administrator or executor or any person acting under order of any court;
- (5) Any person, while acting as a trustee under a trust agreement, deed of trust or will, or his regular salaried employees;
- (6) Any salaried person employed by a licensed real estate broker, for and on behalf of the owner of any real estate or the improvements thereon, which the licensed broker has contracted to manage for the owner, if the salaried employee is limited in his employment to: exhibiting units on the real estate to prospective tenants; providing the prospective tenants with information about the lease of the units; accepting applications for lease of the units; completing and executing preprinted form leases; and accepting security deposits and rental payments for the units only when the deposits and rental payments are made payable to the owner or the broker employed by the owner. The salaried employee shall not negotiate the amount of security deposits or rental payments and shall not negotiate leases or any rental agreements on behalf of the owner or broker; or
- (7) Any owner who personally leases or sells his own property. (1957, c. 744, s. 2; 1967, c. 281, s. 1; 1969, c. 191, s. 2; 1975, c. 108; 1983, c. 81, ss. 4, 5; 1985, c. 535, s. 1; 1995, c. 351, s. 20.)

Effect of Amendments. — The 1995 amendment, effective October 1, 1995, substituted "corporation, limited liability company, association, or other business entity" for "association or corpora-

tion" preceding "who for a compensation" in subsection (a) and also preceding "who, as owner or lessor" in subdivision (c)(1).

AN ACT TO ALLOW A CONTRACT BETWEEN A REAL ESTATE BROKER AND A REAL ESTATE SALESMAN TO INCLUDE A PROVISION TO REIMBURSE THE REAL ESTATE BROKER FOR THE COST OF INCLUDING THE SALESMAN UNDER THE BROKER'S WORKERS' COMPENSATION COVERAGE OF THE BROKER'S BUSINESS.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 93A of the General Statutes is amended by adding a new section to read:

"§ 93A-11. Reimbursement by real estate independent contractor of brokers' workers' compensation.

(a) Notwithstanding the provisions of G.S. 97-21 or any other provision of law, a real estate broker may include in the governing contract with a real estate salesman whose nonemployee status is recognized pursuant to section 3508 of the United States Internal Revenue Code, 26 U.S.C. § 3508, an agreement for the salesman to reimburse the broker for the cost of covering that salesman under the broker's workers' compensation coverage of the broker's business.

(b) Nothing in this section shall affect a requirement under any other law to provide workers' compensation coverage or in any manner exclude from coverage any person, firm, or corporation otherwise subject to the provisions of Article 1 of Chapter 97 of the General Statutes."

Sec. 2. This act is effective upon ratification and applies to any governing contract between a real estate broker and a real estate salesman entered into on or after that date.

In the General Assembly read three times and ratified this the 30th day of May, 1995.

"(l) phases out between the amount of earned income at which the phaseout begins under subsection (b) of section 32 and the amount of earned income at which the credit under section 32 is phased out under such subsection, or

"(C) If an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 32 as if it were a credit—

"(i) of not more than 14 percent of earned income not in excess of 1/2 of the amount of earned income taken into account under section 32(a), which

"(ii) phases out between amounts of earned income which are 1/2 of the amounts of earned income described in subparagraph (B)(i)."

In 1986, P.L. 99-514, Sec. 111(d)(2), amended clauses (c)(2)(B)(i) and (c)(2)(B)(ii) . . . Sec. 111(d)(3), amended clauses (c)(2)(C)(i) and (c)(2)(C)(ii), effective for tax yrs. begin. after 12/31/86.

Prior to amendment, clauses (c)(2)(B)(i) and (c)(2)(B)(ii) read as follows:

"(i) of not more than 11 percent of the first \$5,000 of earned income, which

"(ii) phases out between \$6,500 and \$11,000 of earned income, or"

Prior to amendment, clauses (c)(2)(C)(i) and (c)(2)(C)(ii) read as follows:

"(i) of not more than 11 percent of the first \$2,500 of earned income, which

"(ii) phases out between \$3,250 and \$5,500 of earned income."

—P.L. 99-514, Sec. 111(e), provides as follows:

"(e) *Employee notification.*—

"The Secretary of the Treasury is directed to require, under regulations, employers to notify any employee who has not had any tax withheld from wages (other than an employee whose wages are exempt from withholding pursuant to section 3402(n) of the Internal Revenue Code of 1986) that such employee may be eligible for a refund because of the earned income credit."

In 1984, P.L. 98-369, Sec. 474(r)(30), substituted 'section 32' for 'section 43' each place it appeared in subsections (b), (c) and (e), effective for tax yrs. begin. after 12/31/83, and to carrybacks from such years.

—P.L. 98-369, Sec. 1042(d)(3), amended clauses (c)(2)(B)(i) and (ii) . . . Sec. 1042(d)(4), amended clauses (c)(2)(C)(i) and (ii), effective for tax yrs. begin. after 12/31/84.

Prior to amendment, clauses (c)(2)(B)(i) and (ii) read as follows:

"(i) of not more than 10 percent of the first \$5,000 of earned income, which

"(ii) phases out between \$6,000 and \$10,000 of earned income, or"

Prior to amendment, clauses (c)(2)(C)(i) and (ii) read as follows:

"(i) of not more than 10 percent of the first \$2,500 of earned income, which

"(ii) phases out between \$3,000 and \$5,000 of earned income."

In 1980, P.L. 96-222, Sec. 101(a)(2)(D), changed the effective date for amendments made by Sec. 105(b)(1) of P.L. 95-600, from remuneration paid after 6/30/78, to remuneration paid after 6/30/79, see below.

In 1978, P.L. 95-600, Sec. 105(b)(1), added Code Sec. 3507, effective [as amended by Sec. 101(a)(2)(D) of P.L. 96-222, see above] for remuneration paid after 6/30/79.

Other provisions:

Application of amendments made by § 721(b) and (c) of Act Dec. 8, 1994. Act Dec. 8, 1994, P. L. 103-465, Title VII, Subtitle B, § 721(d)(2), 108 Stat. 5002, provides: "The amendments made by subsections (b) and (c) [amending subsec. (c) of this section and 26 USCS § 6051(a)] shall apply to remuneration paid after December 31, 1994."

CODE OF FEDERAL REGULATIONS

General provisions relating to employment taxes, 26 CFR §§ 31.3501(a)-1T et seq.
Advance payment of earned income credit, 26 CFR §§ 38.3507-1 et seq.

RESEARCH GUIDE

Am Jur:

33 Am Jur 2d, Federal Taxation (1996) ¶ 1363.

33A Am Jur 2d, Federal Taxation (1996) ¶ 9229.

Social Security Law and Practice:

2 Soc Sec LP, Benefit Programs § 19:31.

2A Soc Sec LP, Applications and Payments §§ 35:101, 103.

RIA Coordinators:

11 Fed Tax Coord 2d ¶ ¶ H-4970-4977.

§ 3508. Treatment of real estate agents and direct sellers.

(a) **General rule.** For purposes of this title, in the case of services performed as a qualified real estate agent or as a direct seller

(1) the individual performing such services shall not be treated as an employee, and

(2) the person for whom such services are performed shall not be treated as an employer.

(b) **Definitions.** For purposes of this section

(1) **Qualified real estate agent.** The term 'qualified real estate agent' means any individual who is a sales person if—

(A) such individual is a licensed real estate agent,

(B) substantially all of the remuneration (whether or not paid in cash) for the services performed by such individual as a real estate agent is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

(C) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for Federal tax purposes.

(2) **Direct seller.** The term "direct seller" means any person if—

(A) such person

(i) is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment,

(ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment, or

(iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),

(B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

(C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for Federal tax purposes.

(3) **Coordination with retirement plans for self-employed.** This section shall not apply for purposes of subtitle A to the extent that the individual is treated as an employee under section 401(c)(1) (relating to self-employed individuals).

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

In 1996, P.L. 104-188, Sec. 1118(a) (applicable to services performed after 12/31/95, as provided by Sec. 1118(b), which appears as a note to this section), amended subsec. (b)(2)(A) by deleting "or" at the end of cl. (i), inserting "or" at the end of cl. (ii), and adding cl. (iii). In 1982, P.L. 97-248, Sec. 269(a), added Code Sec. 3508, effective for services performed after 12/31/82.

Other provisions:

Application of Aug. 20, 1996 amendments. Act Aug. 20, 1996, P. L. 104-188, Title I, Subtitle A, § 1118(b), 110 Stat. 1764, provides: "The amendments made by this section [amending subsec. (b)(2)(A) of this section] shall apply to services performed after December 31, 1995."

CODE OF FEDERAL REGULATIONS

General provisions relating to employment taxes, 26 CFR §§ 31.3501(a)-1T et seq.

RESEARCH GUIDE

Am Jur:

33A Am Jur 2d, Federal Taxation (1996) ¶¶ 9161, 9502, 9513, 9805, 9808.

Social Security Law and Practice:

1 Soc Sec LP, Overview; Covered Employment § 5:23.

RIA Coordinators:

11 Fed Tax Coord 2d ¶ H-4923.

INTERPRETIVE NOTES AND DECISIONS

"Consumer products" for purposes of § 3508 include both tangible consumer goods and intangible consumer services; consumer products include home study educational courses for instruction-by-mail educational institute; accordingly, direct sell-

ers of home study educational courses who meet other § 3508 requirements can be considered independent contractors. Cleveland Inst. of Electronics, Inc. v United States (1992, ND Ohio) 787 F Supp

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt and Tallent** for the Committee on
COMMERCE.

Committee Substitute for

H.B. 414 A BILL TO BE ENTITLED AN ACT RELATING TO SEVERANCE PAY FOR
THE PURPOSES OF UNEMPLOYMENT INSURANCE BENEFITS.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance

x With a favorable report as to committee substitute bill, unfavorable as to original bill.

With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-120
HOUSE BILL 414

AN ACT RELATING TO SEVERANCE PAY FOR THE PURPOSES OF
UNEMPLOYMENT INSURANCE BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-8(10) reads as rewritten:

"(10) Total and partial unemployment.

- a. For the purpose of establishing a benefit year, an individual shall be deemed to be unemployed:
 1. If he has payroll attachment but, because of lack of work during the payroll week for which he is requesting the establishment of a benefit year, he worked less than the equivalent of three customary scheduled full-time days in the establishment, plant, or industry in which he has payroll attachment as a regular employee. If a benefit year is established, it shall begin on the Sunday preceding the payroll week ending date.
 2. If he has no payroll attachment on the date he reports to apply for unemployment insurance. If a benefit year is established, it shall begin on the Sunday of the calendar week with respect to which the claimant met the reporting requirements provided by Commission regulation.
- b. For benefit weeks within an established benefit year, a claimant shall be deemed to be:
 1. Totally unemployed, irrespective of job attachment, if his earnings for such week, including payments defined in subparagraph c below, would not reduce his weekly benefit amount as prescribed by G.S. 96-12(c).
 2. Partially unemployed, if he has payroll attachment but because of lack of work during the payroll week for which he is requesting benefits he worked less than three customary scheduled full-time days in the establishment, plant, or industry in which he is employed and whose earnings from such employment (including payments defined in subparagraph c below) would qualify him for a reduced payment as prescribed by G.S. 96-12(c).

3. Part-totally unemployed, if the claimant had no job attachment during all or part of such week and whose earnings for odd jobs or subsidiary work (including payments defined in subparagraph c below) would qualify him for a reduced payment as prescribed by G.S. 96-12(c).
- c. No individual shall be considered unemployed if, with respect to the entire calendar week, he is receiving, has received, or will receive as a result of his separation from employment, remuneration in the form of (i) wages in lieu of notice, (ii) accrued vacation pay, (iii) terminal leave pay, (iv) severance pay, (v) separation pay, or (vi) dismissal payments or wages by whatever name. Provided, however, if such payment is applicable to less than the entire week, the claimant may be considered to be unemployed as defined in subsections a and b of this paragraph. Sums received by any individual for services performed as an elected official who holds an elective office, as defined in G.S. 128-1.1(d), or as a member of the N. C. National Guard, as defined in G.S. 127A-3, or as a member of any reserve component of the United States Armed Forces shall not be considered in determining that individual's employment status under this subsection. Provided further, however, that an individual shall be considered to be unemployed as to receipt of severance pay for any week the individual is registered at or attending any institution of higher education as defined in G.S. 96-8(5)j., or secondary school as defined in G.S. 96-8(5)q., or Commission approved vocational, educational, or training programs as defined in G.S. 96-13.
- d. An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the Commission may by regulation otherwise prescribe."

Section 2. This act is effective when it becomes law and applies to new initial claims filed on or after September 1, 1997.

In the General Assembly read three times and ratified this the 22nd day of May, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:36 p.m. this 29th day of May, 1997

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. _____

DATE 4-23-97

S. B. No. _____

Amendment No. 1

(to be filled in by
Principal Clerk)

Rep.) _____
Sen.) _____

moves to amend the bill on page _____, line _____

by _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____



**North Carolina General Assembly
Legislative Services Office**

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(919) 733-7044

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Terrence D. Sullivan, Director
Research Division
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April 23, 1997

TO: House Commerce Committee.
FROM: William R. Gilkeson, Staff Attorney.
RE: House Bill 414 – Unemployment Benefits/Severance Pay.

House Bill 414, introduced by Representatives Berry and Redwine, would allow laid-off workers who received severance pay to also receive unemployment compensation during any week that that person is in school.

Current North Carolina law disqualifies a person who loses a job from receiving unemployment insurance benefits for any week in which that person receives severance pay. If the person who was making \$1,000 a week is laid off and receives a lump sum of \$10,000 in severance pay, that severance pay is spread out over 10 weeks so that the person is treated as if she was still employed and receiving her \$1,000 a week paycheck for those 10 weeks after layoff. Only after the severance pay runs out may the employee begin receiving unemployment benefits.

Unlike some aspects of unemployment compensation law, the severance pay exclusion is not mandated federally. Indeed, not all states treat severance pay the way North Carolina does.

House Bill 414 would not change the basic way North Carolina law treats severance pay. It would, however, lift the disqualification and allow a person who got a severance package to receive unemployment benefits for any week that person was registered at or attending one of three types of schools. The types of schools, listed in the bill, are:

1. Institutions of higher learning defined in G.S. 96-8(5)j.
2. Secondary schools defined in G.S. 96-8(5)q.
3. Vocational, educational, or training programs defined in G.S. 96-13.

The bill would become effective immediately and would apply to initial claims filed on or after September 1, 1997.

- j. Prior to January 1, 1978, any institution of higher education or State hospital located in this State which

is an agency or instrumentality of this State, or which is owned or operated by the State or an instrumentality of this State (or by this State and one or more states or their instrumentalities), provided such employing unit, in each of 20 different calendar weeks within the current or preceding calendar year (whether or not such weeks are or were consecutive), has or had in employment one or more individuals (not necessarily simultaneously and irrespective of whether the same individuals are or were employed in each such week), or in any calendar quarter in either the current or preceding calendar year paid for services in employment wages of one thousand five hundred dollars (\$1,500) or more.

For purposes of this Chapter, "institution of higher education" means an educational institution in this State which: (i) admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such certificate; (ii) is legally authorized in this State to provide a program of education beyond high school; (iii) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for credit toward such a degree or a program of training to prepare students for gainful employment in a recognized occupation; (iv) is a public or other nonprofit institution; and (v) notwithstanding any of the foregoing provisions of this subdivision, is a university, college, or community college in the State.

For purposes of this Chapter, "State hospital" means any institution licensed by the Department of Human Resources under Chapter 122C or Chapter 131E of the General Statutes.

- q. With respect to employment on and after January 1, 1978, any nonprofit elementary and secondary school. For purposes of this Chapter, "secondary school" means any school not an institution of higher education as defined in G.S. 96-8(5).

§ 96-13. Benefit eligibility conditions.

(a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the Commission finds that —

- (1) The individual has registered for work at and thereafter has continued to report at an employment office at regular intervals no more than four weeks apart and in accordance with such regulations as the Commission may prescribe;
- (2) He has made a claim for benefits in accordance with the provisions of G.S. 96-15(a);
- (3) The individual is able to work, and is available for work: Provided that, unless temporarily excused by Commission regulations, no individual shall be deemed available for work unless he establishes to the satisfaction of the Commission that he is actively seeking work: Provided further, that an individual customarily employed in seasonal employment shall, during the period of nonseasonal operations, show to the satisfaction of the Commission that such individual is actively seeking employment which such individual is qualified to perform by past experience or training during such nonseasonal period: Provided further, however, that no individual shall be considered available for work for any week not to exceed two in any calendar year in which the Commission finds that his unemployment is due to a vacation. In administering this proviso, benefits shall be paid or denied on a payroll-week basis as established by the employing unit. A week of unemployment due to a vacation as provided herein means any payroll week within which the equivalent of three customary full-time working days consist of a vacation period. For the purpose of this subdivision, any unemployment which is caused by a vacation period and which occurs in the calendar year following that within which the vacation period begins shall be deemed to have occurred in the calendar year within which such vacation period begins. For purposes of this subdivision, no individual shall be deemed available for work during any week that the individual tests positive for a controlled substance if (i) the test is a controlled substance examination administered under Article 20 of Chapter 95 of the General Statutes, (ii) the test is required as a condition of hire for a job, and (iii) the job would be suitable work for the claimant. The employer shall report to the Commission, in accordance with regulations adopted by the Commission, each claimant that tests positive for a controlled substance under this subdivision. For the purposes of this subdivision, no individual shall be deemed available for work during any week in which he is registered at and attending an established school, or is on vacation during or between successive quarters or semesters of such school attendance, or on vacation between yearly terms of such school attendance. Except: (i) Any person who was engaged in full-time employment concurrent with his school attendance, who is otherwise eligible, shall not be denied benefits because of school enrollment and attendance. Except: (ii) Any otherwise qualified unemployed individual who is attending a vocational school or

training program which has been approved by the Commission for such individual shall be deemed available for work. However, any unemployment insurance benefits payable with respect to any week for which a training allowance is payable pursuant to the provisions of a federal or State law, shall be reduced by the amount of such allowance which weekly benefit amount shall be rounded to the nearest lower full dollar amount (if not a full dollar amount). The Commission may approve such training course for an individual only if:

1. a. Reasonable employment opportunities for which the individual is fitted by training and experience do not exist in the locality or are severely curtailed;
 - b. The training course relates to an occupation or skill for which there are expected to be reasonable opportunities for employment; and
 - c. The individual, within the judgment of the Commission, has the required qualifications and the aptitude to complete the course successfully; or,
 2. Such approval is required for the Commission to receive the benefits of federal law.
- (4) No individual shall be deemed able to work under this subsection during any week for which that person is receiving or is applying for benefits under any other State or federal law based on his temporary total or permanent total disability. Provided that if compensation is denied to any individual for any week under the foregoing sentence and such individual is later determined not to be totally disabled, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which the compensation was denied solely by reason of the foregoing sentence.
- (5) The individual has participated in reemployment services, if the Division referred the individual to these services after determining, through use of a worker profiling system, that the individual would likely exhaust regular benefits and would need reemployment services to make a successful transition to new employment, unless the individual establishes justifiable cause for failing to participate in the services.
- (b)(1) The payment of benefits to any individual based on services for nonprofit organizations, hospitals, or State hospitals and State institutions of higher education, other institutions of higher education, or secondary schools and subdivisions of secondary schools subject to this Chapter shall be in the same manner and under the same conditions of the laws of this Chapter as applied to individuals whose benefit rights are based on other services subject to this Chapter. Except that with respect to services in the educational institutions listed above:
- a. In an instructional, research, or principal administrative capacity, compensation shall not be payable based on such services for any week commencing during the period between two successive academic years or terms, or, when an agreement provides instead for a

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 871

Short Title: Wage & Hour Act Amendments.

(Public)

Sponsors: Representatives Berry; Adams, Alexander, Arnold, Baddour, Buchanan, Cansler, Easterling, Goodwin, Hensley, Howard, Insko, Jeffus, Luebke, McCrary, Moore, Mosley, Owens, Ramsey, Saunders, Smith, and G. Wilson.

Referred to: Commerce.

April 7, 1997

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE WAGE AND HOUR ACT TO RAISE THE STATE
3 MINIMUM WAGE, TO PERMIT EMPLOYERS SUBJECT TO THE STATE
4 MINIMUM WAGE TO TAKE THE SAME TIP CREDIT AS FEDERALLY
5 COVERED EMPLOYERS, AND TO EXEMPT COMPUTER PROFESSIONALS
6 FROM MINIMUM WAGE AND OVERTIME PROVISIONS.
7 The General Assembly of North Carolina enacts:
8 Section 1. G.S. 95-25.3 reads as rewritten:
9 "§ 95-25.3. Minimum wage.
10 (a) Every employer shall pay to each employee who in any workweek performs
11 any work, wages of at least ~~three dollars and eighty cents (\$3.80) per hour effective~~
12 ~~January 1, 1992, and four dollars and twenty five cents (\$4.25) per hour effective~~
13 ~~January 1, 1993, the minimum wage set forth in paragraph 1 of section 6(a) of the~~
14 ~~Fair Labor Standards Act, 29 U.S.C. 206(a)(1), as that wage may change from time to~~
15 ~~time, except as otherwise provided in this section.~~
16 (b) In order to prevent curtailment of opportunities for employment, the wage
17 rate for full-time students, learners, apprentices, and messengers, as defined under the
18 Fair Labor Standards Act, shall be ninety percent (90%) of the rate in effect under
19 subsection (a) above, rounded to the lowest nickel.
20 (c) The Commissioner, in order to prevent curtailment of opportunities for
21 employment, may, by regulation, establish a wage rate less than the wage rate in

1 effect under section (a) which may apply to persons whose earning or productive
2 capacity is impaired by age or physical or mental deficiency or injury, as such persons
3 are defined under the Fair Labor Standards Act.

4 (d) The Commissioner, in order to prevent curtailment of opportunities for
5 employment of the economically disadvantaged and the unemployed, may, by
6 regulation, establish a wage rate not less than eighty-five percent (85%) of the
7 otherwise applicable wage rate in effect under subsection (a) which shall apply to all
8 persons (i) who have been unemployed for at least 15 weeks and who are
9 economically disadvantaged, or (ii) who are, or whose families are, receiving ~~aid to~~
10 ~~families with dependent children provided under Part A of Title IV of the Social~~
11 ~~Security Act, Work First Family Assistance,~~ or who are receiving supplemental
12 security benefits under Title XVI of the Social Security Act.

13 Pursuant to regulations issued by the Commissioner, certificates establishing
14 eligibility for such subminimum wage shall be issued by the Employment Security
15 Commission.

16 The regulation issued by the Commissioner shall not permit employment at the
17 subminimum rate for a period in excess of 52 weeks.

18 (e) The Commissioner, in order to prevent curtailment of opportunities for
19 employment, and to not adversely affect the viability of seasonal establishments, may,
20 by regulation, establish a wage rate not less than eighty-five percent (85%) of the
21 otherwise applicable wage rate in effect under subsection (a) which shall apply to any
22 employee employed by an establishment which is a seasonal amusement or
23 recreational establishment, or a seasonal food service establishment.

24 (f) Tips earned by a tipped employee may be counted as wages only up to ~~fifty~~
25 ~~percent (50%) of the applicable minimum wage for each hour worked~~ the amount
26 permitted in section 3(m) of the Fair Labor Standards Act, 29 U.S.C. 203(m), if the
27 tipped employee is notified in advance, is permitted to retain all tips and the
28 employer maintains accurate and complete records of tips received by each employee
29 as such tips are certified by the employee monthly or for each pay period. Even if
30 the employee refuses to certify tips accurately, tips may still be counted as wages
31 when the employer complies with the other requirements of this section and can
32 demonstrate by monitoring tips that the employee regularly receives tips in the
33 amount for which the credit is taken. Tip pooling shall also be permissible among
34 employees who customarily and regularly receive tips; however, no employee's tips
35 may be reduced by more than fifteen percent (15%) under a tip pooling arrangement.

36 (g) In order to prevent curtailment of opportunities for employment, an employer
37 may, in lieu of the minimum wage prescribed by this section, pay a training wage to
38 eligible persons in accordance with G.S. 95-25.3A."

39 Section 2. G.S. 95-25.14(b) reads as rewritten:

40 "(b) The provisions of G.S. 95-25.3 (Minimum Wage) and G.S. 95-25.4
41 (Overtime), and the provisions of G.S. 95-25.15(b) (Record Keeping) as they relate to
42 these exemptions, do not apply to:

43 (1) Any employee of a boys' or girls' summer camp or of a seasonal
44 religious or nonprofit educational conference center;

- 1 (2) Any person employed in the catching, processing or first sale of
2 seafood, as defined under the Fair Labor Standards Act;
3 (3) The spouse, child, or parent of the employer or any person
4 qualifying as a dependent of the employer under the income tax
5 laws of North Carolina;
6 (4) Any person employed in a bona fide executive, administrative,
7 professional or outside sales capacity, as defined under the Fair
8 Labor Standards Act;
9 (5) Repealed by Session Laws 1989, c. 687, s. 2.
10 (6) Any person while participating in a ridesharing arrangement as
11 defined in ~~G.S. 136-44.21~~. G.S. 136-44.21;
12 (7) Any person who is employed as a computer systems analyst,
13 computer programmer, software engineer, or other similarly skilled
14 worker, as defined in the Fair Labor Standards Act."

15 Section 3. This act becomes effective August 1, 1997.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for

H.B. 871 A BILL TO BE ENTITLED AN ACT AMENDING THE WAGE AND HOUR ACT TO RAISE THE STATE MINIMUM WAGE, TO PERMIT EMPLOYERS SUBJECT TO THE STATE MINIMUM WAGE TO TAKE THE SAME TIP CREDIT AS FEDERALLY COVERED EMPLOYERS, AND EXEMPT COMPUTER PROFESSIONALS FROM MINIMUM WAGE AND OVERTIME PROVISIONS.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
ASSIGNMENT OF BILLS TO SUBCOMMITTEE

COMMITTEE: COMMERCE

CHAIRMAN: Representative Miner, Berry, Church, Hiatt, Tallent

DATE: April 23, 1997

Bill Number (Indicate H or S): H 1125

Short Title: Mortgage Lenders

Assigned to Subcommittee on: **Financial Institutions**

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

VISITOR REGISTRATION SHEET

COMMERCE

APRIL 23, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Ann Barlana	Electronics
John Bowditch	Zeb-alley PA.
John Upchurch	CPH
Wanda Bradley	NCCPA
Gene Gusty	E - EBC
John May	NE - CWA
DORIS WEAVER	NC CWA Political Council
Christopher Scott	NC AFL-CIO
Jim Taylor	LABOR
Becky Brown	"
Dana Cope	"
Ann Fulton	ABC Commission
Stuart Conrad	NC Restaurant Assn.
Jack Butler	NC DEHNR
Jocelyn Henderson	CAL. of NC
Victor Newton	EHNA - DEH
BILL SLOBBIN	NCBA
Steve Reinhard	Johnson, Mercer, Hearn & Vinegar
Gary Walker	ALTEL
Ed Sumner	NC Equities
Natalie Taskin	Charlotte Chamber of Commerce
Chris Fitzsimon	Common Sense Foundation
Rob Schofield	NC Justice Ctr.
Garth Olson	N.C. ESC
Dwight Clegg	NC ESC
Will Martin	NC Ass'n of REACTORS

MINUTES

HOUSE COMMITTEE ON COMMERCE

April 25, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Walter Church, Co-Chair, Rex Baker, Donald Bonner, Donald Davis, Stan Fox, Bobby Hall, Larry Justus, Ed McMahan, Richard Morgan, David Redwine, Wilma Sherrill, Edgar Starnes, Nurham Warwick, Cynthia Watson, Thomas Wright

The House Committee on Commerce met at 10:00 am on Friday, April 25, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bill were discussed:

House bill 651, entitled AN ACT TO ALLOW THE ISSUANCE OF CERTAIN ALCOHOLIC BEVERAGE CONTROL PERMITS IN INTERSTATE ECONOMIC DEVELOPMENT ZONES. Representative Hunter, the bill sponsor, explained the bill. Questions were taken from the committee members. Representative Redwine offered an amendment. A vote was taken and the amendment was adopted. Mr. John Henderson of the Christian Action League addressed the committee. Representative Baker offered an amendment to the bill. A vote was taken and the amendment was adopted. The committee rolled the amended bill into a committee substitute and Representative Redwine moved for a favorable report as to the committee substitute. Representative Davis asked for a roll call vote. A roll call vote was taken and the committee substitute was given a favorable report by a vote of 11-2.

House bill 994, entitled AN ACT TO ALLOW PAY TELEPHONE PROVIDERS TO OBTAIN LINE ACCESS FROM COMPETITIVE LOCAL PROVIDERS OF TELEPHONE SERVICE AND TO ELIMINATE THE STATUTORY REQUIREMENT THAT LINE ACCESS RATES BE SET ON A MEASURED RATE BASIS. Representative Church explained the bill for Representative G. Wilson, the bill sponsor. Representative Church moved to give the bill a favorable report. A vote was taken and house bill 994 was given a favorable report.

House bill 1059, entitled AN ACT TO AMEND THE COASTAL AREA MANAGEMENT ACT TO ALLOW CERTAIN TYPES OF REDEVELOPEMENT WITHIN URBAN WATERFRONTS THAT HISTORICALLY HAVE A PATTERN OF URBAN-LEVEL DEVELOPMENT. Representative Wright, the bill sponsor, explained the bill and moved that the bill be given a favorable report. Mr. Roger Schecter, from North Carolina Coastal Management, addressed the committee and expressed his support

of the bill. A vote was taken and the bill was given a favorable report and referred to Judiciary II committee.

House bill 1091, entitled AN ACT TO ALLOW CERTAIN CRIMINAL RECORD CHECKS TO BE CONDUCTED BY PRIVATE BUSINESS. Representative Wright explained the bill on behalf of the bill sponsor, Representative Braswell. Mr. Walker Reagan, staff legal counsel, clarified some concerns brought forward by committee members. Representative Davis moved that the bill be given a favorable report and be re-referred to Judiciary I Committee. A vote was taken and the bill was given a favorable report and re-referred to the Judiciary I Committee.

House bill 795, entitled AN ACT TO ALLOCATE THE DUTIES OF ROLLER SKATING RINK OPERATORS AND THE DUTIES OF ROLLER SKATERS AT ROLLER SKATING RINKS AS THESE DUTIES RELATE TO SAFETY AND LIABILITY FOR PERSONAL INJURY. Representative Baker, the bill sponsor, explained the bill to the committee and moved that it be given a favorable report and recommended that the bill be re-referred to the committee on Judiciary I. A vote was taken and the bill was given a favorable report and re-referred to the committee on Judiciary I.

House bill 617, entitled AN ACT TO CLARIFY THAT SCHOOL BUSES AND SCHOOL ACTIVITY BUSES MAY NOT COMPETE WITH THE PRIVATE SECTOR. Rep. Wilma Sherrill, the bill sponsor, introduced a proposed committee substitute and explained the bill. There was no objection to the proposed committee substitute and it was before the committee. Questions were taken from Rep. Thomas Wright, Rep. Nurham Warwick, Rep. Edgar Starnes, Rep. Donald Davis, and Rep. Rex Baker. Chairman Miner recognized Gene Cosby of the Mobile Coaches Association for comments. Rep. Nurham Warwick moved for a favorable report to the committee substitute and an unfavorable report on the original bill. The committee voted on the motion and the motion passed. So, the committee substitute for House Bill 617 received a favorable report and the original bill received an unfavorable report.

House Bill 672, entitled AN ACT TO EXEMPT COUNTIES AND CITIES FROM THE STATUTORY REQUIREMENTS REGARDING PUBLIC CONTRACTS WHEN CONSTRUCTING CERTAIN METAL BUILDINGS. Rep. Bobby Hall, the bill sponsor, introduced and explained the bill. Questions were taken from Rep. Ed McMahan, Rep. Don Davis, and Rep. Nurham Warwick. Chairman Miner recognized Henry Jones of the Electrical and Mechanical Contractors Association for comments. Rep. Don Davis moved for a favorable report. The committee voted on the motion and the motion passed. So, House Bill 672 received a favorable report from the committee.

House Bill 1074, entitled AN ACT TO PROHIBIT A PERSON FROM REPRESENTING THAT THE PERSON PROVIDES OR OBTAINS DEBT CONSOLIDATION WHEN THE SERVICE THAT PERSON PRIMARILY PROVIDES IS RELATED TO BANKRUPTCY PROCEEDINGS. Rep. Bobby Hall, the bill sponsor,

introduced and explained the bill. Rep. Rex Baker moved for a favorable report for the bill and to have the bill re-referred to the House Judiciary Committee I. The committee voted on the motion and the motion passed. So, House Bill 1074 received a favorable report and was re-referred to the House Judiciary Committee I.

House Bill 1075, entitled AN ACT TO PERMIT LENDERS TO CONTRACT FOR AND RECEIVE SHARED APPRECIATION IN CERTAIN CIRCUMSTANCES. Rep. Bobby Hall, the bill sponsor, introduced and explained the bill. Questions were taken from Rep. Ed McMahan, Rep. Rex Baker, Rep. Edgar Starnes, and Rep. Larry Justus. Rep. Ed McMahan moved for a favorable report and to have the bill re-referred to the House Judiciary Committee I. The committee voted on the motion and it passed. So, House Bill 1075 received a favorable report and was re-referred to the House Judiciary Committee I.

House Bill 903, entitled AN ACT TO PROHIBIT THE SITING OF A LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY THAT WOULD RESULT IN THE FACILITY'S BUFFER ZONE BEING LOCATED WITHIN THREE THOUSAND FEET OF A HUNDRED-YEAR FLOODPLAIN ON A ONE HUNDRED-YEAR POOL ELEVATION. Rep. Jane Mosley, the bill sponsor, introduced and explained the bill. Questions were taken from the committee. Chairman Miner recognized Richard Whisnant, Chairman of the Inter-Agency Commission on Low-Level Radioactive Waste, for comments and answers. Chairman Miner also recognized Steve Rose, legal counsel, for answers. Comments were also taken from Walter Sturgeon of the North Carolina Low-Level Waste Management Authority. Rep. Larry Justus moved for an unfavorable report. Rep. Bobby Hall offers an amendment. The committee voted on the amendment and it failed. Rep. Wilma Sherrill moved that the bill be sent to a sub-subcommittee. Chairman Miner sent the House Bill 903 to a sub-subcommittee with the members to be named later.

House Bill 451, entitled AN ACT RELATING TO ELIGIBILITY FOR UNEMPLOYMENT BENEFITS IN THE EVENT OF DOMESTIC ABUSE OR A SPOUSAL RELOCATION, TO THE DEFINITION OF EMPLOYMENT AS TO AGRICULTURAL LABOR, TO FOOD STAMPS OVERISSUANCES, AND TO REPORTING REQUIREMENTS. Rep. David Redwine, the bill sponsor, introduced a proposed committee substitute and explained the bill. There was no objection to the proposed committee substitute. The committee substitute was before the committee. Rep. David Redwine offers an amendment. The committee voted on the amendment and it was adopted. Questions and comments were taken from the committee. Chairman Miner recognized Roz Savety of the Coalition Against Domestic Violence to make comments to the committee. Chairman Miner also recognized Tom Whitaker, Deputy Chairman of the Employment Securities Commission, for comments. Rep. Rex Baker moved to put the bill in a sub-subcommittee. The committee voted and the motion failed. Rep. Bobby Hall moved for an unfavorable report. Rep. David Redwine moved for a favorable report and to have the bill re-referred to the House Finance Committee. The

committee voted on Rep. David Redwine's motion. The motion passed. So, House Bill 451 received a favorable report and it was re-referred to the House Finance Committee.

House Bill 453, entitled AN ACT RELATING TO THE BASE PERIOD FOR ELIGIBILITY FOR UNEMPLOYMENT BENEFITS AND ELIMINATING THE ONE AND ONE-HALF TIMES TEST. Rep. David Redwine, the bill sponsor, introduced and explained the bill. Questions were taken from Rep. Larry Justus and Rep. Thomas Wright. Chairman Miner recognized Tom Whitaker, Deputy Chairman of the Employment Securities Commission, for comments. Rep. Larry Justus moved that the committee be adjourned.

The committee adjourned at 1:05 p.m.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for

H.B. 651 A BILL TO BE ENTITLED AN ACT TO ALLOW THE ISSUANCE OF
CERTAIN ALCOHOLIC BEVERAGE CONTROL PERMITS IN INTERSTATE
ECONOMIC DEVELOPMENT ZONES.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill, unfavorable to the original bill.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-395
HOUSE BILL 651

AN ACT TO ALLOW THE ISSUANCE OF CERTAIN ALCOHOLIC BEVERAGE
CONTROL PERMITS IN INTERSTATE ECONOMIC DEVELOPMENT
ZONES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-1006 is amended by adding a new subsection to read:

"(m) Interstate Interchange Economic Development Zones. -- The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate highway interchange located in a county that:

- (1) Has approved the sale of malt beverages, unfortified wine, and fortified wine, but not mixed beverages;
- (2) Operates ABC stores;
- (3) Borders on another state; and
- (4) Lies north and east of the Roanoke River."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:50 p.m. this 14th day of August, 1997



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April 23, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **HOUSE BILL 651 - INTERSTATE ECONOMIC DEVELOPMENT ZONE -**
Representative Howard Hunter

House Bill 651 would amend the alcoholic beverage control law to permit mixed beverage permits to be issued, without an election, to restaurants, hotels, and sports clubs in Northampton County located within one and one-half miles of Interstate 95 interchanges.

The bill adds a new section to G.S. 1006 to allow the Alcohol Beverage Control Commission to issue mixed beverage permits, without approval at an election, to qualified eating establishments, hotels, and sports clubs located within one and one-half miles of an interstate highway interchange located in a county that has approved the sale of beer and wine, but not mixed beverages, that operates ABC stores, that borders on another state, and that lies north of the Roanoke River. Northampton County is the only county to meet this criteria.

This bill is effective when it becomes law.

§ 18B-1001. Kinds of ABC permits; places eligible.

When the issuance of the permit is lawful in the jurisdiction in which the premises is located, the Commission may issue the following kinds of permits:

- (10) Mixed Beverages Permit. -- A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee to obtain a purchase-transportation permit under G.S. 18B-403 and 18B-404, and to use for culinary purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:
 - a. Restaurants;
 - b. Hotels;
 - c. Private clubs;
 - d. Convention centers;
 - e. Community theatres;
 - f. Nonprofit organizations; and
 - g. Political organizations.

§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

- (2) Eating establishment. -- An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises. Eating establishments shall include businesses that are referred to as restaurants, cafeterias, or cafes, but that do not qualify under subdivision (6). Eating establishments shall also include lunchstands, grills, snack bars, fast-food businesses, and other establishments, such as drugstores, which have a lunch counter or other section where food is sold to be eaten on the premises.
- (4) Hotel. -- An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.
- (8) Sports club. -- An establishment substantially engaged in the business of providing an 18-hole golf course, two or more tennis courts, or both. The sports club can either be open to the general public or to members and their guests. To qualify as a sports club, an establishment's gross receipts for club activities shall be greater than its gross receipts for alcoholic beverages. This provision does not prohibit a sports club from operating a restaurant. Receipts for food shall be included in with the club activity fee.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 651 (PCS)

DATE 4-25-97

S. B. No. _____

Amendment No. #1

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) REDWINE
Sen.)

1 moves to amend the bill on page 1, lines 10 AND 11

2 () WHICH CHANGES THE TITLE

3 by DELETING THE WORDS "AND ONE-HALF MILES" AND

4 SUBSTITUTING THE WORD "MILE".

5 _____

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16 _____

17 _____

18 _____

19 _____

SIGNED [Signature]

ADOPTED X FAILED _____ TABLED _____



North Carolina General Assembly
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Raleigh, NC 27603-5925
(919) 733-2578

April 23, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL 651 - INTERSTATE ECONOMIC DEVELOPMENT ZONE** - Representative Howard Hunter

The Proposed Committee Substitute for House Bill 651 would amend the alcoholic beverage control law to permit mixed beverage permits to be issued, without an election, to restaurants, hotels, and sports clubs in Northampton County located within one and one-half miles of Interstate 95 interchanges.

The bill adds a new section to G.S. 1006 to allow the Alcohol Beverage Control Commission to issue mixed beverage permits, without approval at an election, to qualified restaurants, hotels, and sports clubs located within one and one-half miles of an interstate highway interchange located in a county that has approved the sale of beer and wine, but not mixed beverages, that operates ABC stores, that borders on another state, and that lies north of the Roanoke River. Northampton County is the only county to meet this criteria.

This bill is effective when it becomes law.

§ 18B-1001. Kinds of ABC permits; places eligible.

When the issuance of the permit is lawful in the jurisdiction in which the premises is located, the Commission may issue the following kinds of permits:

- (10) **Mixed Beverages Permit.** -- A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee to obtain a purchase-transportation permit under G.S. 18B-403 and 18B-404, and to use for culinary purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:
 - a. Restaurants;
 - b. Hotels;
 - c. Private clubs;
 - d. Convention centers;
 - e. Community theatres;
 - f. Nonprofit organizations; and
 - g. Political organizations.

§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

- (4) **Hotel.** -- An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.
- (6) **Restaurant.** -- An establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than forty percent (40%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people.
- (8) **Sports club.** -- An establishment substantially engaged in the business of providing an 18-hole golf course, two or more tennis courts, or both. The sports club can either be open to the general public or to members and their guests. To qualify as a sports club, an establishment's gross receipts for club activities shall be greater than its gross receipts for alcoholic beverages. This provision does not prohibit a sports club from operating a restaurant. Receipts for food shall be included in with the club activity fee.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 451 PC

DATE 4-25-97

S. B. No. _____

Amendment No. # 2

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) BAKER
Sen.)

1 moves to amend the bill on page 1, line 16

2 () WHICH CHANGES THE TITLE WORDS

3 by INSERTING BETWEEN A "NORTH" AND "OF" THE

4 WORDS "AND EAST".

5 _____

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12 _____

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19 _____

SIGNED: [Signature]

ADOPTED X FAILED _____ TABLED _____

11 YES 2 NO = 13 (TOTAL)

ROLL CALL VOTE

HB# 651
 SB# _____

HOUSE STANDING COMMITTEE ON COMMERCE

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	___	REP. MINER	___	___	REP. GOODWIN
___	___	REP. BERRY	___	___	REP. GRADY
<u>✓</u>	___	REP. CHURCH	<u>✓</u>	___	REP. HALL
___	___	REP. HIATT	___	___	REP. HARDAWAY
___	___	REP. TALLENT	___	___	REP. HARDY
___	___	REP. ALEXANDER	___	___	REP. HILL
___	___	REP. ALLRED	___	___	REP. HOLMES
<u>✓</u>	___	REP. BAKER	___	___	REP. HUNTER
___	___	REP. BLUE	___	___	REP. HURLEY
<u>✓</u>	___	REP. BONNER	___	___	REP. IVES
___	___	REP. BOWIE	___	___	REP. JUSTUS
___	___	REP. BOYD-MCINTYRE	___	___	REP. McALLISTER
___	___	REP. BRASWELL	___	___	REP. McCOMAS
___	___	REP. BRAWLEY	___	___	REP. McCOMBS
___	___	REP. CANSLER	___	___	REP. McCRARY
___	___	REP. CRAWFORD	<u>✓</u>	___	REP. McMAHAN
___	___	REP. CREECH	___	___	REP. MITCHELL
___	___	REP. CULPEPPER	___	___	REP. MORGAN
___	<u>✓</u>	REP. DAVIS	___	___	REP. MORRIS
___	___	REP. DEDMON	___	___	REP. NEELEY
___	___	REP. DICKSON	Ex officio Members		
___	___	REP. DOCKHAM	___	___	Speaker Pro Tem <i>Wood</i>
___	___	REP. EASTERLING	___	___	Majority Leader <i>DeF...</i>
<u>✓</u>	___	REP. FOX	___	___	Majority Whip

ROLL CALL VOTE

_____ = _____ (TOTAL)
 YES NO

HB# _____
 SB# _____

**HOUSE STANDING COMMITTEE ON
COMMERCE**

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
_____	_____	REP. NICHOLS	_____	_____	
_____	_____	REP. NYE	_____	_____	
_____	_____	REP. PRESTON	_____	_____	
_____	_____	REP. RAMSEY	_____	_____	
_____	_____	REP. RAYFIELD	_____	_____	
✓	_____	REP. REDWINE	_____	_____	
_____	_____	REP. REYNOLDS	_____	_____	
_____	_____	REP. ROGERS	_____	_____	
_____	_____	REP. SAUNDERS	_____	_____	
✓	_____	REP. SHERRILL	_____	_____	
_____	_____	REP. SMITH	_____	_____	
_____	✓	REP. STARNES	_____	_____	
_____	_____	REP. THOMPSON	_____	_____	
✓	_____	REP. WARWICK	_____	_____	
✓	_____	REP. WATSON	_____	_____	
_____	_____	REP. WILKINS	_____	_____	
_____	_____	REP. CONNIE WILSON	_____	_____	
_____	_____	REP. GENE WILSON	_____	_____	
✓	_____	REP. WRIGHT	_____	_____	
_____	_____	REP. WOMBLE	_____	_____	
_____	_____		_____	_____	
_____	_____		_____	_____	Ex officio Members
_____	_____		_____	_____	Speaker Pro Tem
_____	_____		_____	_____	Majority Leader
_____	_____		_____	_____	Majority Whip

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 994 A BILL TO BE ENTITLED AN ACT TO ALLOW PAY TELEPHONE PROVIDERS TO OBTAIN LINE ACCESS FROM COMPETITIVE LOCAL PROVIDERS OF TELEPHONE SERVICE AND TO ELIMINATE THE STATUTORY REQUIREMENT THAT LINE ACCESS RATES BE SET ON A MEASURED RATE BASIS.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

HOUSE BILL 994

*Passed
w/ Law - Report*

Short Title: Competitive Pay Telephone.

(Public)

Sponsors: Representative G. Wilson.

Referred to: Commerce.

April 17, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW PAY TELEPHONE PROVIDERS TO OBTAIN LINE
3 ACCESS FROM COMPETITIVE LOCAL PROVIDERS OF TELEPHONE
4 SERVICE AND TO ELIMINATE THE STATUTORY REQUIREMENT THAT
5 LINE ACCESS RATES BE SET ON A MEASURED RATE BASIS.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 62-110(c) reads as rewritten:
8 "(c) The Commission shall be authorized, consistent with the public interest, to
9 adopt procedures for the issuance of a special certificate to any person for the limited
10 purpose of offering telephone service to the public by means of coin, coinless, or key-
11 operated pay telephone instruments. This service may be in addition to or in
12 competition with public telephone services offered by the certificated telephone
13 company in the service area. ~~The certificated local exchange telephone company in~~
14 ~~the service area where any new pay telephone service is proposed shall be the only~~
15 ~~provider of the access line from the pay instrument to the network, and the rates~~
16 ~~approved by the Commission for this access line shall be fully compensatory, reflect~~
17 ~~the business nature of the service, and shall be set on a measured usage rate basis~~
18 ~~where facilities are available or on a message rate basis otherwise.~~ The access line
19 from the pay instrument to the network may be obtained from the local exchange
20 telephone company in the service area where the pay instrument is located, from any
21 certificated competitive local provider, or any other provider authorized by the
22 Commission. The Commission shall promulgate rules to implement the service
23 authorized by this section, recognizing the competitive nature of the offerings and,
24 notwithstanding any other provision of law, the Commission shall determine the

1 extent to which such services shall be regulated and to the extent necessary to protect
2 the public interest regulate the terms, conditions, and rates for such service and the
3 terms and conditions for interconnection to the local exchange network."

4 Section 2. This act becomes effective July 1, 1997.



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April 25, 1997

MEMORANDUM

TO: House Committee on Commerce

FROM:  Steven Rose, Committee Counsel for Public Utilities

RE: House Bill 994; Competitive Access for pay telephones

House Bill 994 amends G.S. 62-110(c). This subsection authorizes competitive pay telephone service to the public. The current provision provides that the pay telephone must be connected to the certificated local exchange telephone company and that the rates approved by the Utilities Commission for the access line must be set on a fully compensatory, measured usage rate basis if possible, or on a fully compensatory message rate basis if a measured basis is not possible.

House Bill 994 authorizes the pay telephone to be connected to any authorized local exchange provider and eliminates the requirement that the service be on a measured usage rate basis if possible.

Legislation passed by the 1995 General Assembly authorized competitive local exchange telephone service as well as alternative rate making procedures.

The act becomes effective July 1, 1997.

H994-SMRL-001

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 1059 A BILL TO BE ENTITLED AN ACT TO AMEND THE COASTAL AREA
MANAGEMENT ACT TO ALLOW CERTAIN TYPES OF REDEVELOPMENT WITHIN
URBAN WATERFRONTS THAT HISTORICALLY HAVE A PATTERN OF URBAN-
LEVEL DEVELOPMENT.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill, unfavorable as to original bill and
recommendation that the committee substitute bill be re-referred to the Committee on
Judiciary II.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 1059
Proposed Committee Substitute H1059-PCS6241

Short Title: CAMA/Urban Waterfront Redevelop.

(Public)

Sponsors:

Referred to:

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE COASTAL AREA MANAGEMENT ACT TO
3 ALLOW CERTAIN TYPES OF REDEVELOPMENT WITHIN URBAN
4 WATERFRONTS THAT HISTORICALLY HAVE A PATTERN OF URBAN-
5 LEVEL DEVELOPMENT.

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 7 of Chapter 113A of the General Statutes is amended
8 by adding a new section to read:

9 "§ 113A-120.2. Permits for urban waterfront redevelopment in historically urban
10 areas.

11 (a) Notwithstanding any other provision of law, any person may apply to the
12 Commission for a permit for major development granting permission to use the
13 person's land for a nonwater dependent use that is otherwise prohibited by rules,
14 standards, or limitations prescribed by the Commission, or orders issued by the
15 Commission, pursuant to this Article. The procedure to apply for the permit shall be
16 as provided by G.S. 113A-119.

17 (b) Notwithstanding G.S. 113A-120(a), the Commission may grant a permit for
18 nonwater dependent development in public trust areas designated pursuant to G.S.
19 113A-113(b)(5) if the following criteria are met:

20 (1) The land is waterfront property located in a municipality.

21 (2) The land has a history of urban-level development as evidenced by
22 any of the following:

- 1 a. The land is an historic place that is listed, or has been
2 approved for listing by the North Carolina Historical
3 Commission, in the National Register of Historic Places
4 pursuant to the National Historic Preservation Act of 1966.
5 b. The land is an historical, archaeological, and other site
6 owned, managed or assisted by the State of North Carolina
7 pursuant to Chapter 121 of the General Statutes.
8 c. The land has a central business district zoning classification,
9 or any other classification that may be designated as
10 acceptable by the Commission.

11 (3) The proposed development is sponsored in part or in whole by the
12 local jurisdiction in which the development would be located for
13 the purpose of significantly increasing public access consistent with
14 the Coastal Area Management guidelines.

15 (4) The municipality in which the activity would occur has determined
16 that the development will not have a significant adverse impact on
17 the environment.

18 (5) The development as requested is consistent with a local urban
19 waterfront development plan, local development regulations,
20 public access plans, and other applicable local authority.

21 (c) Except as otherwise provided by this section, all other provisions of this
22 Article apply to a permit applied for under this section, including the provisions of
23 G.S. 113A-120(b1) and (b2)."

24 Section 2. G.S. 113A-120(b1) reads as rewritten:

25 "(b1) In addition to those factors set out in subsection (a) of this section, and
26 notwithstanding the provisions of subsection (b) of this ~~section~~, section or of G.S.
27 113A-120.2, the responsible official or body may deny an application for a permit
28 upon finding that an applicant, or any parent or subsidiary corporation if the
29 applicant is a corporation:

30 (1) Is conducting or has conducted any activity causing significant
31 environmental damage for which a major development permit is
32 required under this Article without having previously obtained
33 such permit or has received a notice of violation with respect to
34 any activity governed by this Article and has not complied with the
35 notice within the time specified in the notice;

36 (2) Has failed to pay a civil penalty assessed pursuant to this Article, a
37 local ordinance adopted pursuant to this Article, or Article 17 of
38 Chapter 113 of the General Statutes which is due and for which no
39 appeal is pending;

40 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-126,
41 G.S. 113-229(k), or any criminal provision of a local ordinance
42 adopted pursuant to this Article; or

43 (4) Has failed to substantially comply with State rules or local
44 ordinances and regulations adopted pursuant to this Article or with

1 other federal and State laws, regulations, and rules for the
2 protection of the environment."
3 Section 3. This act is effective when it becomes law.



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April 25, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL 1059 -
COASTAL AREA MANAGEMENT ACT/URBAN WATERFRONT
REDEVELOPMENT - Representative Wright**

The Proposed Committee Substitute for House Bill 1059 would amend the Coastal Area Management Act (CAMA) to allow for redevelopment in historically urban waterfront areas under certain conditions.

Section 1 of the bill creates a new statutory section to allow a person to obtain a permit to use public trust areas for a nonwater dependent use that would otherwise be prohibited by CAMA under certain conditions. To be eligible for the permit the development must:

1. be located in a municipality,
2. have a history of urban-level development as evidence by recognition as a historic place or be a historical, archaeological or other site involving the State, or the land must have a commercial business district designation,
3. have a determination by the municipality that the use would not have a significant adverse environmental impact.
4. have a development plan consistent with a local waterfront development plan, local development regulations, public access plans and other local authority.

Section 2 makes a conforming technical change.

The bill would be effective when it becomes law.

If reported favorably by House Commerce, the bill will be serially referred to House Judiciary II.

H1059-SMRU-001

§ 113A-120. Grant or denial of permits.

(a) The responsible official or body shall deny an application for a permit upon finding:

(1) In the case of coastal wetlands, that the development would contravene an order that has been or could be issued pursuant to G.S. 113-230.

(2) In the case of estuarine waters, that a permit for the development would be denied pursuant to G.S. 113-229(e).

(3) In the case of a renewable resource area, that the development will result in loss or significant reduction of continued long-range productivity that would jeopardize one or more of the water, food or fiber requirements of more than local concern identified in subdivisions a through c of G.S. 113A-113(b)(3).

(4) In the case of a fragile or historic area, or other area containing environmental or natural resources of more than local significance, that the development will result in major or irreversible damage to one or more of the historic, cultural, scientific, environmental or scenic values or natural systems identified in subdivisions a through h of G.S. 113A-113(b)(4).

(5) In the case of areas covered by G.S. 113A-113(b)(5), that the development will jeopardize the public rights or interests specified in said subdivision.

(6) In the case of natural hazard areas, that the development would occur in one or more of the areas identified in subdivisions a through e of G.S. 113A-113(b)(6) in such a manner as to unreasonably endanger life or property.

(7) In the case of areas which are or may be impacted by key facilities, that the development is inconsistent with the State guidelines or the local land-use plans, or would contravene any of the provisions of subdivisions (1) to (6) of this subsection.

(8) In any case, that the development is inconsistent with the State guidelines or the local land-use plans.

(9) In any case, that considering engineering requirements and all economic costs there is a practicable alternative that would accomplish the overall project purposes with less adverse impact on the public resources.

(10) In any case, that the proposed development would contribute to cumulative effects that would be inconsistent with the guidelines set forth in subdivisions (1) through (9) of this subsection. Cumulative effects are impacts attributable to the collective effects of a number of projects and include the effects of additional projects similar to the requested permit in areas available for development in the vicinity.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 1091 A BILL TO BE ENTITLED AN ACT TO ALLOW CERTAIN CRIMINAL
RECORD CHECKS TO BE CONDUCTED BY PRIVATE BUSINESS.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
Judiciary I.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1091

*Law. report
re referred
to JI*

Short Title: Crim. Record Check by Private Bus.

(Public)

Sponsors: Representatives Braswell; Arnold, Black, Hackney, R. Hunter, Justus, Kiser, Miner, Mitchell, Mosley, Thompson, Warwick, and C. Wilson.

Referred to: Commerce, if favorable, Judiciary I.

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW CERTAIN CRIMINAL RECORD CHECKS TO BE
3 CONDUCTED BY PRIVATE BUSINESS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 131D-40(a) reads as rewritten:

6 "(a) Requirement. -- An offer of employment by an adult care home licensed
7 under this Chapter to an applicant to fill a position that does not require the
8 applicant to have an occupational license is conditioned on consent to a criminal
9 history record check of the applicant. An adult care home shall not employ an
10 applicant who refuses to consent to a criminal history record check required by this
11 section. Within five business days of making the conditional offer of employment, an
12 ~~An~~ adult care home shall submit a request to the Department of Justice under ~~G.S.~~
13 ~~114-19.3~~ G.S. 114-19.3, or shall request a private business entity, to conduct a
14 criminal history record ~~check~~ check, within five business days of making the
15 ~~conditional offer of employment.~~ All criminal history information received by the
16 home is confidential and may not be disclosed."

17 Section 2. G.S. 131E-265(a) reads as rewritten:

18 "(a) Requirement. -- An offer of employment by a nursing home or a home care
19 agency licensed under this Chapter to an applicant to fill a position that does not
20 require the applicant to have an occupational license is conditioned on consent to a
21 criminal history record check of the applicant. A nursing home or a home care
22 agency shall not employ an applicant who refuses to consent to a criminal history
23 record check required by this section. Within five business days of making the

1 conditional offer of employment, a A nursing home or home care agency shall submit
2 a request to the Department of Justice under ~~G.S. 114-19.3~~ G.S. 114-19.3, or shall
3 request a private business entity, to conduct a criminal history record ~~check within~~
4 ~~five business days of making the conditional offer of employment.~~ check. All criminal
5 history information received by the home or agency is confidential and may not be
6 disclosed."

7 Section 3. This act is effective when it becomes law.



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April 25, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: HOUSE BILL 1091 - CRIMINAL RECORD CHECK BY PRIVATE BUSINESS
- Representative Braswell

House Bill 1091 would permit adult care homes, nursing homes, and home care agencies to obtain criminal history record checks from private business entities instead of the SBI.

Currently adult care homes, nursing homes, and home care agencies are required to have criminal history record checks conducted within five days of the conditional offer of employment on all applicants for employment. These checks are to be conducted by the SBI based either on a name check or a fingerprint check. These criminal history record searches are limited to North Carolina records and do not include criminal offenses committed outside of this State. Name checks are less reliable than fingerprint based checks but may identify relevant criminal history for which a fingerprint record was not filed with the SBI.

Sections 1 and 2 of the bill would give these adult caring businesses the option to have this record check performed by a private business entity instead of the SBI. These homes might want to use a private entity instead of the SBI because of costs and turn-around. Private business entity checks would be limited to name checks since private business entities do not have access to the fingerprint-based criminal databases.

The bill would become effective when it becomes law.

H1091-SMRU-001

§ 131D-40. Criminal history record checks required for certain applicants for employment.

(a) Requirement. -- An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. An adult care home shall submit a request to the Department of Justice under G.S. 114-19.3 to conduct a criminal history record check within five business days of making the conditional offer of employment. All criminal history information received by the home is confidential and may not be disclosed.

(b) Action. -- If an applicant's criminal history record check reveals one or more convictions of a relevant offense, the administrator of the adult care home or the administrator's designee shall consider all of the following factors in determining whether to hire the applicant:

- (1) The level and seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
- (7) The subsequent commission by the person of a relevant offense.

The fact of conviction of a relevant offense alone shall not be a bar to employment; however, the listed factors shall be considered by the administrator or the administrator's designee.

(c) Limited Immunity. -- An adult care home and an officer or employee of an adult care home that, in good faith, complies with this section is not liable for the failure of the home to employ an individual on the basis of information provided in the criminal history record check of the individual.

(d) Relevant Offense. -- As used in this section, "relevant offense" means a State crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of aged or disabled persons. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.



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April 25, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

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- Representative Braswell

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Sections 1 and 2 of the bill would give these adult caring businesses the option to have this record check performed by a private business entity instead of the SBI. These homes might want to use a private entity instead of the SBI because of costs and turn-around. Private business entity checks would be limited to name checks since private business entities do not have access to the fingerprint-based criminal databases.

The bill would become effective when it becomes law.

H1091-SMRU-001

§ 131D-40. Criminal history record checks required for certain applicants for employment.

(a) Requirement. -- An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. An adult care home shall submit a request to the Department of Justice under G.S. 114-19.3 to conduct a criminal history record check within five business days of making the conditional offer of employment. All criminal history information received by the home is confidential and may not be disclosed.

(b) Action. -- If an applicant's criminal history record check reveals one or more convictions of a relevant offense, the administrator of the adult care home or the administrator's designee shall consider all of the following factors in determining whether to hire the applicant:

- (1) The level and seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
- (7) The subsequent commission by the person of a relevant offense.

The fact of conviction of a relevant offense alone shall not be a bar to employment; however, the listed factors shall be considered by the administrator or the administrator's designee.

(c) Limited Immunity. -- An adult care home and an officer or employee of an adult care home that, in good faith, complies with this section is not liable for the failure of the home to employ an individual on the basis of information provided in the criminal history record check of the individual.

(d) Relevant Offense. -- As used in this section, "relevant offense" means a State crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of aged or disabled persons. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 795 A BILL TO BE ENTITLED AN ACT TO ALLOCATE THE DUTIES OF
ROLLER SKATING RINK OPERATORS AND THE DUTIES OF ROLLER SKATERS AT
ROLLER SKATING RINKS AS THESE DUTIES RELATE TO SAFETY AND
LIABILITY FOR PERSONAL INJURY.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
Judiciary I.
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 795*

*law. report
to J.I*

Short Title: Roller Skating Rink Liability.

(Public)

Sponsors: Representatives Baker; and Black.

Referred to: Commerce, if favorable, Judiciary I.

April 3, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOCATE THE DUTIES OF ROLLER SKATING RINK
3 OPERATORS AND THE DUTIES OF ROLLER SKATERS AT ROLLER
4 SKATING RINKS AS THESE DUTIES RELATE TO SAFETY AND LIABILITY
5 FOR PERSONAL INJURY.

6 The General Assembly of North Carolina enacts:

7 Section 1. The General Statutes are amended by adding a new Chapter
8 to read:

9 "Chapter 99E.
10 "Roller Skating Rink Safety and Liability.

11 "§ 99E-1. Findings.

12 The General Assembly finds:

- 13 (1) Roller skating is a sport that is enjoyed on a regular basis by
14 thousands of North Carolina families. It is an affordable sport and
15 a form of exercise for young and old alike.
16 (2) The stable and efficient operation of roller skating rinks is essential
17 in order to provide a safe and supervised area for roller skaters to
18 practice their sport.
19 (3) Liability insurance for roller skating rink operators is difficult to
20 find and expensive to maintain.
21 (4) The number of insurance providers who are willing to issue
22 liability insurance is shrinking, causing a rise in premiums on the
23 insurance that is available.

- 1 (5) Roller skating rinks in North Carolina primarily are operated by
2 small, independent businessmen who simply do not have the
3 financial means to pay increasing liability premiums.
4 (6) Lack of insurance coverage adversely affects the roller skating rink
5 owners as well as patrons who may suffer personal injury due to
6 accidents on the premises of the roller skating rink.
7 (7) The wholesome and healthy family activity of roller skating should
8 be encouraged.

9 **"§ 99E-2. Definitions.**

10 As used in this Chapter:

- 11 (1) 'Operator' means a person or entity who owns, manages, controls,
12 or directs, or who has operational responsibility for a roller skating
13 rink.
14 (2) 'Roller skater' means an individual wearing roller skates while in a
15 roller skating rink for the purpose of recreational or competitive
16 roller skating. 'Roller skater' includes any individual in the roller
17 skating rink who is an invitee, whether or not this individual pays
18 consideration.
19 (3) 'Roller skating rink' means a building, facility, or premises that
20 provides an area specifically designed to be used by the public for
21 recreational or competitive roller skating.
22 (4) 'Spectator' means an individual who is present in a roller skating
23 rink only for the purpose of observing recreational or competitive
24 roller skating.

25 **"§ 99E-3. Duties of an operator.**

26 The operator, to the extent practicable, shall:

- 27 (1) Post the duties of roller skaters and spectators and the duties,
28 obligations, and liabilities of the operator as prescribed in this
29 Chapter in conspicuous places in at least three locations in the
30 roller skating rink.
31 (2) Maintain the stability and legibility of all signs, symbols, and posted
32 notices required under subdivision (1) of this section.
33 (3) Comply with all roller skating rink safety standards published by
34 the Roller Skating Rink Operators Association, including, but not
35 limited to, the proper maintenance of roller skating equipment and
36 roller skating surfaces.
37 (4) When the rink is open for sessions, have at least one floor guard
38 on duty for approximately every 200 skaters.
39 (5) Maintain the skating surface in reasonably safe condition and clean
40 and inspect the skating surface before each session.
41 (6) Maintain in good condition the railings, kickboards, and wall
42 surrounding the skating surface.
43 (7) In rinks with step-up or step-down skating surfaces, ensure that the
44 covering on the riser is securely fastened.

- 1 (8) Install fire extinguishers and inspect fire extinguishers at
2 recommended intervals.
- 3 (9) Provide reasonable security in parking areas during operational
4 hours.
- 5 (10) Inspect emergency lighting units periodically to ensure the lights
6 are in proper order.
- 7 (11) Keep exit lights and lights in service areas on when skating surface
8 lights are turned off during special numbers.
- 9 (12) Check rental skates on a regular basis to ensure the skates are in
10 good mechanical condition.
- 11 (13) Prohibit the sale or use of alcoholic beverages on the premises.
- 12 (14) Comply with all applicable State and local safety codes.

13 **"§ 99E-4. Duties of a roller skater.**

14 Each roller skater shall:

- 15 (1) Maintain reasonable control of his or her speed and course at all
16 times.
- 17 (2) Heed all posted signs and warnings.
- 18 (3) Maintain a proper outlook to avoid other roller skaters and objects.
- 19 (4) Accept the responsibility for knowing the range of his or her
20 ability to negotiate the intended direction of travel while on roller
21 skates and to skate within the limits of that ability.
- 22 (5) Refrain from acting in a manner that may cause or contribute to
23 the injury of himself, herself, or any other person.

24 **"§ 99E-5. Assumption of risk.**

25 Roller skaters and spectators are deemed to have knowledge of and to assume the
26 inherent risks of roller skating, insofar as those risks are obvious and necessary. The
27 obvious and necessary inherent risks include, but are not limited to, injuries that:

- 28 (1) Result from incidental contact with other roller skaters or
29 spectators,
- 30 (2) Result from falls caused by loss of balance, and
- 31 (3) Involve objects or artificial structures properly within the intended
32 path of travel of the roller skater.

33 and that are not otherwise attributable to a rink operator's breach of the operator's
34 duties as set forth in G.S. 99E-3.

35 **"§ 99E-6. Defense to suit.**

36 Assumption of risk pursuant to G.S. 99E-5 is a complete defense to a suit against
37 an operator by a roller skater or a spectator for injuries resulting from any obvious
38 and necessary inherent risks, unless the operator has violated the operator's duties
39 under G.S. 99E-3."

40 Section 2. This act becomes effective October 1, 1997, and applies to
41 causes of actions arising on or after that date.



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April 25, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **HOUSE BILL 795 - ROLLER SKATING RINK LIABILITY** - Representative Baker

House Bill 795 would create the Roller Skating Rink Safety and Liability Act which would define the responsibilities and liabilities of roller skating rink operators and roller skaters and would create an assumption of the inherent risks of roller skating.

G.S. 99E-1 makes legislative findings relative to sport of roller skating and the business of operating roller skating rinks.

G.S. 99E-2 defines operator of a roller skating rink, roller skater, roller skating rink, and spectator.

G.S. 99E-3 provides a detailed list of the duties of the operator of a rink. These duties include posting applicable rules, complying with safety standards, supervisory personnel, prohibiting alcoholic beverages, and complying with State and local safety codes.

G.S. 99E-4 defines the duties of a roller skater including maintain control, heeding signs and warnings, maintaining a proper outlook, knowing the range of ability, refraining from acting dangerously.

G.S. 99E-5 establishes an assumption of risk arising from roller skating to risk that are obvious and necessary. This inherent risks include injuries from contact with others, falls, and collisions with structures in the path of travel not otherwise attributable to the operator's breach of duties.

G.S. 99E-6 establishes that assumption of risk under G.S. 99E-5 is a complete defense to suit against an operator by a skater or spectator for injuries

MEMORANDUM
April 25, 1997
Page 2

resulting obvious and necessary inherent risks, unless the operator has violated the operator's duties.

The bill becomes effective October 1, 1997 and applies to causes of action arising on or after that date.

If reported favorably by House Commerce, the bill will be serially referred to the House Judiciary I Committee.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 617 A BILL TO BE ENTITLED AN ACT TO CLARIFY THAT PUBLICLY OWNED
AND OPERATED BUSES MAY NOT COMPETE WITH THE PRIVATE SECTOR.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill, which changes the title, unfavorable
as to original bill.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 617
Proposed Committee Substitute H617-PCS4107

Short Title: No Competition by School Bus.

(Public)

Sponsors:

Referred to:

March 26, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT SCHOOL BUSES AND SCHOOL ACTIVITY
3 BUSES MAY NOT COMPETE WITH THE PRIVATE SECTOR.

4 Whereas, public school buses are purchased with tax revenue, are insured
5 under the State's program of self-insurance, use motor fuel that is exempt from the
6 per gallon motor fuel excise tax, are exempt from local property taxes, and are driven
7 by individuals who are trained at State expense; and

8 Whereas, public school activity buses enjoy many of these same
9 advantages; and

10 Whereas, private sector businesses that provide transportation services do
11 not enjoy any of these tax, insurance, and driver training advantages; and

12 Whereas, because of these differences in private sector transportation
13 businesses and public school transportation services, it would be unfair to allow
14 school buses and school activity buses to compete against private sector businesses in
15 providing transportation services; Now, therefore,

16 The General Assembly of North Carolina enacts:

17 Section 1. G.S. 66-58 reads as rewritten:

18 "**§ 66-58. Sale of merchandise or services by governmental units.**

19 (a) Except as may be provided in this section, it shall be unlawful for any unit,
20 department or agency of the State government, or any division or subdivision of any
21 such unit, department or agency, or any individual employee or employees of any
22 such unit, department or agency in his, or her, or their capacity as employee or
23 employees thereof, to engage directly or indirectly in the sale of goods, wares or

1 merchandise in competition with citizens of the State, or to engage in the operation
2 of restaurants, cafeterias or other eating places in any building owned by or leased in
3 the name of the State, or to maintain service establishments for the rendering of
4 services to the public ordinarily and customarily rendered by private enterprises, or
5 to provide transportation services, or to contract with any person, firm or corporation
6 for the operation or rendering of any such businesses or services on behalf of any
7 such unit, department or agency, or to purchase for or sell to any person, firm or
8 corporation any article of merchandise in competition with private enterprise. The
9 leasing or subleasing of space in any building owned, leased or operated by any unit,
10 department or agency or division or subdivision thereof of the State for the purpose
11 of operating or rendering of any of the businesses or services herein referred to is
12 hereby prohibited.

13 (b) The provisions of subsection (a) of this section shall not apply to:

- 14 (1) Counties and municipalities.
15 (2) The Department of Human Resources, the Department of
16 Environment, Health, and Natural Resources, or the Department
17 of Agriculture for the sale of serums, vaccines, and other like
18 products.
19 (3) The Department of Administration, except that said agency shall
20 not exceed the authority granted in the act creating the agency.
21 (4) The State hospitals for the insane.
22 (5) The Department of Human Resources.
23 (6) The North Carolina School for the Blind at Raleigh.
24 (7) The North Carolina Schools for the Deaf.
25 (8) The Greater University of North Carolina with regard to its
26 utilities and other services now operated by it nor to the sale of
27 articles produced incident to the operation of instructional
28 departments, articles incident to educational research, articles of
29 merchandise incident to classroom work, meals, books, or to
30 articles of merchandise not exceeding twenty-five cents (25¢) in
31 value when sold to members of the educational staff or staff
32 auxiliary to education or to duly enrolled students or occasionally
33 to immediate members of the families of members of the
34 educational staff or of duly enrolled students nor to the sale of
35 meals or merchandise to persons attending meetings or
36 conventions as invited guests nor to the operation by the
37 University of North Carolina of an inn or hotel and dining and
38 other facilities usually connected with a hotel or inn, nor to the
39 hospital and Medical School of the University of North Carolina,
40 nor to the Coliseum of North Carolina State College, and the
41 other schools and colleges for higher education maintained or
42 supported by the State, nor to the comprehensive student health
43 services or the comprehensive student infirmaries maintained by
44 the constituent institutions of the University of North Carolina.

- 1 (9) The Department of Environment, Health, and Natural Resources,
2 except that said Department shall not construct, maintain, operate
3 or lease a hotel or tourist inn in any park over which it has
4 jurisdiction. The North Carolina Wildlife Resources Commission
5 may sell wildlife memorabilia as a service to members of the
6 public interested in wildlife conservation.
- 7 (10) Child-caring institutions or orphanages receiving State aid.
- 8 (11) Highlands School in Macon County.
- 9 (12) The North Carolina State Fair.
- 10 (13) Rural electric memberships corporations.
- 11 (13a) State Farm Operations Commission.
- 12 (13b) The Department of Agriculture with regard to its lessees at
13 farmers' markets operated by the Department.
- 14 (13c) The Western North Carolina Agricultural Center.
- 15 (14) Nothing herein contained shall be construed to prohibit the
16 engagement in any of the activities described in subsection (a)
17 hereof by a firm, corporation or person who or which is a lessee
18 of space only of the State of North Carolina or any of its
19 departments or agencies; provided such leases shall be awarded
20 by the Department of Administration to the highest bidder, as
21 provided by law in the case of State contracts and which lease
22 shall be for a term of not less than one year and not more than
23 five years.
- 24 (15) The State Department of Correction is authorized to purchase
25 and install automobile license tag plant equipment for the
26 purpose of manufacturing license tags for the State and local
27 governments and for such other purposes as the Department may
28 direct.
- 29 The Commissioner of Motor Vehicles, or such other
30 authority as may exercise the authority to purchase automobile
31 license tags is hereby directed to purchase from, and to contract
32 with, the State Department of Correction for the State automobile
33 license tag requirements from year to year.
- 34 The price to be paid to the State Department of Correction
35 for such tags shall be fixed and agreed upon by the Governor, the
36 State Department of Correction, and the Motor Vehicle
37 Commissioner, or such authority as may be authorized to purchase
38 such supplies.
- 39 (16) Laundry services performed by the Department of Correction may
40 be provided only for agencies and instrumentalities of the State
41 which are supported by State funds and for county or municipally
42 controlled and supported hospitals presently being served by the
43 Department of Correction, or for which services have been
44 contracted or applied for in writing, as of May 22, 1973. In

1 addition to the prior sentence, laundry services performed by the
2 Department of Correction may be provided for the Governor
3 Morehead School and the North Carolina School for the Deaf.

4 Such services shall be limited to wet-washing, drying and
5 ironing of flatwear or flat goods such as towels, sheets and bedding,
6 linens and those uniforms prescribed for wear by such institutions
7 and further limited to only flat goods or apparel owned, distributed
8 or controlled entirely by such institutions and shall not include
9 processing by any dry-cleaning methods; provided, however, those
10 garments and items presently being serviced by wet-washing,
11 drying and ironing may in the future, at the election of the
12 Department of Correction, be processed by a dry-cleaning method.

13 (17) The North Carolina Global TransPark Authority or a lessee of the
14 Authority.

15 (18) The activities and products of private enterprise carried on or
16 manufactured within a State prison facility pursuant to G.S. 148-
17 70.

18 (c) The provisions of subsection (a) shall not prohibit:

19 (1) The sale of products of experiment stations or test farms.

20 (2) The sale of learned journals, works of art, books or publications of
21 the Department of Cultural Resources or other agencies, or the
22 Supreme Court Reports or Session Laws of the General Assembly.

23 (3) The business operation of endowment funds established for the
24 purpose of producing income for educational purposes; for
25 purposes of this section, the phrase 'operation of endowment
26 funds' shall include the operation by public postsecondary
27 educational institutions of campus stores, the profits from which
28 are used exclusively for awarding scholarships to defray the
29 expenses of students attending the institution; provided, that the
30 operation of such stores must be approved by the board of trustees
31 of the institution, and the merchandise sold shall be limited to
32 educational materials and supplies, gift items and miscellaneous
33 personal-use articles. Provided further that sales at campus stores
34 are limited to employees of the institution and members of their
35 immediate families, to duly enrolled students of the campus at
36 which a campus store is located and their immediate families, to
37 duly enrolled students of other campuses of the University of
38 North Carolina other than the campus at which the campus store is
39 located, to other campus stores and to other persons who are on
40 campus other than for the purpose of purchasing merchandise from
41 campus stores. It is the intent of this subdivision that campus stores
42 be established and operated for the purpose of assuring the
43 availability of merchandise described in this Article for sale to
44 persons enumerated herein and not for the purpose of competing

- 1 with stores operated in the communities surrounding the campuses
2 of the University of North Carolina.
- 3 (4) The operation of lunch counters by the Department of Human
4 Resources as blind enterprises of the type operated on January 1,
5 1951, in State buildings in the City of Raleigh.
- 6 (5) The operation of a snack bar and cafeteria in the State Legislative
7 Building.
- 8 (6) The maintenance by the prison system authorities of eating and
9 sleeping facilities at units of the State prison system for prisoners
10 and for members of the prison staff while on duty, or the
11 maintenance by the highway system authorities of eating and
12 sleeping facilities for working crews on highway construction or
13 maintenance when actually engaged in such work on parts of the
14 highway system.
- 15 (7) The operation by penal, correctional or facilities operated by the
16 Department of Human Resources or by the State Department of
17 Agriculture, of dining rooms for the inmates or clients or members
18 of the staff while on duty and for the accommodation of persons
19 visiting such inmates or clients, and other bona fide visitors.
- 20 (8) The sale by the Department of Agriculture of livestock, poultry
21 and publications in keeping with its present livestock and farm
22 program.
- 23 (9) The operation by the public schools of school cafeterias.
- 24 (9a) The use of a public school bus or public school activity bus for a
25 purpose allowed under G.S. 115C-242 or the use of a public school
26 activity bus for a purpose authorized by G.S. 115C-247.
- 27 (10) Sale by any State correctional or other institution of farm, dairy,
28 livestock or poultry products raised or produced by it in its normal
29 operations as authorized by the act creating it.
- 30 (11) The sale of textbooks, library books, forms, bulletins, and
31 instructional supplies by the State Board of Education, State
32 Department of Public Instruction, and local school authorities.
- 33 (12) The sale of North Carolina flags by or through the auspices of the
34 Department of Administration, to the citizens of North Carolina.
- 35 (13) The operation by the Department of Correction of forestry
36 management programs on State-owned lands, including the sale on
37 the open market of timber cut as a part of such management
38 program.
- 39 (14) The operation by the Department of Correction of facilities to
40 manufacture and produce traffic and street name signs for use on
41 the public streets and highways of the State.
- 42 (15) The operation by the Department of Correction of facilities to
43 manufacture and produce paint for use on the public streets and
44 highways of the State.

1 (16) The performance by the Department of Transportation of dredging
2 services for a unit of local government.

3 (17) The sale by the State Board of Elections to political committees
4 and candidate committees of computer software designed by or for
5 the State Board of Elections to provide a uniform system of
6 electronic filing of the campaign finance reports required by
7 Article 22A of Chapter 163 of the General Statutes and to facilitate
8 the State Board's monitoring of compliance with that Article. This
9 computer software for electronic filing of campaign finance reports
10 shall not exceed a cost of one hundred dollars (\$100.00) to any
11 political committee or candidate committee without the State
12 Board of Elections first notifying in writing the Joint Legislative
13 Commission on Governmental Operations.

14 (d) A department, agency or educational unit named in subsection (b) shall not
15 perform any of the prohibited acts for or on behalf of any other department, agency
16 or educational unit.

17 (e) Any person, whether employee of the State of North Carolina or not, who
18 shall violate, or participate in the violation of this section, shall be guilty of a Class 1
19 misdemeanor.

20 (f) Notwithstanding the provisions of G.S. 66-58(a), the operation by the
21 Department of Correction of facilities for the manufacture of any product or the
22 providing of any service pursuant to G.S. 148-70 not regulated by the provisions of
23 subsection (c) hereof, shall be subject to the prior approval of the Governor, with
24 biennial review by the General Assembly, at the beginning of each fiscal year
25 commencing after October 1, 1975. The Department of Correction shall file with the
26 Director of the Budget quarterly reports detailing prison enterprise operations in such
27 a format as shall be required by the Director of the Budget.

28 (g) The North Carolina School of Science and Mathematics may engage in any of
29 the activities permitted by G.S. 66-58(b)(8) and (c)(3)."

30 Section 2. This act is effective when it becomes law.



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April 24, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: **House Bill 617 - No Competition by Public Bus.**

House Bill 617 amends G.S. 66-58 (the Umstead Act) to clarify that publicly owned and operated buses may not compete with the private sector. Under present law, it is unlawful for any unit of State government or any employee of State government to engage in the sale of goods or the operation of restaurant or other eating places in State buildings, to maintain service establishments which compete with private businesses that provide the same services to the public, or to contract with someone to render such services. Violation of the act is a Class 1 misdemeanor.

This bill adds providing transportation services as a prohibited form of competition. However, the bill exempts public school buses and public school activity buses which are used in accordance with law, from the act. Counties and municipal corporations are exempt from the transportation provision, only to the extent that (1) the transportation system has regular routes, or (2) the transportation service is part of another service or activity provided by the county or municipality.

This bill is effective when it becomes law.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 672 A BILL TO BE ENTITLED AN ACT TO EXEMPT COUNTIES AND CITIES
FROM THE STATUTORY REQUIREMENTS REGARDING PUBLIC CONTRACTS
WHEN CONSTRUCTING CERTAIN METAL BUILDINGS.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

HOUSE BILL 672

law report 1

Short Title: County Construction of Metal Buildings.

(Public)

Sponsors: Representatives Hall; Aldridge, Baker, Barbee, Bowie, Buchanan, Capps, Clary, Cole, Creech, Culp, Daughtry, Davis, Decker, Dedmon, Eddins, Gardner, Goodwin, Gulley, Hardy, Hightower, Hill, Howard, H. Hunter, Ives, Jeffus, Justus, Kinney, Kiser, McAllister, McMahan, Mitchell, Moore, Morris, Mosley, Nichols, Owens, Preston, Rayfield, Reynolds, Russell, Starnes, Tolson, Warner, Warwick, Watson, Weatherly, Wilkins, and C. Wilson.

Referred to: Commerce.

March 31, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT COUNTIES AND CITIES FROM THE STATUTORY
3 REQUIREMENTS REGARDING PUBLIC CONTRACTS WHEN
4 CONSTRUCTING CERTAIN METAL BUILDINGS.
5 The General Assembly of North Carolina enacts:
6 Section 1. Article 8 of Chapter 143 of the General Statutes is amended
7 by adding a new section to read:
8 "**§ 143-135.1A. Contracts for the construction of metal buildings.**
9 This Article does not apply to building contracts in the amount of five hundred
10 thousand dollars (\$500,000) or less let by counties, cities, towns, or other subdivisions
11 of the State for metal buildings that are designated by the North Carolina State
12 Building Code as Type IV construction. The Secretary of Administration and other
13 State officers, employees, or agencies shall have no duties or responsibilities
14 concerning these contracts, but the services of the Department of Administration shall
15 be made available to any county, city, town, or other subdivision of the State with
16 regard to these contracts, upon request of the governmental entity."
17 Section 2. This act becomes effective October 1, 1997, and applies to
18 contracts entered into on or after that date.



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April 24, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: **House Bill 672 - County Construction of Metal Buildings**

House Bill 672 adds a new section to Chapter 143 to exempt counties and cities from the statutory requirements regarding public contracts when constructing metal buildings costing \$500,000 or less. The Department of Administration will have no duties regarding these contracts, but shall provide assistance upon the request of the governmental entity.

This act becomes effective October 1, 1997, and applies to contracts entered on or after that date.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 1074 A BILL TO BE ENTITLED AN ACT TO PROHIBIT A PERSON FROM REPRESENTING THAT THE PERSON PROVIDES OR OBTAINS DEBT CONSOLIDATION WHEN THE SERVICE THAT PERSON PRIMARILY PROVIDES IS RELATED TO BANKRUPTCY PROCEEDINGS.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on Judiciary I.
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

HOUSE Bill 1074

*law report
to JE* 1

Short Title: Representations to Consolidate Debts.

(Public)

Sponsors: Representatives Hall; Baker Barbee, Bonner, Capps, Clary, Creech, Culp, Davis, Eddins, Fox, Grady, Hiatt, Hill, Justus, Kinney, Kiser, Mitchell, Mosley, Prston, Rayfield, Starnes, Tallent, Weatherly, and Womble.

Referred to: Commerce, if favorable, Judiciary I.

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT A PERSON FROM REPRESENTING THAT THE
3 PERSON PROVIDES OR OBTAINS DEBT CONSOLIDATION WHEN THE
4 SERVICE THAT PERSON PRIMARILY PROVIDES IS RELATED TO
5 BANKRUPTCY PROCEEDINGS.
6 The General Assembly of North Carolina enacts:
7 Section 1. Article 1 of Chapter 75 of the General Statutes is amended by
8 adding a new section to read:
9 **"§ 75-36. Representation of providing or obtaining debt consolidation.**
10 **(a) No person, firm, or corporation engaged in commerce shall, in connection**
11 **with the sale or solicitation for sale of any service, represent that the person, firm, or**
12 **corporation obtains or provides debt consolidation when the service that person**
13 **primarily obtains or provides is related to bankruptcy proceedings without clearly**
14 **disclosing that the person primarily obtains or provides services related to bankruptcy**
15 **proceedings.**
16 **(b) To the extent that representations of the type governed by this section are**
17 **broadcast by radio or television or carried by cable-television, the required disclosure**
18 **shall be clearly and prominently disclosed.**
19 **(c) Nothing in this section shall create any liability for acts by the publisher,**
20 **owner, agent, or employee of a newspaper, periodical, radio station, television station,**
21 **cable-television system or other advertising medium arising out of the publication or**

1 dissemination of any advertisement or promotion governed by this section, when the
2 publisher, owner, agent, or employee did not know that the advertisement or
3 promotion violated the requirements of this section."

4 Section 2. This act becomes effective October 1, 1997, and applies to
5 violations that occur on or after that date.

H 1074. REPRESENTATIONS TO CONSOLIDATE DEBTS. TO PROHIBIT A PERSON FROM REPRESENTING THAT THE PERSON PROVIDES OR OBTAINS DEBT CONSOLIDATION WHEN THE SERVICE THAT PERSON PRIMARILY PROVIDES IS RELATED TO BANKRUPTCY PROCEEDINGS. Adds new GS 75-36 prohibiting a representation, in connection with the sale or solicitation for sale of any service, that a person (or firm or corporation) obtains or provides debt consolidation, when the service the person primarily obtains or provides is related to bankruptcy, without clearly disclosing that fact. In the case of broadcasts by radio or television, the required disclosure must be clear and prominent. Does not create liability for acts by publishers, owners, agents, or employees of various media in cases in which such persons did not know that an advertisement or promotion violated the section. Effective Oct. 1, 1997, and applies to violations that occur on or after that date.

Intro. by Hall.

Ref. to Commerce

GS 75

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 1075 A BILL TO BE ENTITLED AN ACT TO PERMIT LENDERS TO CONTRACT
FOR AND RECEIVE SHARED APPRECIATION IN CERTAIN CIRCUMSTANCES.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
Judiciary I.
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1075

*law report
to J.I*

Short Title: Appreciation of Reverse Mortgages.

(Public)

Sponsors: Representatives Hall; Baker, Bonner, Boyd-McIntyre, Culp, Cunningham, Davis, Eddins, Fox, Grady, Hiatt, Hill, Justus, Kinney, Kiser, Mitchell, Morris, Mosley, Owens, Rayfield, Sherrill, Smith, Starnes, Tolson, Weatherly, Wilkins, C. Wilson, and Womble.

Referred to: Commerce, if favorable, Judiciary I.

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT LENDERS TO CONTRACT FOR AND RECEIVE
3 SHARED APPRECIATION IN CERTAIN CIRCUMSTANCES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 53-270 reads as rewritten:
6 "**§ 53-270. Prohibited acts.**
7 Reverse mortgage lenders are prohibited from engaging in any of the following acts
8 in connection with the making, servicing, or collecting of a reverse mortgage loan:
9 (1) Misrepresenting material facts, making false promises, or engaging
10 in a course of misrepresentation through agents or otherwise.
11 (2) Failing to disburse funds in accordance with the terms of the
12 reverse mortgage loan contract or other written commitment.
13 (3) Improperly refusing to issue a satisfaction of a mortgage.
14 (4) Engaging in any action or practice that is unfair or deceptive, or
15 that operates a fraud on any person.
16 (5) Contracting for or receiving shared ~~appreciation~~: appreciation or
17 shared equity, other than in an amount:
18 a. Not to exceed ten percent (10%) of the value of the
19 property at the time of the loan repayment; and
20 b. Permitted in conjunction with a loan that:
21 1. Is outstanding for 24 months or longer; and

- 1 2. Either (i) is guaranteed or insured by an agency of
- 2 the federal government, or (ii) has originated under a
- 3 reverse mortgage program approved by the Federal
- 4 National Mortgage Corporation, the Government
- 5 National Mortgage Association, or the Federal Home
- 6 Loan Mortgage Corporation.
- 7 (6) Closing a reverse mortgage loan without receiving certification
- 8 from a ~~counselor~~ person who is certified as a reverse mortgage
- 9 counselor by the State that the borrower has received counseling
- 10 on the advisability of a reverse mortgage loan and the appropriate
- 11 reverse mortgage loan for the borrower.
- 12 (7) Failing to comply with this Article."
- 13 Section 2. This act becomes effective October 1, 1997, and applies to
- 14 contracts for loans entered into on or after that date.

H 1075. APPRECIATION OF REVERSE MORTGAGES. TO PERMIT LENDERS TO CONTRACT FOR AND RECEIVE SHARED APPRECIATION IN CERTAIN CIRCUMSTANCES.

Amends GS 53-270 to allow reverse mortgage lenders to contract for or receive shared appreciation or shared equity if the amount does not exceed ten percent of the value of the property at the time of loan repayment, the loan involved is outstanding twenty-four months or longer, and the reverse mortgage is guaranteed or insured by the federal government or originated under a program approved by specified federal mortgage entities. Requires that mandated counseling be provided by a state certified reverse mortgage counselor. Effective Oct. 1, 1997; applies to loans entered into on or after that date.

Intro. by Hall.

Ref. to Commerce

GS 53

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 903*

Short Title: No Low-Level Facility in Floodplain.

(Public)

Sponsors: Representatives Mosley; Nichols and Hardy.

Referred to: Commerce, if favorable, Environment.

April 9, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE SITING OF A LOW-LEVEL RADIOACTIVE
3 WASTE DISPOSAL FACILITY THAT WOULD RESULT IN THE FACILITY'S
4 BUFFER ZONE BEING LOCATED WITHIN THREE THOUSAND FEET OF A
5 ONE HUNDRED-YEAR FLOODPLAIN OR A ONE HUNDRED-YEAR POOL
6 ELEVATION.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 104G-9(e) reads as rewritten:

9 "(e) No later than 1 August 1989, the Authority shall select a minimum of two sites
10 that are suitable for the location of a low-level radioactive disposal facility, for
11 characterization. No site ~~may~~ shall be selected for the location of a low-level
12 radioactive waste disposal facility without first having been characterized. No site
13 shall be selected for the location of a low-level radioactive waste disposal facility that
14 would result in the facility or the facility's buffer zone being located within 3,000 feet
15 of:

- 16 (1) A 100-year floodplain; even if the site can be altered to protect it
17 from flooding during a 100-year flood; or
18 (2) A maximum 100-year pool elevation."

19 Section 2. This act is effective when it becomes law and applies to final
20 site selections made on or after that date.



**North Carolina General Assembly
Legislative Services Office**

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Terrence D. Sullivan, Director
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Raleigh, NC 27603-5925
(919) 733-2578

April 25, 1997

MEMORANDUM

TO: House Committee on Commerce

FROM:  **Steven Rose, Committee Counsel for Public Utilities**

RE: House Bill 903; Restrict low-level radioactive waste facility in floodplain

House Bill 903 amends G.S. 104G-9(e) to add a requirement that a site selected for the location of a low-level radioactive waste disposal facility shall not be located within 3,000 feet of the 100 year floodplain or maximum 100 year pool elevation. Alteration of the site to protect from flooding does not change the prohibition.

The act is effective when it becomes law and applies to final site selections made on or after that date.

H903-SMRL-001



North Carolina General Assembly
House of Representatives
Legislative Office Building
Raleigh 27601-1096

REPRESENTATIVE JANE H. MOSLEY
63RD DISTRICT

April 23, 1997

TO: Members
Commerce Committee

FROM: Jane H. Mosley *Jane Mosley*

SUBJECT: House Bill 903 - No Low-Level Facility in Floodplain

House Bill 903 - No Low-Level Facility in Floodplain will protect North Carolina's environment and future water supplies for generations to come. The bill will have an impact on the proposed Wake/Chatham site, but its main objective is to protect all of North Carolina.

The present plan being considered would place a nuclear waste disposal facility within 300 feet of a 100-year floodplain. This would be less than the length of three tractor trailers from a direct route to contaminating our water supply -- much too close for comfort. House Bill 903 will require a minimum distance of 3,000 feet, about three football fields.

I believe we have a responsibility to err on the side of caution when nuclear waste contamination is the issue. Our environment is too precious and too fragile not to receive adequate protection.

Let's think of the future. Let's make our legacy to our children and grandchildren that we fought to protect their environment and their future.

Please join me in this effort to protect our environment by supporting HB 903.

Thank you for caring.

(A companion bill was introduced by Senator Eric Reeves - SB 755.)



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 903*

Short Title: No Low-Level Facility in Floodplain.

(Public)

Sponsors: Representatives Mosley, Nichols and Hardy.

Referred to: Commerce, if favorable, Environment.

April 9, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE SITING OF A LOW-LEVEL RADIOACTIVE
3 WASTE DISPOSAL FACILITY THAT WOULD RESULT IN THE FACILITY'S
4 BUFFER ZONE BEING LOCATED WITHIN THREE THOUSAND FEET OF A
5 ONE HUNDRED-YEAR FLOODPLAIN OR A ONE HUNDRED-YEAR POOL
6 ELEVATION.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 104G-9(e) reads as rewritten:

9 "(e) No later than 1 August 1989, the Authority shall select a minimum of two sites
10 that are suitable for the location of a low-level radioactive disposal facility, for
11 characterization. No site ~~may~~ shall be selected for the location of a low-level
12 radioactive waste disposal facility without first having been characterized. No site
13 shall be selected for the location of a low-level radioactive waste disposal facility that
14 would result in the facility or the facility's buffer zone being located within 3,000 feet
15 of:

16 (1) A 100-year floodplain; even if the site can be altered to protect it
17 from flooding during a 100-year flood; or

18 (2) A maximum 100-year pool elevation."

19 Section 2. This act is effective when it becomes law and applies to final
20 site selections made on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 755

Short Title: No Low-Level Facility in Floodplain.

(Public)

Sponsors: Senator Reeves.

Referred to: Agriculture/Environment/Natural Resources.

April 8, 1997

A BILL TO BE ENTITLED

1 AN ACT TO PROHIBIT THE SITING OF A LOW-LEVEL RADIOACTIVE
2 WASTE DISPOSAL FACILITY THAT WOULD RESULT IN THE FACILITY'S
3 BUFFER ZONE BEING LOCATED WITHIN THREE THOUSAND FEET OF A
4 ONE HUNDRED-YEAR FLOODPLAIN OR A ONE HUNDRED-YEAR POOL
5 ELEVATION.
6

7 The General Assembly of North Carolina enacts:

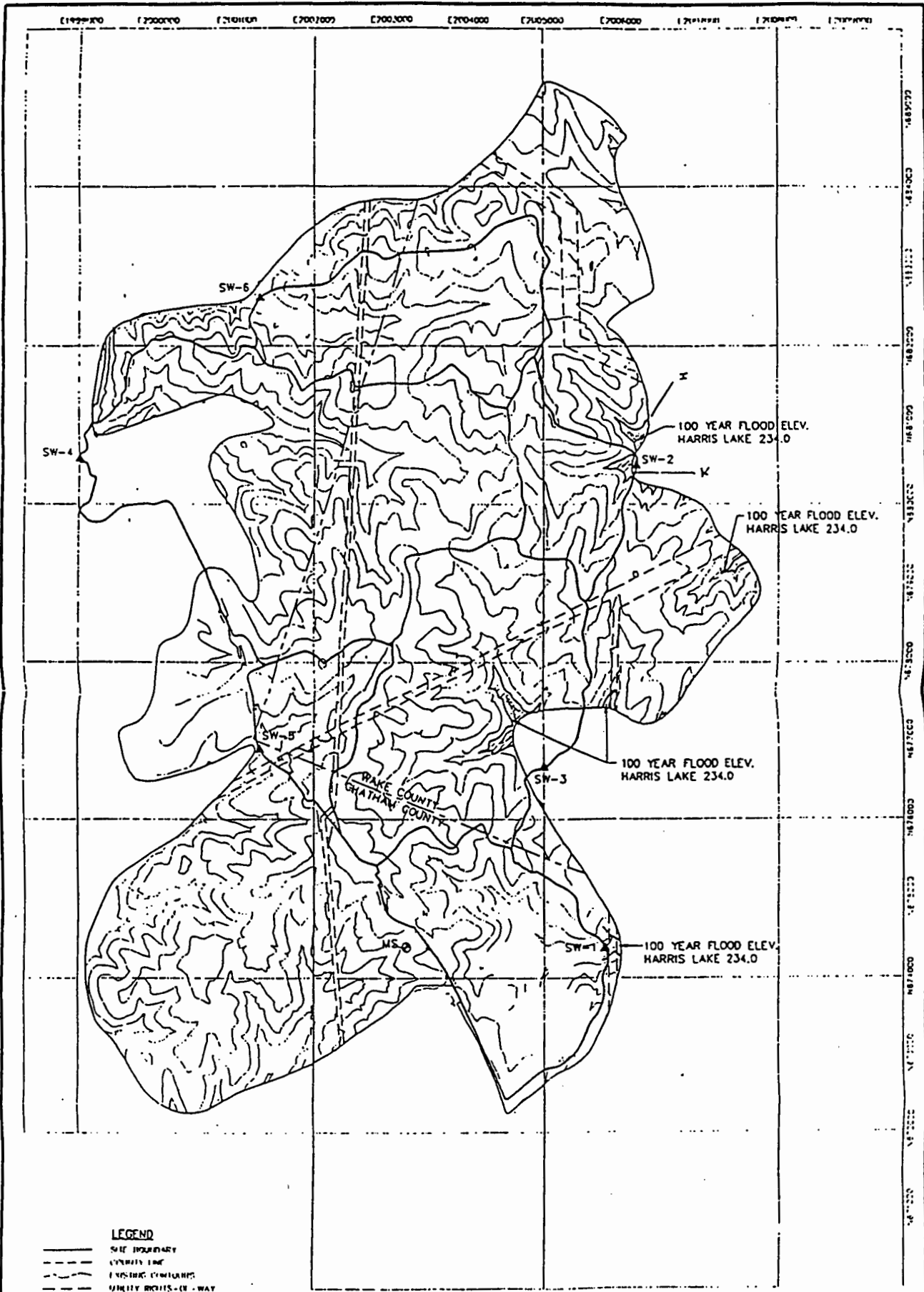
8 Section 1. G.S. 104G-9(e) reads as rewritten:

9 "(e) No later than 1 August 1989, the Authority shall select a minimum of two sites
10 that are suitable for the location of a low-level radioactive disposal facility, for
11 characterization. No site ~~may~~ shall be selected for the location of a low-level
12 radioactive waste disposal facility without first having been characterized. No site
13 shall be selected for the location of a low-level radioactive waste disposal facility that
14 would result in the facility or the facility's buffer zone being located within 3,000 feet
15 of:

16 (1) A 100-year floodplain; even if the site can be altered to protect it
17 from flooding during a 100-year flood; or

18 (2) A maximum 100-year pool elevation."

19 Section 2. This act is effective when it becomes law and applies to final
20 site selections made on or after that date.



- LEGEND**
- SITE BOUNDARY
 - - - - - CONTOUR LINE
 - - - - - EXISTING CONTOUR
 - - - - - FUTURE CONTOUR
 - - - - - TRAILWAY
 - - - - - DRAINAGE CANAL
 - SW-1 ▲ GAGE LOCATION AND NO.
 - MS 0 MET STATION LOCATION
 - 100 YEAR FLOOD ELEV.

**SURFACE WATER MONITORING
LOCATIONS
WAKE/CHATHAM COUNTY SITE**

On-site wetlands

Federal and State regulations [10 CFR 61.50 (5) and NCAC 11.1228(d)] prohibit the disposal of radioactive waste in wetlands. However, the Army Corps of Engineers has identified 2.8 acres of wetlands inside the proposed licensed site area (see Fig. 1). According to Chem-Nuclear's current plans, three wetland areas will be destroyed to become part of storm run-off retention/sedimentation ponds. Another wetland area lies along the proposed drainage ditch, and two wetland areas are located in the middle of the proposed disposal unit area.⁵⁸ Although Chem-Nuclear asserts that these wetlands are intermittent or temporary run-off channels, the presence of long-lived aquatic species such as sunfish in drainage K indicates permanent streams. Chem-Nuclear has not responded to an interrogatory⁵⁹ from the State, requesting that the company reconcile the presence of jurisdictional wetlands within the planned disposal area and the state regulation prohibiting waste disposal in a wetland.

100-year floodplains are within buffer zone

The NC law in 15A NCAC 11.1228(d) states, "*Waste disposal shall not take place in a 100-year flood plain, coastal high-hazard area or wetland.*" The proposed facility's buffer zone intersects 100-year floodplains within drainages I and K, which drain east into Harris Lake (see Fig. 1).⁶⁰ Certainly Harris Lake's 500-year flood and probable maximum flood plains will encroach even more onto the buffer. It is cause for concern that two of the drainages in which ground water discharge is likely to occur are the ones where floodplains and the buffer overlap. They are also adjacent to the southeastern corner of the proposed disposal unit area, where the shortest travel times have been calculated, according to CNSI's flow modeling presented in the SAR.⁶¹ They drain directly into Harris Lake, which is only 1200 feet east of the facility.⁶² A DRP Interrogatory about this issue has yet to be answered by Chem-Nuclear.⁶³

⁵⁸See Figure 9-1, Chem-Nuclear's Environmental Impact Report, "Conceptual Site Plan With Jurisdictional Waters/Wetlands," Wake/Chatham County Site.

⁵⁹Interrogatory 11-A-019.

⁶⁰CNSI (1993), SAR, Fig. 2.4-1.

⁶¹*Ibid.*, p.2.4-229.

⁶²*Ibid.*, p.2.4-229 and Fig. 2.1-2.

⁶³Interrogatory 02-A-081.

WAKE/CHATHAM POTENTIALLY SUITABLE SITE

Summary Statement

The Site lies on an upland ridge and is well drained. No upstream watersheds contribute stormwater runoff to the Site, and stormwater runoff from the Site flows into intermittent streams near the Site boundary. No flood plain determinations were made along the intermittent streams because of their small drainage areas. The only source of flooding that could affect the Site is Harris Lake which has a maximum 100-year flood pool elevation that is at least 300 feet from the planned disposal units. (SCR - ES p. 18)

Additional Information

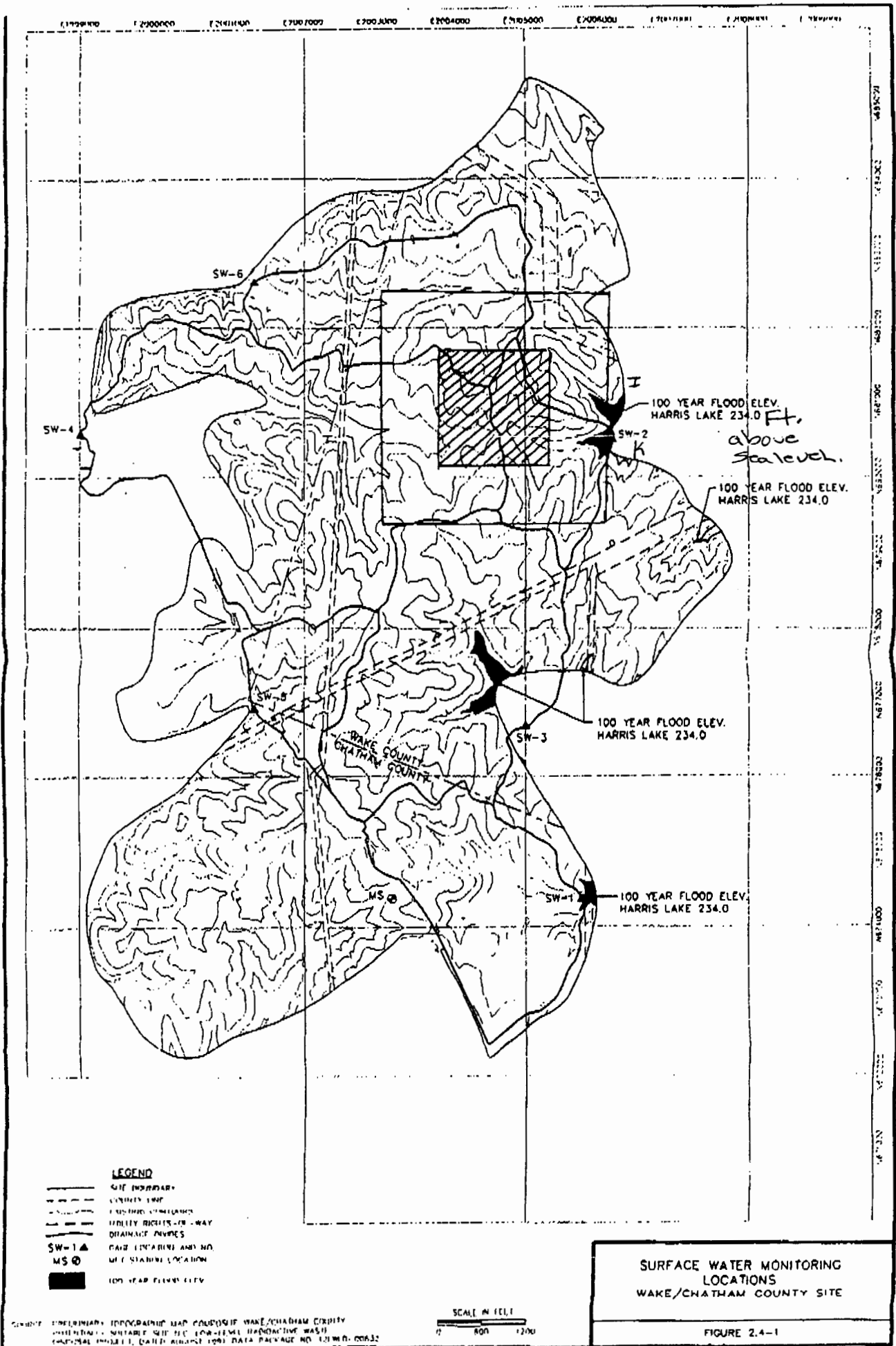
The Wake/Chatham Site includes the headwaters of the streams or channels that drain the Site. The drainage areas of these streams are all less than 0.5 square miles at the approximate Site boundaries. The streamflow data collected during 1992 indicate that these streams are intermittent and, except during storm runoff events, the stream channels are dry most of the year. According to the FEMA/FIS¹ guidelines, detailed flood studies of streams with these characteristics are not required. Approximate study methods are normally terminated at the point where the flood plains narrow to less than 200 feet. The flood plains on site are expected to be narrower than 200 feet. Based on the guidance referenced in the regulatory requirements and the geomorphology and hydrology of the Site, detailed flood plain analysis of the on-site streams is not required and was therefore not performed. This finding has been confirmed by the North Carolina Department of Environment, Health, and Natural Resources (DEHNR) (Sutherland, 1993). (SCR 2.4.1.8.2)

No flood plain determinations were made along the intermittent on-site streams because of their very small drainage areas. The only off-site source of flooding that could affect any portion of the Site is Harris Lake which has a maximum 100-year pool elevation of 234 ft msl². The 100-year flood elevation for Harris Lake encroaches only minimally upon the approximate Site boundary to the east and is at least 300 feet from the planned location of the disposal cells. Therefore the actual disposal cells are not predicted to be flooded by the 100-year event. (SCR 2.4.1.10)

Source: North Carolina Low-Level Radioactive Waste Management Authority.

¹ Federal Emergency Management Agency/Flood Insurance Study

² mean sea level



- LEGEND**
- GLE BOUNDARY
 - - - COUNTY LINE
 - - - FUTURE CORRELATION
 - - - TIDLEY RIGHTS-IN-WAY
 - - - DRAINAGE DIVIDES
 - SW-1 ▲ DATE LOCATED AND NO.
 - MS ○ WET STATION LOCATION
 - 100 YEAR FLOOD ELEV.

SURFACE WATER MONITORING LOCATIONS WAKE/CHATHAM COUNTY SITE

CONDT PRELIMINARY HYDROGRAPHIC MAP COUNTY OF WAKE/CHATHAM COUNTY
 PREPARED BY: SUITE 101 100-LEVEL HYDROLOGIC WASH
 (SPECIAL PROJECT), DATED AUGUST 1991 DATA PACKAGE NO. 101WB-00632

SCALE IN FEET
 0 800 1200

FIGURE 2.4-1

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 903

DATE April 25, 1997

S. B. No. _____

this failed

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)

)

Sen.)

1 moves to amend the bill on page 1, line 19

2 () WHICH CHANGES THE TITLE

3 by deleting the word "final" and

4 _____

5 on page 1 line 20 by rewriting

6 that line to read:

8 _____

9 "~~Word~~

10 " sites that have not been

11 licensed on ~~or after~~ that date."

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED Bobby R. Hall

ADOPTED _____ FAILED X TABLED _____

RESOLUTION

INTER-AGENCY COMMITTEE ON LOW-LEVEL RADIOACTIVE WASTE

April 24, 1997

WHEREAS, the North Carolina General Assembly has found that the generation of low-level radioactive waste is an unavoidable result of the needs and demands of a modern society, and that the safe and efficient management of low-level radioactive waste, including the timely establishment of adequate facilities for the comprehensive management and permanent disposal of such waste, presents urgent problems for North Carolina; and

WHEREAS, the General Assembly has further found that solutions to these urgent problems are essential to the State's continued economic growth and to protection of the public health and safety and the environment; and

WHEREAS, in order to solve these urgent problems and to fulfill the State's obligations under the Low Level Radioactive Waste Policy Amendments Act, while protecting public health, safety, and the environment, the General Assembly created the North Carolina Low-Level Radioactive Waste Management Authority "to site, finance, build, lease or operate, oversee, monitor and close" a low-level radioactive waste disposal facility; and

WHEREAS, in order to assist the Authority in the performance of its responsibilities under Chapter 104G of the General Statutes and to advise the General Assembly, the General Assembly created the Inter-Agency Committee on Low-Level Radioactive Waste; and

WHEREAS, the Committee must report to the General Assembly from time to time regarding any changes in the present law the Committee may deem appropriate to expedite the resolution of issues regarding the siting, design, construction, operation, and licensure of a low-level radioactive waste disposal facility; and

WHEREAS, certain bills have been introduced during the 1997 legislative session which, if enacted into law, could negatively impact the State's effort to accomplish the purposes set out in Chapter 104G, including the siting of a low-level radioactive waste disposal facility; and

WHEREAS, these introduced bills specifically include Senate Bills 755 and 771, and identical House Bill 903, all of which seek to prohibit the siting of a low-level radioactive waste disposal facility, including its buffer zone, within 3000 feet of a 100-year flood plain or a maximum 100-year pool elevation; and

WHEREAS, existing rules, regulations, and laws provide an adequate degree of assurance that public health and safety and the environment will be protected, specifically including with regard to waste disposal in 100-year flood plains; and

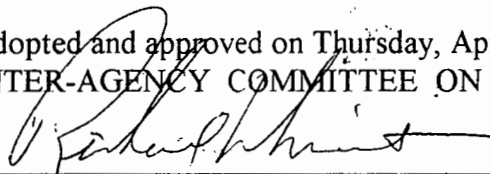
WHEREAS, there appears to be no technical basis on which to add an additional 3000 foot separation requirement; and

WHEREAS, adding an arbitrary 3000 foot separation requirement could possibly eliminate most, if not all, viable sites in North Carolina and prevent the Authority from accomplishing its statutory mission to site a low-level radioactive waste disposal facility under Chapter 104G;

NOW, THEREFORE, BE IT RESOLVED that this Inter-Agency Committee on Low-Level Radioactive Waste is opposed to legislation attempting to prohibit the siting of a low-level radioactive waste disposal facility, including its buffer zone, within 3000 feet of a 100-year flood plain or a maximum 100-year pool elevation, specifically including Senate Bills 755 and 771 and House Bill 903; and

BE IT FURTHER RESOLVED that the Committee authorizes and directs its Chairman or his designee to timely communicate its opposition, and the reasons therefor, to any and all appropriate legislative bodies considering these and any related bills.

Adopted and approved on Thursday, April 24, 1997, by the
INTER-AGENCY COMMITTEE ON LOW-LEVEL RADIOACTIVE WASTE.



Richard Whisnant, Chairman

Date: 4-25, 1997

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 451 A BILL TO BE ENTITLED AN ACT RELATING TO ELIGIBILITY FOR
UNEMPLOYMENT BENEFITS IN THE EVENT OF SPOUSAL ABUSE OR A SPOUSAL
RELOCATION, TO THE DEFINITION OF EMPLOYMENT AS TO AGRICULTURAL
LABOR, AND TO FOOD STAMP OVERISSUANCES.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill, which changes the title, unfavorable
as to original bill and recommendation that the committee substitute bill be re-referred to the
Committee on Finance.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

H

D

HOUSE BILL 451
Proposed Committee Substitute H451-PCS1347

Short Title: ESC Benefits Changes/AB.

(Public)

Sponsors:

Referred to:

March 10, 1997

1 A BILL TO BE ENTITLED
2 AN ACT RELATING TO ELIGIBILITY FOR UNEMPLOYMENT BENEFITS IN
3 THE EVENT OF DOMESTIC ABUSE OR A SPOUSAL RELOCATION, TO
4 THE DEFINITION OF EMPLOYMENT AS TO AGRICULTURAL LABOR, TO
5 FOOD STAMP OVERISSUANCES, AND TO REPORTING REQUIREMENTS.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 96-14(1D) reads as rewritten:
8 "(1D) For the purposes of this Chapter, any claimant leaving work to
9 accompany the claimant's legally recognized spouse to a new place
10 of residence where that spouse has secured work in a location that
11 is too far removed for the claimant reasonably to continue his or
12 her work shall ~~serve a time certain disqualification for benefits for~~
13 ~~a period of five weeks beginning the first day of the first week after~~
14 ~~the disqualifying act occurs with respect to which week an~~
15 ~~individual files a claim for benefits.~~ constitute good cause for
16 leaving work. Benefits paid on the basis of this section shall be
17 noncharged."
18 Section 2. G.S. 96-14 is amended by adding a new subdivision to read:
19 "(1F) For the purposes of this Chapter, any claimant's leaving work, or
20 discharge, if the claimant has been adjudged an aggrieved party as
21 set forth by Chapter 50B of the General Statutes as the result of
22 domestic violence committed upon the claimant or upon a minor

1 child with or in the custody of the claimant by a person who has or
2 who has had a familial relationship with the claimant or minor
3 child, shall not disqualify the claimant for benefits. Benefits paid
4 on the basis of this section shall be noncharged."

5 Section 3. G.S. 96-9(c) reads as rewritten:

- 6 "(c) (1) Except as provided in subsection (d) of this section, the
7 Commission shall maintain a separate account for each employer
8 and shall credit ~~his~~ the employer's account with all voluntary
9 contributions made by ~~him~~ the employer and all other
10 contributions which ~~he~~ the employer has paid or is paid on ~~his~~ the
11 employer's behalf, provided the Commission shall credit the
12 account of each employer in an amount equal to eighty percent
13 (80%) of all voluntary contributions paid with respect to periods
14 prior to January 1, 1984, and of all other contributions paid with
15 respect to periods between July 1, 1965, and December 31, 1983.
16 On the computation date, beginning first with August 1, 1948, the
17 ratio of the credit balance in each individual account to the total of
18 all the credit balances in all employer accounts shall be computed
19 as of such computation date, and an amount equal to the interest
20 credited to this State's account in the unemployment trust fund in
21 the treasury of the United States for the four most recently
22 completed calendar quarters shall be credited prior to the next
23 computation date on a pro rata basis to all employers' accounts
24 having a credit balance on the computation date. Such amount
25 shall be prorated to the individual accounts in the same ratio that
26 the credit balance in each individual account bears to the total of
27 the credit balances in all such accounts. In computing the amount
28 to be credited to the account of an employer as a result of interest
29 earned by funds on deposit in the unemployment trust fund in the
30 treasury of the United States to the account of this State, any
31 voluntary contributions made by an employer after July 31 of any
32 year shall not be considered a part of the account balance of the
33 employer until the next computation date occurring after such
34 voluntary contribution was made. No provision in this section shall
35 in any way be subject to or affected by any provisions of the
36 Executive Budget Act, as amended. Nothing in this Act shall be
37 construed to grant any employer or individual in ~~his~~ the
38 employer's service prior claims or rights to the amount paid by
39 ~~him~~ the employer into the fund either on ~~his~~ the employer's own
40 behalf or on behalf of such individuals.
- 41 (2) Charging of benefit payments. --
- 42 a. Benefits paid shall be allocated to the account of each base
43 period employer in the proportion that the base period
44 wages paid to an eligible individual in any calendar quarter

1 by each such employer bears to the total wages paid by all
2 base period employers during the base period, except as
3 hereinafter provided in paragraphs b, c, and d of this
4 subdivision, G.S. 96-9(d)(2)c, and 96-12(e)G. The amount so
5 allocated shall be multiplied by one hundred twenty percent
6 (120%) and charged to that employer's account. Benefits
7 paid shall be charged to employers' accounts upon the basis
8 of benefits paid to claimants whose benefit years have
9 expired.

10 b. Any benefits paid to any claimant under a claim filed for a
11 period occurring after the date of such separations as are set
12 forth in this paragraph and based on wages paid prior to the
13 date of (i) the leaving of work by the claimant without good
14 cause attributable to the employer; (ii) the discharge of
15 claimant for misconduct in connection with ~~his~~ the
16 claimant's work; (iii) the discharge of the claimant for
17 substantial fault as that term may be defined in G.S. 96-14;
18 (iv) the discharge of the claimant solely for a bona fide
19 inability to do the work for which ~~he~~ the claimant was hired
20 but only where the claimant was hired pursuant to a job
21 order placed with a local office of the Commission for
22 referrals to probationary employment (with a probationary
23 period no longer than 100 days), which job order was placed
24 in such circumstances and which satisfies such conditions as
25 the Commission may by regulation prescribe and only to the
26 extent of the wages paid during such probationary
27 employment; (v) separations made disqualifying under G.S.
28 96-14(2B) and (6A); ~~or~~ (vi) separation due to leaving for
29 disability or health ~~condition~~ condition; or (vii) separation
30 due to spousal relocation or domestic abuse as provided by
31 G.S. 96-14(1D) and (1F) shall not be charged to the account
32 of the employer by whom the claimant was employed at the
33 time of such separation; provided, however, said employer
34 promptly furnishes the Commission with such notices
35 regarding any separation of the individual from work as are
36 or may be required by the regulations of the Commission.

37 No benefit charges shall be made to the account of
38 any employer who has furnished work to an individual who,
39 because of the loss of employment with one or more other
40 employers, becomes eligible for partial benefits while still
41 being furnished work by such employer on substantially the
42 same basis and substantially the same amount as had been
43 made available to such individual during ~~his~~ the individual's
44 base period whether the employments were simultaneous or

1 successive; provided, that such employer makes a written
2 request for noncharging of benefits in accordance with
3 Commission regulations and procedures.

4 No benefit charges shall be made to the account of
5 any employer for benefit years ending on or before June 30,
6 1992, where benefits were paid as a result of a discharge due
7 directly to the reemployment of a veteran mandated by the
8 Veteran's Reemployment Rights Law, 38 USCA § 2021, et
9 seq.

10 No benefit charges shall be made to the account of
11 any employer where benefits are paid as a result of a
12 decision by an Adjudicator, Appeals Referee or the
13 Commission if such decision to pay benefits is ultimately
14 reversed; nor shall any such benefits paid be deemed to
15 constitute an overpayment under G.S. 96-18(g)(2), the
16 provisions thereof notwithstanding. Provided, an
17 overpayment of benefits paid shall be established in order to
18 provide for the waiting period required by G.S. 96-13(c).

- 19 c. Any benefits paid to any claimant who is attending a
20 vocational school or training program as provided in G.S.
21 96-13(a)(3) shall not be charged to the account of the base
22 period employer(s).
- 23 d. Any benefits paid to any claimant under the following
24 conditions shall not be charged to the account of the base
25 period employer(s):
- 26 1. The benefits are paid for unemployment due directly
27 to a major natural disaster, and
 - 28 2. The President has declared the disaster pursuant to
29 the Disaster Relief Act of 1970, 42 USCA 4401, et
30 seq., and
 - 31 3. The benefits are paid to claimants who would have
32 been eligible for disaster unemployment assistance
33 under this Act, if they had not received
34 unemployment insurance benefits with respect to that
35 unemployment.
- 36 e. 1. Any benefits paid to any claimant which are based on
37 previously uncovered employment which are
38 reimbursable by the federal government shall not be
39 charged to the experience rating account of any
40 employer.
- 41 2. For purposes of this paragraph previously uncovered
42 employment for which benefits are reimbursable by
43 the federal government means services performed
44 before July 1, 1978, in the case of a week of

1 unemployment beginning before July 1, 1978, or
2 before January 1, 1978, in the case of a week of
3 unemployment beginning after July 1, 1978, and to
4 the extent that assistance under Title II of the
5 Emergency Jobs and Unemployment Assistance Act
6 of 1974 (SUA) was not paid to such individuals on
7 the basis of such service.

8 (3) As of July 31 of each year, and prior to January 1 of the
9 succeeding year, the Commission shall determine the balance of
10 each employer's account and shall furnish ~~him~~ the employer with a
11 statement of all charges and credits thereto. At the same time the
12 Commission shall notify each employer of ~~his~~ the employer's rate
13 of contributions as determined for the succeeding calendar year
14 pursuant to this section. Such determination shall become final
15 unless the employer files an application for review or
16 redetermination prior to May 1 following the effective date of such
17 rates. The Commission may redetermine on its own motion within
18 the same period of time.

19 (4) Transfer of account. --

20 a. Whenever any individual, group of individuals, or
21 employing unit, who or which, in any manner succeeds to or
22 acquires substantially all or a distinct and severable portion
23 of the organization, trade, or business of another employing
24 unit as provided in G.S. 96-8, subdivision (5), paragraph b,
25 the account or that part of the account of the predecessor
26 which relates to the acquired portion of the business shall,
27 upon the mutual consent of the parties concerned and
28 approval of the Commission in conformity with the
29 regulations as prescribed therefor, be transferred as of the
30 date of acquisition of the business to the successor employer
31 for use in the determination of ~~his~~ the successor's rate of
32 contributions, provided application for transfer is made
33 within 60 days after the Commission notifies the successor of
34 ~~his~~ the successor's right to request such transfer, otherwise
35 the effective date of the transfer shall be the first day of the
36 calendar quarter in which such application is filed, and that
37 after the transfer the successor employing unit continues to
38 operate the transferred portion of such organization, trade
39 or business. Provided, however, that the transfer of an
40 account for the purpose of computation of rates shall be
41 deemed to have been made prior to the computation date
42 falling within the calendar year within which the effective
43 date of such transfer occurs and the account shall thereafter
44 be used in the computation of the rate of the successor

1 employer for succeeding years, subject, however, to the
2 provisions of paragraph b of this subdivision.

3 On or after August 1, 1988, whenever any individual,
4 group of individuals, or employing unit, who or which, in
5 any manner succeeds to or acquires all of the organization,
6 trade, or business of another employing unit as provided in
7 G.S. 96-8, subdivision (5), paragraph b, the account of the
8 predecessor shall be transferred as of the date of the
9 acquisition of the business to the successor employer for use
10 in the determination of ~~his~~ the successor's rate of
11 contributions. Whenever any individual, group of
12 individuals, or employing unit, who or which, in any
13 manner succeeds to or acquires a distinct and severable
14 portion of the organization, trade, or business of another
15 employing unit as provided in G.S. 96-8, subdivision (5),
16 paragraph b, that part of the account of the predecessor
17 which relates to the acquired portion of the business shall,
18 upon the mutual consent of the parties concerned and
19 approval of the Commission in conformity with the
20 regulations as prescribed therefor, be transferred as of the
21 date of acquisition of the business to the successor employer
22 for use in the determination of ~~his~~ the successor's rate of
23 contributions, provided application for transfer is made
24 within 60 days after the Commission notifies the successor of
25 ~~his~~ the successor's right to request such transfer, otherwise
26 the effective date of the transfer shall be the first day of the
27 calendar quarter in which such application is filed, and that
28 after the transfer the successor employing unit continues to
29 operate the transferred portion of such organization, trade
30 or business. Provided, however, that the transfer of an
31 account for the purpose of computation of rates shall be
32 deemed to have been made prior to the computation date
33 falling within the calendar year within which the effective
34 date of such transfer occurs and the account shall thereafter
35 be used in the computation of the rate of the successor
36 employer for succeeding years, subject, however, to the
37 provisions of paragraph b of this subdivision. No request for
38 a transfer of the account will be accepted and no transfer of
39 the account will be made if the request for the transfer of
40 the account is not received within two years of the date of
41 acquisition or notification by the Commission of the right to
42 request such transfer, whichever occurs later. However, in
43 no event will a request for a transfer be allowed if an
44 account has been terminated because an employer ceases to

1 be an employer pursuant to G.S. 96-9(c)(5) and G.S. 96-
2 11(d) regardless of the date of notification.

3 b. Notwithstanding any other provisions of this section, if the
4 successor employer was an employer subject to this Chapter
5 prior to the date of acquisition of the business, ~~his~~ the
6 successor employer's rate of contribution for the period
7 from such date to the end of the then current contribution
8 year shall be the same as ~~his~~ the successor employer's rate in
9 effect on the date of such acquisition. If the successor was
10 not an employer prior to the date of the acquisition of the
11 business ~~he~~ the successor shall be assigned a standard rate of
12 contribution set forth in G.S. 96-9(b)(1) for the remainder of
13 the year in which ~~he~~ the successor acquired the business of
14 the predecessor; however, if such successor makes
15 application for the transfer of the account within 60 days
16 after notification by the Commission of his right to do so
17 and the account is transferred, or meets the requirements for
18 mandatory transfer, ~~he~~ the successor shall be assigned for
19 the remainder of such year the rate applicable to the
20 predecessor employer or employers on the date of
21 acquisition of the business, provided there was only one
22 predecessor or if more than one and the predecessors had
23 identical rates. In the event the rates of the predecessor were
24 not identical, the rate of the successor shall be the highest
25 rate applicable to any of the predecessor employers on the
26 date of acquisition of the business.

27 Irrespective of any other provisions of this Chapter,
28 when an account is transferred in its entirety by an employer
29 to a successor, the transferring employer shall thereafter pay
30 the standard rate of contributions of two and seven-tenths
31 percent (2.7%) and shall continue to pay at such rate until
32 ~~he~~ the transferring employer qualifies for a reduction,
33 reacquires the account ~~he~~ that the transferring employer
34 transferred or acquires the experience rating account of
35 another employer, or is subject to an increase in rate under
36 the conditions prescribed in G.S. 96-9(b)(2) and (3).
37 However, when an account is transferred in its entirety by
38 an employer to a successor on or after January 1, 1987, the
39 transferring employer shall thereafter pay the standard
40 beginning rate of contributions of two and twenty-five
41 hundredths percent (2.25%) and shall continue to pay at
42 such rate until ~~he~~ the transferring employer qualifies for a
43 reduction, reacquires the account ~~he~~ that the transferring
44 employer transferred or acquires the experience rating

1 account of another employer, or is subject to an increase in
2 rate under the conditions prescribed in G.S. 96-9(b)(2) and
3 (3).

4 c. In those cases where the organization, trade, or business of a
5 deceased person, or insolvent debtor is taken over and
6 operated by an administrator, administratrix, executor,
7 executrix, receiver, or trustee in bankruptcy, such employing
8 units shall automatically succeed to the account and rate of
9 contribution of such deceased person, or insolvent debtor
10 without the necessity of the filing of a formal application for
11 the transfer of such account.

12 (5) In the event any employer subject to this Chapter ceases to be such
13 an employer, ~~his~~ the employer's account shall be closed and the
14 same shall not be used in any future computation of such
15 employer's rate nor shall any period prior to the effective date of
16 the termination of such employer during which benefits were
17 chargeable be considered in the application of G.S. 96-9(b)(2) of
18 this Chapter.

19 (6) If the Commission finds that an employer's business is closed solely
20 because of the entrance of one or more of the owners, officers,
21 partners, or the majority stockholder into the Armed Forces of the
22 United States, or of any of its allies, or of the United Nations, such
23 employer's experience rating account shall not be terminated; and,
24 if the business is resumed within two years after the discharge or
25 release from active duty in the Armed Forces of such person or
26 persons, the employer's account shall be deemed to have been
27 chargeable with benefits throughout more than 13 consecutive
28 calendar months ending July 31 immediately preceding the
29 computation date. This subdivision shall apply only to employers
30 who are liable for contributions under the experience rating system
31 of financing unemployment benefits. This subdivision shall not be
32 construed to apply to employers who are liable for payments in
33 lieu of contributions or to employers using the reimbursable
34 method of financing benefit payments."

35 Section 4. G.S. 96-8(6) reads as rewritten:

36 "(6) a. 'Employment' means service performed including service in
37 interstate commerce, except employment as defined in the
38 Railroad Retirement Act and the Railroad Unemployment
39 Insurance Act, performed for wage or under any contract of
40 hire, written or oral, express or implied, in which the
41 relationship of the individual performing such service and
42 the employing unit for which such service is rendered is, as
43 to such service, the legal relationship of employer and
44 employee. Provided, however, the term 'employee' includes

- 1 an officer of a corporation, but such term does not include
2 (i) any individual who, under the usual common-law rules
3 applicable in determining the employer-employee
4 relationship, has the status of an independent contractor or
5 (ii) any individual (except an officer of a corporation) who
6 is not an employee under such common-law rules. An
7 employee who is on paid vacation or is on paid leave of
8 absence due to illness or other reason shall be deemed to be
9 in employment irrespective of the failure of such individual
10 to perform services for the employing unit during such
11 period.
- 12 b. The term 'employment' shall include an individual's entire
13 service, performed within or both within and without this
14 State if:
- 15 1. The service is localized in this State; or
 - 16 2. The service is not localized in any state but some of
17 the service is performed in this State, and (i) the base
18 of operations, or, if there is no base of operations,
19 then the place from which such service is directed or
20 controlled, is in this State; or (ii) the base of
21 operations or place from which such service is
22 directed or controlled is not in any state in which
23 some part of the service is performed, but the
24 individual's residence is in this State.
 - 25 3. The service, wherever performed, is within the
26 United States, or Canada; such service is not covered
27 under the unemployment compensation law of any
28 other state or Canada; and the place from which the
29 service is directed or controlled is in this State.
- 30 c. Services performed within this State but not covered under
31 paragraph b of this subdivision shall be deemed to be
32 employment subject to this Chapter, if contributions are not
33 required and paid with respect to such services under an
34 employment security law of any other state or of the federal
35 government.
- 36 d. Services not covered under paragraph b of this subdivision,
37 and performed entirely without this State, with respect to no
38 part of which contributions are required and paid under an
39 employment security law of any other state or of the federal
40 government, shall be deemed to be employment subject to
41 this Chapter if the individual performing such service is a
42 resident of this State and the Commission approves the
43 election of the employing unit for whom such services are
44 performed that the entire service of such individual shall be

1 deemed to be employment subject to this Chapter, and
2 services covered by an election duly approved by the
3 Commission in accordance with an arrangement pursuant to
4 subsection (l) of G.S. 96-4 shall be deemed to be
5 employment during the effective period of such election.

6 e. Service shall be deemed to be localized within a state if:

- 7 1. The service is performed entirely within such state; or
- 8 2. The service is performed both within and without
9 such state, but the service performed without such
10 state is incidental to the individual's service within
11 the State, for example, is temporary or transitory in
12 nature or consists of isolated transactions.

13 f. The term 'employment' shall include:

- 14 1. Services covered by an election pursuant to G.S. 96-
15 11, subsection (c), of this Chapter; and
- 16 2. Services covered by an election duly approved by the
17 Commission in accordance with an arrangement
18 pursuant to G.S. 96-4, subsection (l), of this Chapter
19 during the effective period of such election.
- 20 3. Any service of whatever nature performed by an
21 individual for an employing unit on or in connection
22 with an American vessel under a contract of service
23 which is entered into within the United States or
24 during the performance of which the vessel touches at
25 a port in the United States, if such individual is
26 employed on and in connection with such vessel
27 when outside the United States: Provided, such
28 service is performed on or in connection with the
29 operations of an American vessel operating on
30 navigable waters within or within and without the
31 United States and such operations are ordinarily and
32 regularly supervised, managed, directed, and
33 controlled from an operating office maintained by the
34 employing unit in this State: Provided further, that
35 this subparagraph shall not be applicable to those
36 services excluded in subdivision (6), paragraph k,
37 subparagraph 6 of this section.
- 38 4. Any service of whatever nature performed by an
39 individual for an employing unit on or in connection
40 with an American aircraft under a contract of service
41 which is entered into within the United States or
42 during the performance of which and while the
43 employee is employed on the aircraft it touches at a
44 port in the United States, if such individual is

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employed on and in connection with such aircraft when outside the United States; provided such service is performed on or in connection with the operations of an American aircraft and such operations are ordinarily and regularly supervised, managed, directed, and controlled from an operating office maintained by the employing unit in this State.

5. Notwithstanding any other provision of this Chapter, 'employment' shall include any individual who performs services irrespective of whether the master-servant relationship exists, for remuneration for any employing unit:

(a) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk) or laundry or dry-cleaning services, for his principal;

(b) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations if the contract of services contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term 'employment' under the provisions of this subsection if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the employing unit for whom the services are performed.

6. Service of an individual who is a citizen of the United States, performed outside of the United States (except in Canada), in the employ of an American employer

1 (other than service which is deemed "employment"
2 under the provisions of paragraph b or e of this
3 subsection or the parallel provisions of another state's
4 law), if:

5 (i) The employer's principal place of business in
6 the United States is located in this State; or

7 (ii) The employer has no place of business in the
8 United States, but

9 (I) The employer is an individual who is a
10 resident of this State; or

11 (II) The employer is a corporation which is
12 organized under the laws of this State;
13 or

14 (III) The employer is a partnership or a
15 trust and the number of the partners or
16 trustees who are residents of this State
17 is greater than the number who are
18 residents of any other state; or

19 (iii) None of the criteria of divisions (i) and (ii) of
20 this subparagraph is met but the employer has
21 elected coverage in this State, or, the
22 employer having failed to elect coverage in
23 any state, the individual has filed a claim for
24 benefits, based on such service, under the law
25 of this State.

26 (iv) An 'American employer,' for the purposes of
27 this paragraph, means a person who is:

28 (I) An individual who is a resident of the
29 United States; or

30 (II) A partnership if two thirds or more of
31 the partners are residents of the United
32 States; or

33 (III) A trust, if all of the trustees are
34 residents of the United States; or

35 (IV) A corporation organized under the
36 laws of the United States or of any
37 state;

38 (V) For the purposes of this
39 subparagraph, United States includes
40 all the states, the District of
41 Columbia, and the Commonwealth of
42 Puerto Rico.

43 7. Services with respect to which a tax is required to be
44 paid under any federal law imposing a tax against

1 which credit may be taken for contributions required
2 to be paid into a State unemployment insurance fund,
3 or which as a condition for full tax credit against the
4 tax imposed by the Federal Unemployment Tax Act
5 is required to be covered under this Chapter.

- 6 g. On and after January 1, 1978, the term 'employment'
7 includes services performed in agricultural labor when a
8 person or employing unit (a) during any calendar quarter in
9 the current calendar year or the preceding calendar year
10 pays wages of twenty thousand dollars (\$20,000) or more for
11 agricultural labor, or (b) on each of some 20 days during the
12 preceding calendar year, each day being in a different
13 calendar week, employs at least 10 individuals in
14 employment in agricultural labor for some portion of the
15 day. For purposes of this Chapter, the term 'agricultural
16 labor' includes all services performed: (1) On a farm, in the
17 employ of any person, in connection with cultivating the
18 soil, or in connection with raising or harvesting any
19 agricultural or horticultural commodity, including the
20 raising, shearing, feeding, caring for, training, and
21 management of livestock, bees, poultry, and fur-bearing
22 animals and wildlife; (2) in the employ of the owner or
23 tenant or other operator of a farm, in connection with the
24 operation, management, conservation, improvement, or
25 maintenance of such farm and its tools and equipment, or in
26 salvaging timber or clearing land of brush and other debris
27 left by a hurricane, if the major part of such service is
28 performed on a farm; (3) in connection with the production
29 or harvesting of crude gum (oleoresin) from a living tree,
30 and the following products if processed by the original
31 producer of crude gum from which derived; gum spirits of
32 turpentine and gum resin, or in connection with the ginning
33 of cotton or in connection with the operation or
34 maintenance of ditches, canals, reservoirs, or waterways, not
35 owned or operated for profit, used exclusively for supplying
36 and storing water for farming purposes; or (4)(A) in the
37 employ of the operator of a farm in handling, planting,
38 drying, packing, packaging, processing, freezing, grading,
39 storing, or delivering to storage or to market or to a carrier
40 for transportation to market, in its unmanufactured state,
41 any agricultural or horticultural commodity, but only if such
42 operator produced more than one half of the commodity
43 with respect to which such service is performed; (B) in the
44 employ of a group of operators of farms (or a cooperative

1 organization of which such operators are members) in
2 performance of service described in subparagraph (A), but
3 only if such operators produced more than one half of the
4 commodity with respect to which such service is performed.
5 (C) The provisions of subparagraphs (A) and (B) shall not
6 be deemed to be applicable with respect to service
7 performed in connection with commercial canning or
8 commercial freezing or in connection with any agricultural
9 or horticultural commodity after its delivery to a terminal
10 market for distribution for consumption; (D) on a farm
11 operated for profit if such service is not in the course of the
12 employer's trade or business. As used in this subsection, the
13 term 'farm' includes stock, dairy, poultry, fruit, fur-bearing
14 animal, and truck farms, plantations, ranches, nurseries,
15 ranges, greenhouses or other similar structures used
16 primarily for the raising of agricultural or horticultural
17 commodities, and orchards. Provided, such labor is not
18 agricultural labor performed ~~before January 1, 1995~~, by an
19 individual who is an alien admitted to the United States to
20 perform agricultural labor pursuant to sections 214(c) and
21 101(a)(15)(H) of the Immigration and Nationality Act.

22 h. On and after January 1, 1978, the term 'employment'
23 includes domestic service in a private home, local college
24 club or local chapter of a college fraternity or sorority
25 performed for a person who pays cash remuneration of one
26 thousand dollars (\$1,000) or more on or after January 1,
27 1978, in any calendar quarter in the current calendar year or
28 the preceding calendar year to individuals employed in such
29 domestic service.

30 i. On and after January 1, 1978, the term 'employment'
31 includes service performed for any State and local
32 governmental employing unit. Provided, however, that
33 employment shall not include service performed (a) as an
34 elected official; (b) as a member of a legislative body or a
35 member of the judiciary, of a State or political subdivision
36 thereof; (c) as a member of the State National Guard or Air
37 National Guard; (d) as an employee serving on a temporary
38 basis in case of fire, storm, snow, earthquake, flood, or
39 similar emergency; or (e) a policymaking or advisory
40 position the performance of the duties of which ordinarily
41 does not require more than eight hours per week. The
42 services to which clause (d) of the preceding sentence
43 applies include but are not limited to temporary emergency
44 services compensated solely by a fixed payment for each

- 1 emergency call answered whether or not provided for by
2 prior agreement and training in preparation for such
3 temporary emergency service whether or not compensated.
- 4 j. On and after January 1, 1978, the term 'employment'
5 includes services performed in any calendar year by
6 employees of nonprofit elementary and secondary schools.
- 7 k. The term 'employment' shall not include:
- 8 1, 2. Repealed by Session Laws 1993 (Reg. Sess., 1994),
9 c. 680, s. 7.
- 10 3. Service with respect to which unemployment
11 insurance is payable under an employment security
12 system established by an act of Congress: Provided,
13 that the Commission is hereby authorized and
14 directed to enter into agreements with the proper
15 agencies under such act of Congress, which
16 agreements shall become effective 10 days after
17 publication thereof in the manner provided in G.S.
18 96-4(b) for general rules, to provide potential rights to
19 benefits under this Chapter, acquired rights to
20 unemployment insurance under act of Congress, or
21 who have, after acquiring potential rights to
22 unemployment insurance, under such act of Congress,
23 acquired rights to benefits under this Chapter.
- 24 4, 5. Repealed by Session Laws 1993 (Reg. Sess., 1994),
25 c. 680, s. 7.
- 26 6. Service performed on or in connection with a vessel
27 or aircraft not an American vessel or American
28 aircraft by an individual if the individual is
29 performing services on and in connection with such
30 vessel or aircraft when outside the United States; or,
31 service performed by an individual in (or as an officer
32 or member of the crew of a vessel while it is engaged
33 in) the catching, taking, harvesting, cultivating, or
34 farming of any kind of fish, shellfish, crustacea,
35 sponges, seaweeds, or other aquatic forms of animal
36 and vegetable life (including service performed by
37 such individual as an ordinary incident to any such
38 activity), except (i) service performed in connection
39 with the catching or taking of salmon or halibut, for
40 commercial purposes, and (ii) service performed on
41 or in connection with a vessel of more than 10 net
42 tons (determined in the manner provided for
43 determining the registered tonnage of merchant
44 vessels under the laws of the United States).

- 1 7. Services performed by an individual in the employ of
2 a son, daughter, or spouse; services performed by a
3 child under the age of 21 in the employ of his father
4 or mother or of a partnership consisting only of
5 parents of the child.
- 6 8. Service performed by an individual during any
7 calendar quarter for any employing unit or an
8 employer as an insurance agent or as an insurance
9 solicitor, or as a securities salesman if all such service
10 performed during such calendar quarter by such
11 individual for such employing unit or employer is
12 performed for remuneration solely by way of
13 commission; service performed by an individual for
14 an employing unit as a real estate agent or a real
15 estate salesman as defined in G.S. 93A-2, provided,
16 that such real estate agent or salesman is compensated
17 solely by way of commission and is authorized to
18 exercise independent judgment and control over the
19 performance of his work.
- 20 9. Services performed in employment as a newsboy or
21 newsgirl selling or distributing newspapers or
22 magazines on the street or from house to house.
- 23 10. Except as provided in G.S. 96-8(6)f5(a), service
24 covered by an election duly approved by the agency
25 charged with the administration of any other state or
26 federal employment security law in accordance with
27 an arrangement pursuant to subdivision (l) of G.S. 96-
28 4 during the effective period of such election.
- 29 11. Casual labor not in the course of the employing unit's
30 trade or business.
- 31 12. Service in any calendar quarter in the employ of any
32 organization exempt from income tax under the
33 provisions of section 501(a) of the Internal Revenue
34 Code of 1954 (other than an organization described
35 in section 401(a) of said Internal Revenue Code of
36 1954) or under section 521 of the Internal Revenue
37 Code of 1954, if the remuneration for such service is
38 less than fifty dollars (\$50.00).
- 39 13. Service in the employ of a school, college, or
40 university, if such service is performed (i) by a
41 student who is enrolled and is regularly attending
42 classes at such school, college, or university, or (ii) by
43 the spouse of such a student, if such spouse is
44 advised, at the time such spouse commences to

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perform such service, that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance.

14. Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

15. Services performed (i) in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches; or (ii) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or (iii) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or (iv) as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training, unless a federal law, rule or regulation mandates unemployment insurance

1 coverage to individuals in a particular work-relief or
2 work-training program; (v) after December 31, 1971,
3 by an inmate for a hospital in a State prison or other
4 State correctional institution or by a patient in any
5 other State-operated hospital, and services performed
6 by patients in a hospital operated by a nonprofit
7 organization shall be exempt; (vi) after December 31,
8 1971, in the employ of a hospital, if such service is
9 performed by a patient of such hospital; (vii) after
10 December 31, 1971, by an inmate of a custodial or
11 penal institution.

12 16. Notwithstanding the provisions of G.S. 96-8(6)f3 and
13 96-8(6)k6, service performed by an individual on a
14 boat engaged in catching fish or other forms of
15 aquatic animal life under the arrangement with the
16 owner or operator of such boat pursuant to which:

17 (A) Such individual does not receive any cash
18 remuneration (other than as provided in
19 subparagraph (B)),

20 (B) Such individual receives a share of the boat's
21 (or the boats' in the case of a fishing operation
22 involving more than one boat) catch of fish or
23 other forms of aquatic animal life or a share of
24 the proceeds from the sale of such catch, and

25 (C) The amount of such individual's share depends
26 on the amount of the boat's (or the boats' in
27 the case of a fishing operation involving more
28 than one boat) catch of fish or other forms of
29 aquatic animal life,

30 but only if the operating crew of such boat (or each boat
31 from which the individual receives a share in the case of a
32 fishing operation involving more than one boat) is normally
33 made up of fewer than 10 individuals. In order to preserve
34 the State's right to collect State unemployment taxes for
35 which a credit against federal unemployment taxes may be
36 taken for contributions paid into a State unemployment
37 insurance fund, this paragraph 16 shall not apply, with
38 respect to any individual, to service during any period for
39 which an assessment for federal unemployment taxes is
40 made by the Internal Revenue Service pursuant to the
41 Federal Unemployment Tax Act which assessment becomes
42 a final determination (as defined by section 1313 of the
43 Internal Revenue Code of 1954 as amended).

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17. Services performed by an inmate of the North Carolina prison system on work release.
18. Service performed by a full-time student in the employ of an organized camp
- (A) If such camp:
- (I) Did not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year; or
- (II) Had average gross receipts for any six months in the preceding calendar year which were not more than thirty-three and one-third percent (33 1/3%) of its average gross receipts for the other six months in the preceding calendar year; and
- (B) If the full-time student performed services in the employ of such camp for less than 13 calendar weeks in the calendar year.
- As used in this sub-subdivision, an individual shall be treated as a full-time student for any period:
- (A) During which the individual is enrolled as a full-time student at an educational institution; or
- (B) Which is between academic years or terms if:
- (I) The individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term; and
- (II) There is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in sub-subparagraph (I) of this subparagraph."

36 Section 5. Any refunds of contributions, interest, or penalties made to
37 employers because of the amendment in Section 3 of this act shall be made from the
38 Special Employment Security Administration Fund provided for in G.S. 96-5(c).

39 Section 6. Article 2 of Chapter 96 of the General Statutes is amended by
40 adding a new section to read:

41 "**§ 96-16.1. Food stamp overissuances.**

42 (a) An individual filing a new claim for unemployment compensation shall, at the
43 time of the filing of the claim, disclose whether or not the individual owes an
44 uncollected overissuance (as defined in section 13(c)(1) of the Food Stamp Act of

1 1977) of food stamp coupons. The Commission shall notify the State food stamp
2 agency enforcing such obligation of any individual who discloses that the individual
3 owes child support obligations and who is determined to be eligible for
4 unemployment compensation.

5 (b) The Commission shall deduct and withhold from any unemployment
6 compensation payable to an individual who owes an uncollected overissuance:

7 (1) The amount specified by the individual to the Commission to be
8 deducted and withheld under this subdivision;

9 (2) The amount (if any) determined pursuant to an agreement
10 submitted to the State food stamp agency under section 13(c)(3)(A)
11 of the Food Stamp Act of 1977; or

12 (3) Any amount otherwise required to be deducted and withheld from
13 unemployment compensation pursuant to section 13(c)(3)(B) of the
14 Food Stamp Act of 1977.

15 (c) Any amount deducted and withheld under this section shall be paid by the
16 Commission to the appropriate food stamp agency.

17 (d) Any amount deducted and withheld under subsection (b) of this section shall
18 for all purposes be treated as if it were paid to the individual as unemployment
19 compensation and paid by such individual to the State food stamp agency as
20 repayment of the individual's uncollected overissuance.

21 (e) For the purposes of this section, the term 'unemployment compensation'
22 means any compensation payable under this Chapter including amounts payable by
23 the Commission pursuant to an agreement under any federal law providing for
24 compensation, assistance, or allowance with respect to unemployment.

25 (f) This section applies only if arrangements have been made for reimbursement
26 by the State food stamp agency for the administrative costs incurred by the
27 Commission under this section which are attributable to the repayment of uncollected
28 overissuances to the State food stamp agency."

29 Section 7. G.S. 96-13(a) reads as rewritten:

30 "(a) An unemployed individual shall be eligible to receive benefits with respect to
31 any week only if the Commission finds that --

32 (1) The individual has registered for work at and thereafter has
33 continued to report at an employment office as directed by the
34 Commission at regular intervals ~~no more than four~~ of not less than
35 three weeks and not more than six weeks apart and in accordance
36 with such regulations as the Commission may prescribe;

37 (2) He has made a claim for benefits in accordance with the provisions
38 of G.S. 96-15(a);

39 (3) The individual is able to work, and is available for work: Provided
40 that, unless temporarily excused by Commission regulations, no
41 individual shall be deemed available for work unless he establishes
42 to the satisfaction of the Commission that he is actively seeking
43 work: Provided further, that an individual customarily employed in
44 seasonal employment shall, during the period of nonseasonal

1 operations, show to the satisfaction of the Commission that such
2 individual is actively seeking employment which such individual is
3 qualified to perform by past experience or training during such
4 nonseasonal period: Provided further, however, that no individual
5 shall be considered available for work for any week not to exceed
6 two in any calendar year in which the Commission finds that his
7 unemployment is due to a vacation. In administering this proviso,
8 benefits shall be paid or denied on a payroll-week basis as
9 established by the employing unit. A week of unemployment due
10 to a vacation as provided herein means any payroll week within
11 which the equivalent of three customary full-time working days
12 consist of a vacation period. For the purpose of this subdivision,
13 any unemployment which is caused by a vacation period and
14 which occurs in the calendar year following that within which the
15 vacation period begins shall be deemed to have occurred in the
16 calendar year within which such vacation period begins. For
17 purposes of this subdivision, no individual shall be deemed
18 available for work during any week that the individual tests
19 positive for a controlled substance if (i) the test is a controlled
20 substance examination administered under Article 20 of Chapter
21 95 of the General Statutes, (ii) the test is required as a condition of
22 hire for a job, and (iii) the job would be suitable work for the
23 claimant. The employer shall report to the Commission, in
24 accordance with regulations adopted by the Commission, each
25 claimant that tests positive for a controlled substance under this
26 subdivision. For the purposes of this subdivision, no individual
27 shall be deemed available for work during any week in which he is
28 registered at and attending an established school, or is on vacation
29 during or between successive quarters or semesters of such school
30 attendance, or on vacation between yearly terms of such school
31 attendance. Except: (i) Any person who was engaged in full-time
32 employment concurrent with his school attendance, who is
33 otherwise eligible, shall not be denied benefits because of school
34 enrollment and attendance. Except: (ii) Any otherwise qualified
35 unemployed individual who is attending a vocational school or
36 training program which has been approved by the Commission for
37 such individual shall be deemed available for work. However, any
38 unemployment insurance benefits payable with respect to any week
39 for which a training allowance is payable pursuant to the
40 provisions of a federal or State law, shall be reduced by the
41 amount of such allowance which weekly benefit amount shall be
42 rounded to the nearest lower full dollar amount (if not a full dollar
43 amount). The Commission may approve such training course for
44 an individual only if:

- 1 1. a. Reasonable employment opportunities for which the
2 individual is fitted by training and experience do not
3 exist in the locality or are severely curtailed;
4 b. The training course relates to an occupation or skill
5 for which there are expected to be reasonable
6 opportunities for employment; and
7 c. The individual, within the judgment of the
8 Commission, has the required qualifications and the
9 aptitude to complete the course successfully; or,
10 2. Such approval is required for the Commission to receive the
11 benefits of federal law.
- 12 (4) No individual shall be deemed able to work under this subsection
13 during any week for which that person is receiving or is applying
14 for benefits under any other State or federal law based on his
15 temporary total or permanent total disability. Provided that if
16 compensation is denied to any individual for any week under the
17 foregoing sentence and such individual is later determined not to
18 be totally disabled, such individual shall be entitled to a retroactive
19 payment of the compensation for each week for which the
20 individual filed a timely claim for compensation and for which the
21 compensation was denied solely by reason of the foregoing
22 sentence.
- 23 (5) The individual has participated in reemployment services, if the
24 Division referred the individual to these services after determining,
25 through use of a worker profiling system, that the individual would
26 likely exhaust regular benefits and would need reemployment
27 services to make a successful transition to new employment, unless
28 the individual establishes justifiable cause for failing to participate
29 in the services."
- 30 Section 8. This act is effective when it becomes law, and Sections 1, 2,
31 and 3 apply to new initial claims filed on or after September 1, 1997.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 451

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)
Page 1 of 1

H451-ARR-001

Date April 25, 1997

Comm. Sub. [Y]
Amends Title [Y]

Representative

- 1 moves to amend the bill on page 1, line 3,
- 2 by deleting the term "SPOUSAL ABUSE" and substituting the term
- 3 "DOMESTIC ABUSE"; and
- 4
- 5 on page 2, line 2,
- 6 by deleting the term "shall constitute good cause for leaving work"
- 7 and substituting the term "shall not disqualify the claimant for
- 8 benefits"; and
- 9
- 10 on page 3, line 29,
- 11 by deleting the term "spousal abuse" and substituting the term
- 12 "domestic abuse".
- 13
- 14

SIGNED [Signature]
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____



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April 25, 1997

TO: House Commerce Committee.
FROM: William R. Gilkeson, Staff Attorney.
RE: PCS for House Bill 451 – ESC Benefits Changes.

The PCS for House Bill 451, introduced by Rep. Redwine, would:

- Allow unrestricted unemployment benefits to an employee who quits a job to follow a spouse who gets a job out of town.
- Allow unemployment benefits to a person who quits a job and who has been adjudged a victim of domestic violence.
- Make 2 changes designed to conform State law to federal law. One would remove alien farm workers from coverage by the unemployment insurance act. The other would block UE benefits to people to the extent they have been issued too many food stamps and haven't returned them.
- Give the Employment Security Commission offices more flexibility in scheduling the required monthly visits that unemployed people must make to continue receiving benefits.

The bill was recommended by the Employment Security Commission.

1. Spousal Relocation. Currently, the basic rule is that if a person quits a job without good cause attributable to the employer, that person is not eligible for UE benefits. A partial exception is made for an employee who quits to move with a spouse when the spouse has found a job in a place too far away. In that case, the quitting employee is disqualified for UE benefits for five weeks. (Four years ago, the General Assembly shortened it from 8 weeks.) HB 451 would remove that disqualification entirely. Any benefits paid to the person would be "noncharged," meaning no employer's Experience Rating would be affected by the payment.
2. Domestic Abuse. Currently, being a victim of domestic violence does not trigger an exception to the basic rule that employees get no UE benefits if they quit a job without good cause attributable to the employer. HB 451 would allow a person UE benefits if the person who left the job was adjudged an aggrieved party in a domestic violence situation under Chapter 50B. Payments under this provision would also be noncharged.
3. Conformity to Federal Law. Federal law now provides that farm work by alien farm workers is not subject to unemployment insurance taxation. Current North Carolina statute still includes them in its definition of "employment" (although ESC says payments are not knowingly being made to alien farm workers.) HB 451 would repeal its provision to conform to federal law. The Welfare Reform Act also says a person's UE benefits are to be offset by any amount that person owes to an agency that overissued that person food stamps. HB 451 does that.

4. Monthly Visit to ESC Office. Current law requires a person receiving UE benefits to report in regularly to an ESC office to receive assistance in looking for work. In 1995 the General Assembly required that those visits be made no more than four weeks apart. The ESC says the law has sometimes resulted in droves of claimants reporting to an office at once. They all may have been laid off at the same time by the same employer in a downsizing or plant closing. Their four weeks all come due at the same time. HB 451 provides that ESC may schedule claimants to report in intervals of not less than three nor more than six weeks.

The bill becomes effective when it becomes law. The sections concerning spousal relocation and domestic abuse apply to initial claims filed on or after September 1, 1997.

1 for benefits. Provided, however, if the first day of a week
2 with respect to which an individual first registers for work
3 and files a valid claim for benefits is either (i) the first day
4 of a calendar quarter, or (ii) the second day of a calendar
5 quarter followed by a February 29 within one year thereof,
6 'benefit year' shall mean the one-year period beginning with
7 that first day of the week with respect to which the
8 individual first registers for work and files a valid claim for
9 benefits. A valid claim shall be deemed to have been filed
10 only if such individual, at the time the claim is filed, is
11 unemployed, and has been paid wages in his base period
12 totaling at least six times the average weekly insured wage,
13 obtained in accordance with ~~G.S. 96-8(22) and equal to at~~
14 ~~least one and one-half times his high quarter wages, which~~
15 ~~high quarter wages must equal at least one and one-half~~
16 ~~times the average weekly insured wage, obtained in~~
17 ~~accordance with G.S. 96-8(22):~~ G.S. 96-8(22), and has been
18 paid wages in at least two quarters of the individual's base
19 period.

20 d. Repealed by Session Laws, 1981, c. 160, s. 11."

21 Section 2. G.S. 96-8(18) reads as rewritten:

22 "(18) 'Base period' means the first four of the last five completed
23 calendar quarters immediately preceding the first day of an
24 individual's benefit year as defined in subdivision (17) of this
25 section. If an individual lacks sufficient base period wages in order
26 to establish a benefit year in the manner set forth above, the
27 claimant shall have an alternative base period substituted for the
28 current base period so as not to prevent establishment of a valid
29 claim. For the purposes of this subdivision, 'alternative base
30 period' means the last four completed calendar quarters."

31 Section 3. This act is effective when it becomes law and applies to new
32 initial claims filed on or after September 1, 1997.



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April 25, 1997

TO: House Commerce Committee.
FROM: William R. Gilkeson, Staff Attorney.
RE: House Bill 453 – Redefine UE Base Period.

House Bill 453, introduced by Rep. Redwine, would redefine the "base period" that a person must have worked before being eligible for unemployment benefits. It would also eliminate one of the other tests ("the one and one-half times test") to determine eligibility.

The bill was recommended by the Employment Security Commission.

1. Flexible Base Period. -- Currently, a person's base period is the first four of the last five completed calendar quarters prior to the filing of the claim for unemployment benefits. A person must have earned wages during that base period at least six times greater than the average weekly insured wage. House Bill 453 would provide that if the person did not earn enough wages during the first four of the last five months to qualify for unemployment benefits, he or she can instead use the last four calendar quarters as a base period.
2. "One-and-a-Half-Times" Test. -- Current law also requires that the person's base period wages must be at least one and one-half times his high quarter wages and that these high quarter wages must be at least one and one-half times the average weekly insured wage. House Bill 453 would eliminate this requirement. Instead, it simply says that claimant must have been paid *some* wages in two quarters. The "six times" test referred to above would not be eliminated.

This bill would take effect upon becoming law and applies to new initial claims filed on or after September 1, 1997.

(A bill quite similar, Senate Bill 382, passed third reading in the Senate April 23. It is the same as HB 453 except that it has a sunset of September 1, 2001.)

Visitor Registration

Oct 25-97 Commerce Center

Marcus Tatten	Brodus Pierce (NCPA)
Cam Cooper	BPMHL - NCPA
Walter Hargrave	"
Genevieve Thurlow	Rep. Jim Mosby's General Assembly
Paul Harris	1414 Park Dr Louisville
Van Cassell	SIERRA CLUB
Alan Miles	Barley & Oxen
Mike Carpenter	NCHSA
David	NCPA
Ray Peters	Electrician
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Brenda Dougherty	Sprint
Lynn Hornes	BarSNTA
Angene Williams	Podre Vassoe
Gene Causby	E-EBE
Gene Upthum	CPL

VISITOR REGISTRATION SHEET

COMMERCE

25
APRIL 25 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Mike Caruto	NCOSA
Rob Schofield	NCUCDC
Roz Sawitt	NC Coalition Against Pesticides
Ruth Sappie	NC DOT
ANNA TIEFFT	OSBM
David Clegg	ESC
Tom Whitaker	ESC
John Henderson	CAC of NC
A W Turner Jr	Public Staff. Utilities
R. H. Bennett	NCUC Staff
Sperry Plegge	State Const. Office
Herbert Neily	State Const. Office
David McCoy	DOA - Secretary's Office
July Ellen	NC Farm Bureau
Steve Leavenworth	News + Observer
Andy James	NC Low-Level Rad. Waste Mgt. Authority
Walter Sturgeon	" " " " " " "
Linda Walters	Southeast Compact Commission
Jim Lohr	NC AFI
PAUL Stock	NC BANKERS ASSN
Ron Stephens	Wachovia Bank of NC
Edward R. Burt III	Dir. of Radiation Protection DEANR
R. ROGERS	EHNR
Roger Schuster	NC Coastal Management
Kathryn Haynes	Southeast Compact Commission
Henry Jones	Attorney Raleigh
Kellon Davis	wife of Rep Don Davis

Comm'n

MINUTES

HOUSE COMMITTEE ON COMMERCE

May 14, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Cherie Berry, Co-Chair, William Hiatt, Co-Chair, Cary Allred, Rex Baker, Donald Bonner, Joanne Bowie, Jerry Braswell, Robert Brawley, Billy Creech, Donald Davis, Andrew Dedmon, Ruth Easterling, Stan Fox, Thomas Hardaway, Sandy Hardy, Dewey Hill, Bob Hunter, John Hurley, Bill Ives, Danny McComas, Paul McCrary, Ed McMahan, Frank Mitchell, Mia Morris, Charles Neeley, John Nichols, Edd Nye, John Rayfield, David Redwine, Dennis Reynolds, Gene Rogers, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Gregg Thompson, Nurham Warwick, Cynthia Watson, Michael Wilkins, Gene Wilson, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, May 14, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bills were discussed:

House Bill 1027, entitled AN ACT TO STIMULATE SUBSTANTIAL GROWTH OF VENTURE CAPITAL INVESTMENTS IN NORTH CAROLINA THROUGH INVESTMENTS BY THE STATE TREASURER. Rep. Owen, the bill sponsor, explained the bill and offered a proposed committee substitute. Rep. Womble moved to accept the committee substitute. The motion passed and the committee substitute was before the committee. Questions were offered by the committee. Dennis Ducker, Deputy State Treasurer, addressed the committee. Rep. Hall moved for a favorable report to the committee substitute, a unfavorable report to the original bill, and have the bill re-referred to the House Finance Committee. The bill was voted upon. The bill was given a favorable report to the committee substitute and was re-referred to the House Finance Committee.

House Bill 1173, entitled AN ACT TO PROVIDE TAX CREDITS FOR CONSTRUCTION EMPLOYERS WHO PROVIDE CRAFTWORKERS TRAINING TO EMPLOYEES AND WHO HIRE WELFARE RECIPIENTS. Rep. Dedmon, the bill sponsor, introduced the bill and offered a proposed committee substitute. Rep. Sherrill moved to accept the committee substitute. The motion passed and the committee substitute was before the committee. Questions were offered by the committee. After several questions from the committee, Chairman Miner re-referred the bill to the House Commerce Subcommittee on Business and Labor.

Senate Bill 447, entitled AN ACT TO ESTABLISH THE LUMBERTON ECONOMIC DEVELOPMENT AND TOURIST DISTRICT AND TO AUTHORIZE THE ISSUANCE OF CERTAIN ABC PERMITS IN THIS TYPE OF DISTRICT. Sen. Weinstein, the bill sponsor, introduced and explained the bill. Questions were offered by the committee. Rep. Hall moved for a favorable report. Rep. Davis moved for a roll call vote. The motion failed. Rep. McComas called previous question. The motion passed. The bill was voted upon and received a favorable report.

The committee adjourned at 10:50 a.m.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for

H.B. 1027 A BILL TO BE ENTITLED AN ACT TO STIMULATE SUBSTANTIAL
GROWTH OF VENTURE CAPITAL INVESTMENTS IN NORTH CAROLINA
THROUGH INVESTMENTS BY THE STATE TREASURER.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance

With a favorable report as to committee substitute bill, unfavorable as to the original bill and
recommendation that the committee substitute bill be re-referred to the Committee on
Finance.

With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 1027
Proposed Committee Substitute H1027-CSLC-5/9
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

*for report
to comm.
sub.
unlaw. to
orig. bill
(Public)*

Short Title: State Treasurer Venture Capital.

Sponsors:

Referred to: Commerce, if favorable, Finance.

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO STIMULATE SUBSTANTIAL GROWTH OF VENTURE CAPITAL
3 INVESTMENTS IN NORTH CAROLINA THROUGH INVESTMENTS BY THE STATE
4 TREASURER.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 147-69.1(c) is amended by adding a new
7 subdivision to read:
8 "(7) Any of the investments authorized by G.S.
9 147-69.2(b)(2) through (6) and (b)(9) and (10)."
10 Section 2. G.S. 147-69.2(b) reads as rewritten:
11 "(b) It shall be the duty of the State Treasurer to invest the
12 cash of the funds enumerated in subsection (a) of this section in
13 excess of the amount required to meet the current needs and
14 demands on such funds, selecting from among the following:
15 (1) Any of the investments authorized by G.S.
16 147-69.1(c); 147-69.1(c), except that assets of
17 retirement and pension systems may not be invested
18 in the investments authorized by subdivision (9) or
19 (10) of this subsection pursuant to G.S.
20 147-69.1(c)(7).
21 (2) General obligations of other states of the United
22 States; States.

- 1 (3) General obligations of cities, counties and special
2 districts in North ~~Carolina;~~ Carolina.
- 3 (4) Obligations of any company, other organization or
4 legal entity incorporated or otherwise created or
5 located within or ~~without~~ outside of the United
6 States if ~~such~~ the obligations bear one of the
7 three highest ratings of at least one nationally
8 recognized rating service and do not bear a rating
9 below the three highest by any nationally
10 recognized rating service which rates the
11 particular ~~security;~~ security.
- 12 (5) Notes secured by mortgages insured by the Federal
13 Housing Administration or guaranteed by the
14 Veterans Administration on real estate located
15 within the State of North ~~Carolina;~~ Carolina.
- 16 (6) Asset-backed securities (whether considered debt or
17 equity) provided they bear ratings by nationally
18 recognized rating services as provided in G.S.
19 147-69.2(b)(4) and that they do not bear a rating
20 below the three highest by any nationally
21 recognized rating service ~~which~~ that rates the
22 particular ~~securities;~~ securities.
- 23 (7) With respect to Retirement Systems' assets referred
24 to in G.S. 147-69.2(b)(8), (i) insurance contracts
25 ~~which~~ that provide for participation in individual
26 or pooled separate accounts of insurance companies,
27 (ii) group trusts, (iii) individual, ~~common~~ common,
28 or collective trust funds of banks and trust
29 companies and (iv) real estate investment trusts;
30 provided the investment manager has assets under
31 management of at least one hundred million dollars
32 (\$100,000,000); provided such investment assets are
33 managed primarily for the purpose of investing in
34 or owning real estate or related debt financing
35 located in the United States; and provided that the
36 investment authorized by this subsection shall not
37 exceed ten percent (10%) of the book value of all
38 invested assets of the Retirement ~~Systems;~~ Systems.
- 39 (8) With respect to assets of the Teachers' and State
40 Employees' Retirement System, the Consolidated
41 Judicial Retirement System, the Firemen's and
42 Rescue Workers' Pension Fund, the Local
43 Governmental Employees' Retirement System, and the
44 Legislative Retirement System (hereinafter referred

1 to collectively as the Retirement Systems),
2 preferred or common stocks issued by any company
3 incorporated or otherwise created or located within
4 or ~~without~~ outside of the United States, ~~provided:~~
5 if all of the following conditions are met:

6 a. ~~That~~ The common stock or preferred stock of
7 ~~such~~ the corporation is registered on a
8 national securities exchange as provided in
9 the Federal Securities Exchange Act or quoted
10 through the National Association of Securities
11 Dealers' Automated Quotations (NASDAQ) ~~system;~~
12 system.

13 b. ~~That such~~ The corporation ~~shall have~~ has paid
14 a cash dividend on its common stock in each
15 year of the 5-year period next preceding the
16 date of investment and the aggregate net
17 earnings available for dividends on the common
18 stock of ~~such~~ the corporation for the whole of
19 ~~such~~ that period ~~shall~~ have been at least
20 equal to the amount of ~~such~~ the dividends
21 ~~paid;~~ paid.

22 c. ~~That in~~ In applying the dividend and earnings
23 test under this section to any issuing,
24 assuming, or guaranteeing corporation, ~~where~~
25 ~~such corporation shall have~~ if the corporation
26 acquired its property or any substantial part
27 thereof within a five-year period immediately
28 preceding the date of investment by
29 consolidation, merger, or by the purchase of
30 all or a substantial portion of the property
31 of any other corporation or corporations, or
32 ~~shall have~~ acquired the assets of any
33 unincorporated business enterprise by purchase
34 or otherwise, the dividends and net earnings
35 of the several predecessor or constituent
36 corporations or enterprises shall be
37 consolidated and adjusted so as to ascertain
38 whether or not the applicable requirements of
39 this ~~section~~ subdivision have been complied
40 ~~with;~~ with.

41 d. ~~That the~~ The book value of common and
42 preferred stocks including securities
43 convertible into common stocks shall not
44 exceed fifty ~~per centum~~ percent (50%) of the

- 1 book value of all invested assets of the
2 Retirement Systems; ~~provided, further: Systems~~
3 and the following conditions must also be met:
- 4 1. Not more than one and one-half ~~per centum~~
5 percent (1 1/2%) of the book value of ~~such~~
6 the assets shall be invested in the stock of
7 a single ~~corporation, and provided further;~~
8 corporation.
 - 9 2. The total number of shares in a single
10 corporation shall not exceed eight ~~per centum~~
11 percent (8%) of the issued and outstanding
12 stock of ~~such corporation, and provided~~
13 further; the corporation.
 - 14 3. ~~As used in this subdivision d. and elsewhere~~
15 ~~in this section, book value shall mean~~
16 ~~adjusted cost basis as shown on the records~~
17 ~~of the State Treasurer.~~
- 18 e. Up to five ~~per cent~~ percent (5%) of the limits
19 authorized in subdivision d. may be invested
20 in the stocks or shares of a diversified
21 investment company registered under the
22 "Investment Company Act of 1940" ~~which that~~
23 has total assets of at least fifty million
24 dollars (\$50,000,000).
- 25 ~~f. Individual, common~~
- 26 As used in this subsection, the term 'book value'
27 means adjusted cost basis as shown on the records
28 of the State Treasurer.
- 29 Notwithstanding the provisions of subdivisions a.
30 through e., the investments authorized in this
31 subdivision (8) may be made in individual, common,
32 or collective trust funds of banks or trust
33 companies provided that if the investment manager
34 has assets under management of at least one hundred
35 million dollars (\$100,000,000).
- 36 ~~g. That investments~~
- 37 Notwithstanding the provisions of subdivisions a.
38 through e., the investments authorized in this
39 subdivision (8) may be made in securities
40 convertible into common stocks issued by any such
41 such a company, if such the securities bear one of
42 the four highest ratings of at least one nationally
43 recognized rating service and do not bear a rating
44 below the four highest by any nationally recognized

1 rating service which may then rate the particular
2 security.

3 (9) Obligations With respect to assets other than
4 assets of retirement or pension systems,
5 obligations and securities of the North Carolina
6 Enterprise Corporation, or of a limited partnership
7 in which the North Carolina Enterprise Corporation
8 is the only general partner, not to exceed twenty
9 million dollars (\$20,000,000) from all funds.

10 (10) A With respect to assets other than assets of
11 retirement or pension systems, a limited
12 partnership interest in a partnership whose primary
13 purpose is to invest in venture capital or
14 corporate buyout transactions, not to exceed thirty
15 million dollars (\$30,000,000) transactions within
16 or outside of the United States, not to exceed one
17 hundred thirty million dollars (\$130,000,000) from
18 all funds. This maximum dollar amount does not
19 apply to or restrict the reinvestment in accordance
20 with this subdivision of any income from these
21 investments.

22 (11) With respect to assets of the Escheat Fund,
23 obligations of the North Carolina Global TransPark
24 Authority authorized by G.S. 63A-4(a)(22), not to
25 exceed twenty-five million dollars (\$25,000,000),
26 that have a final maturity not later than September
27 1, 1999. The obligations shall bear interest at the
28 rate set by the State Treasurer. No commitment to
29 purchase obligations may be made pursuant to this
30 subdivision after September 1, 1993, and no
31 obligations may be purchased after September 1,
32 1994. In the event of a loss to the Escheat Fund by
33 reason of an investment made pursuant to this
34 subdivision, it is the intention of the General
35 Assembly to hold the Escheat Fund harmless from any
36 such loss by appropriating to such Escheat Fund
37 funds equivalent to such loss."

38 Section 3. As soon as practicable, the State Treasurer
39 shall assure that all assets of retirement and pension systems
40 described in G.S. 147-69.2(a) are no longer invested in
41 investments authorized by G.S. 147-69.2(b)(9) or (10).

42 Section 4. This act becomes effective July 1, 1997.

TREASURER OF THE STATE OF NORTH CAROLINA
TRUST FUNDS INVESTMENT PROGRAM
VENTURE CAPITAL COMPONENT
AS OF
SEPTEMBER 30, 1996

VENTURE CAPITAL INVESTMENT FUND

Descriptive Factors/Measures

Year of Initial Investment	1988
Trust Funds Committed	\$47,235,000
Trust Funds Contributed	\$37,890,000
Distributions to State Treasurer	\$20,684,958
% of Capital Returned	43.79%
Current Market Value of the Investment	\$47,022,338
Time Weighted Performance (Total Return Annualized)	
Latest 12 Months	17.86%
Latest 24 Months	19.75%
Latest 36 Months	14.89%
Latest 60 Months	11.07%
Inception to Date	4.55%
Trust Funds Investment Program Total Return from Venture Capital Investments (Inception to Date)	4.55%

Geographic Overview	Global - 35%
	North Carolina - 34%
	Southeast - 17%
	National - 14%

Stage of Development Focus	Early Stage - 42.1%
	Expansion - 37.2%
	Buyout/Mezzanine - 20.7%



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May 13, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Counsel *KB*

RE: **House Bill 1027 - State Treasurer Venture Capital.
(Proposed Committee Substitute)**

House Bill 1027 amends provisions of Chapter 147 relating to the investment authority of the State Treasurer with regard to various state Funds.

The bill expands the Treasurer's authority to invest money contained in the General Fund and the Highway Fund to include a number of additional types of investments in which the Treasurer is currently authorized to invest the assets of the State Retirement and Pension Funds, the Hospital and Medical Insurance Plan Fund, the Escheat Fund and a number of other trust funds. Among the additional types of investments authorized by this bill are obligations and securities of the North Carolina Enterprise Corporation up to \$20,000,000 from all funds, and investments in limited partnerships that invest in venture capital or corporate buyout transactions up to \$130,000,000 from all funds. Under present law, assets of the trust funds may be invested in both of these investment vehicles. However, currently the maximum that can be invested in venture capital is \$30,000,000.

This bill changes the provision relating to investment of state money in venture capital in two ways. First, it increases the maximum limit from \$30,000,000 to \$130,000,000. Next, it excludes the use of retirement or pension fund assets for this investment, as well as for investment in obligations and securities of the NC Enterprise Corporation. The bill makes several other technical and conforming changes.

This act would become effective July 1, 1997.

VISITOR REGISTRATION SHEET

COMMERCE

MAY 14, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
<i>R. Paul Williams</i>	NCMBA
<i>Dennis Allen</i>	SOS
Dennis Duckler	Dept of State Treasurer
Charles Heatherly	" " "
Keith Leonard	" " "
Will Cherry	Intern Rep. Neely
<i>Billy Pittman</i>	
<i>John Hickman</i>	
Mark Meadows	
John S. Hornum	
Jerry G. Del	
<i>Thom Harrison</i>	CAE of NC
<i>Mark</i>	SHORG
Dennis Harrell	Hyde park Baptist Church
Murworth Fields	East Lumberton Baptist Church
Maurice Britt	East Gumpston, Baptist ch.
Norman Pruvette	ANTIOCH BAPTIST CHURCH
ROBERT BRYANT	ANTIOCH BAPTIST CHURCH
Ted Leonard	First Baptist Church, Fairmont
Mark E. Haskins	First Baptist Church, Fairmont
<i>Z. Le Roy Burke</i>	East Lumberton Bap, Lumberton, n.c.
<i>John</i>	JAA
Becky Brown	Labor
Danna Cope	"
A.C. Dawson	n.c. Ret. del. personnel
Jay Presnell	" " " "
AL ROAMS	NE Ret Gov. Employees
<i>Sam Carpenter</i>	PCS

NORTH CAROLINA HOUSE OF REPRESENTATIVES
ASSIGNMENT OF BILLS TO SUBCOMMITTEE

COMMITTEE: COMMERCE

CHAIRMAN: Representative David Miner

DATE: May 14, 1997

Bill Number (Indicate H or S): HB 1173

Short Title: CONSTRUCTION WORKER TRAINING CREDIT

Assigned to Subcommittee on: COMMERCE/ Business and Labor

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

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Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

Bill Number (Indicate H or S):

Short Title:

Assigned to Subcommittee on:

Re-Assigned to Subcommittee on:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 1173
Proposed Committee Substitute H1173-PCS4116

Short Title: Construction Worker Training Credit.

(Public)

Sponsors:

Referred to:

April 29, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TAX CREDITS FOR CONSTRUCTION EMPLOYERS
3 WHO PROVIDE CRAFTWORKER TRAINING TO EMPLOYEES AND WHO
4 HIRE WELFARE RECIPIENTS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-129.2 reads as rewritten:

7 "**§ 105-129.2. (Repealed effective January 1, 2002 -- see note) Definitions.**

8 The following definitions apply in this Article:

- 9 (1) Construction. -- Any of the following businesses as defined in
10 Major Groups 15, 16, and 17 of the Standard Industrial
11 Classification Manual issued by the United States Bureau of the
12 Census:
13 a. Construction.
14 b. Heavy construction.
15 c. Building-related special trades.
16 (1a) Cost. -- Defined in section 179 of the Code.
17 (2) Data processing. -- Defined in the Standard Industrial
18 Classification Manual issued by the United States Bureau of the
19 Census.
20 (3) Enterprise tier. -- The classification assigned to an area pursuant to
21 G.S. 105-129.3.
22 (4) Full-time job. -- A position that requires at least 1,600 hours of
23 work per year and is intended to be held by one employee during

1 the entire year. A full-time employee is an employee who holds a
2 full-time job.

3 (5) Machinery and equipment. -- Engines, machinery, tools, and
4 implements that are capitalized by the taxpayer for tax purposes
5 under the Code and are used or designed to be used in
6 manufacturing or processing, warehousing and distribution, or data
7 processing. The term does not include real property as defined in
8 G.S. 105-273 or rolling stock as defined in G.S. 105-333.

9 (6) Manufacturing and processing. -- Defined in the Standard
10 Industrial Classification Manual issued by the United States Bureau
11 of the Census.

12 (7) Purchase. -- Defined in section 179 of the Code.

13 (8) Warehousing and distribution. -- Defined in the Standard Industrial
14 Classification Manual issued by the United States Bureau of the
15 Census.

16 (9) Welfare recipient. -- A person who was a recipient of aid to
17 families with dependent children within the 12-month period
18 before being hired by the taxpayer."

19 Section 2. G.S. 105-129.4 reads as rewritten:

20 "**§ 105-129.4. (Repealed effective January 1, 2002) Eligibility; forfeiture.**

21 (a) Type of Business. -- A taxpayer is eligible for the credit for creating a
22 construction job for a welfare recipient under G.S. 105-129.8(a1) or the credit for
23 construction craftworker training under G.S. 105-129.11(b) if the taxpayer is engaged
24 in the business of construction. A taxpayer is eligible for ~~a credit~~ the remaining
25 credits allowed by this Article if the taxpayer engages in manufacturing or processing,
26 warehousing or distributing, or data processing, and the jobs with respect to which a
27 credit is claimed are created in that business, the machinery and equipment with
28 respect to which a credit is claimed are used in that business, and the research and
29 development for which a credit is claimed are carried out as part of that business.

30 (b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the
31 credit for worker training if the jobs for which the credit is claimed meet the wage
32 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the
33 credit for investing in machinery and equipment or the credit for research and
34 development if the jobs at the location with respect to which the credit is claimed
35 meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the
36 wage standard if they pay an average weekly wage that is at least ten percent (10%)
37 above the average weekly wage paid in the county in which the jobs will be located.
38 In calculating the average weekly wage of jobs, positions that pay a wage or salary at
39 a rate that exceeds one hundred thousand dollars (\$100,000) a year shall be excluded.
40 For the purpose of this subsection, the average wage in a county is the average wage
41 for all insured industries in the county as computed by the Employment Security
42 Commission for the most recent period for which data are available.

43 (c) Worker Training. -- A taxpayer is eligible for the tax credit for worker training
44 only for training workers who occupy jobs for which the taxpayer is eligible to claim

1 an installment of the credit for creating jobs or which are full-time positions at a
2 location with respect to which the taxpayer is eligible to claim an installment of the
3 credit for investing in machinery and equipment for the taxable year.

4 The credit for worker training is allowed only with respect to employees in
5 positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. §
6 213(a)(1) and for expenditures for training that would be eligible for expenditure or
7 reimbursement under the Department of Community Colleges' New and Expanding
8 Industry Program, as determined by guidelines adopted by the State Board of
9 Community Colleges. To establish eligibility, the taxpayer must obtain as part of the
10 application process under G.S. 105-129.6 the certification of the Department of
11 Community Colleges that the taxpayer's planned worker training would satisfy the
12 requirements of this paragraph. A taxpayer shall apply to the Department of
13 Community Colleges for this certification. The application must be on a form
14 provided by the Department of Community Colleges, must provide a detailed plan of
15 the worker training to be provided, and must contain any information required by the
16 Department of Community Colleges to determine whether the requirements of this
17 paragraph will be satisfied. If the Department of Community Colleges determines that
18 the planned worker training meets the requirements of this paragraph, the
19 Department of Community Colleges shall issue a certificate describing the location
20 with respect to which the credit is claimed and stating that the planned worker
21 training meets the requirements of this paragraph. The State Board of Community
22 Colleges may adopt rules in accordance with Chapter 150B of the General Statutes
23 that are needed to carry out its responsibilities under this paragraph.

24 (c1) Construction Craftworker Training. -- A taxpayer is eligible for the tax credit
25 for construction craftworker training only for training construction craftworkers in
26 positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. §
27 213(a)(1), and only for training provided pursuant to a program that satisfies the
28 following conditions:

- 29 (1) It combines jobsite training and related instruction in construction
30 craftwork.
31 (2) It includes competency testing to verify completion of each stage of
32 training.
33 (3) It is approved by the Department of Labor, the Department of
34 Community Colleges, or a statewide trade association that
35 represents employers engaged in the construction business.

36 To establish eligibility, the taxpayer must obtain as part of the application process
37 under G.S. 105-129.6 certification that the taxpayer's planned construction
38 craftworker training would satisfy the requirements of this subsection. A taxpayer
39 must apply to the Department of Labor for certification of registered apprenticeships
40 and certified on-the-job training and to the Department of Community Colleges for
41 certification of all other training. The application must be on a form provided by the
42 certifying Department, must provide a detailed plan of the construction craftworker
43 training to be provided, and must contain any information required by the certifying
44 Department to determine whether the requirements of this subsection will be

1 satisfied. If the certifying Department determines that the planned construction
 2 craftworker training meets the requirements of this subsection, it shall issue a
 3 certificate describing the taxpayer, identifying the entity that approved the training
 4 program, and stating that the planned construction craftworker training meets the
 5 requirements of this subsection. The State Board of Community Colleges and the
 6 Department of Labor may adopt rules in accordance with Chapter 150B of the
 7 General Statutes that are needed to carry out their responsibilities under this
 8 subsection.

9 (d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the
 10 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit.
 11 A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided
 12 as a result of the credit plus interest at the rate established under G.S. 105-241.1(i),
 13 computed from the date the taxes would have been due if the credit had not been
 14 allowed. The past taxes and interest are due 30 days after the date the credit is
 15 forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is
 16 subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for
 17 creating jobs or the credit for investing in machinery and equipment, the taxpayer
 18 also forfeits any credit for worker training claimed for the jobs for which the credit
 19 for creating jobs was claimed or the jobs at the location with respect to which the
 20 credit for investing in machinery and equipment was claimed.

21 (e) Change in Ownership of Business. -- The sale, merger, acquisition, or
 22 bankruptcy of a business, or any other transaction by which an existing business
 23 reformulates itself as another business, does not create new eligibility in a succeeding
 24 business with respect to credits for which the predecessor was not eligible under this
 25 Article. A successor business may, however, take any installment of or carried-over
 26 portion of a credit that its predecessor could have taken if it had a tax liability."

27 Section 3. G.S. 105-129.8 reads as rewritten:

28 "**§ 105-129.8. (Repealed effective January 1, 2002) ~~Credit~~ Credits for creating jobs.**

29 (a) ~~Credit. Creating Jobs.~~ -- A taxpayer that meets the eligibility requirements set
 30 out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the
 31 taxable year, and hires an additional full-time employee during that year to fill a
 32 position located in this State is allowed a credit for creating a new full-time job. The
 33 amount of the credit for each new full-time job created is set out in the table below
 34 and is based on the enterprise tier of the area in which the position is located:

35 Area Enterprise Tier	Amount of Credit
36 Tier One	\$12,500
37 Tier Two	4,000
38 Tier Three	3,000
39 Tier Four	1,000
40 Tier Five	500

41 A position is located in an area if more than fifty percent (50%) of the employee's
 42 duties are performed in the area.

43 (a1) Creating Construction Jobs for Welfare Recipients. -- A taxpayer that is
 44 engaged in the construction business, has five or more employees for at least 40

1 weeks during the taxable year, and hires a welfare recipient as an additional full-time
2 employee during the year is allowed a credit of five hundred dollars (\$500.00) for the
3 job.

4 (a2) The credit may not be taken in the taxable year in which the additional
5 employee is hired. Instead, the credit shall be taken in equal installments over the
6 four years following the taxable year in which the additional employee was hired and
7 shall be conditioned on the continued employment by the taxpayer of the number of
8 full-time employees the taxpayer had upon hiring the employee that caused the
9 taxpayer to qualify for the credit.

10 If, in one of the four years in which the installment of a credit accrues, the number
11 of the taxpayer's full-time employees falls below the number of full-time employees
12 the taxpayer had in the year in which the taxpayer qualified for the credit, the credit
13 expires and the taxpayer may not take any remaining installment of the credit. The
14 taxpayer may, however, take the portion of an installment that accrued in a previous
15 year and was carried forward to the extent permitted under G.S. 105-129.5.

16 If, in one of the four years in which the installment of a credit accrues, a job for
17 which the welfare recipient credit was allowed is no longer filled by a welfare
18 recipient, the credit expires and the taxpayer may not take any remaining installment
19 of the welfare recipient credit with respect to that job.

20 Jobs transferred from one area in the State to another area in the State shall not be
21 considered new jobs for purposes of this section. If, in one of the four years in which
22 the installment of a credit accrues, the position filled by the employee is moved to an
23 area in a higher- or lower-numbered enterprise tier, the remaining installments of the
24 credit shall be calculated as if the position had been created initially in the area to
25 which it was moved.

26 (b) Repealed by Session Laws 1989, c. 111, s. 1.

27 (b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

28 (d) Planned Expansion. -- A taxpayer that signs a letter of commitment with the
29 Department of Commerce to create at least twenty new full-time jobs in a specific
30 area within two years of the date the letter is signed qualifies for the credit in the
31 amount allowed by subsection (a) of this section based on the area's enterprise tier
32 for that year even though the employees are not hired that year. The credit shall be
33 available in the taxable year after at least twenty employees have been hired if the
34 hirings are within the two-year commitment period. The conditions outlined in
35 subsection (a) apply to a credit taken under this subsection except that if the area is
36 redesignated to a higher-numbered enterprise tier after the year the letter of
37 commitment was signed, the credit is allowed based on the area's enterprise tier for
38 the year the letter was signed. If the taxpayer does not hire the employees within the
39 two-year period, the taxpayer does not qualify for the credit. However, if the taxpayer
40 qualifies for a credit under subsection (a) in the year any new employees are hired,
41 the taxpayer may take the credit under that subsection.

42 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for
43 taxable years beginning on or after January 1, 1996."

44 Section 4. G.S. 105-129.11 reads as rewritten:

1 "**§ 105-129.11.** (Repealed effective January 1, 2002) ~~Credit for worker training.~~
2 Credits for worker training and construction craftworker training.

3 (a) ~~Credit.~~ Worker Training. -- A taxpayer that provides worker training for five
4 or more of its eligible employees during the taxable year is allowed a credit equal to
5 fifty percent (50%) of its eligible expenditures for the training. For positions located
6 in an enterprise tier one area, the credit may not exceed one thousand dollars
7 (\$1,000) per employee trained during the taxable year. For other positions, the credit
8 may not exceed five hundred dollars (\$500.00) per employee trained during the
9 taxable year. A position is located in an area if more than fifty percent (50%) of the
10 employee's duties are performed in the area.

11 (b) ~~Eligibility.~~ -- ~~The eligibility of a taxpayer's expenditures and employees is~~
12 ~~determined as provided in G.S. 105-129.4.~~ Construction Craftworker Training. -- A
13 taxpayer that is engaged in the construction business and provides construction
14 craftworker training to its eligible employees is allowed a credit equal to five hundred
15 dollars (\$500.00) for each employee who completes his or her 1,000th hour of the
16 provided training during the taxable year.

17 (c) Eligibility. -- The eligibility of a taxpayer's training, expenditures, and
18 employees is determined as provided in G.S. 105-129.4."

19 Section 5. This act is effective for taxable years beginning on or after
20 January 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1173

Short Title: Construction Worker Training Credit.

(Public)

Sponsors: Representatives Dedmon; Baddour, Barbee, Black, Bonner, Braswell, Carpenter, Clary, Cole, Earle, Eddins, Fox, Goodwin, Hill, R. Hunter, Ives, Jarrell, Jeffus, Moore, Mosley, Nesbitt, Rayfield, Saunders, Sexton, Sherrill, Smith, Tallent, Tolson, Warner, Warwick, Weatherly, C. Wilson, Wood, and Yongue.

Referred to: Commerce, if favorable, Finance.

April 29, 1997

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE TAX CREDITS FOR CONSTRUCTION EMPLOYERS
2 WHO PROVIDE CRAFTWORKER TRAINING TO EMPLOYEES AND WHO
3 HIRE WELFARE RECIPIENTS.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-129.2 reads as rewritten:

7 "**§ 105-129.2. (Repealed effective January 1, 2002 -- see note) Definitions.**

8 The following definitions apply in this Article:

9 (1) Construction. -- Any of the following businesses as defined in
10 Major Groups 15, 16, and 17 of the Standard Industrial
11 Classification Manual issued by the United States Bureau of the
12 Census:

13 a. Construction.

14 b. Heavy construction.

15 c. Building-related special trades.

16 (1a) Cost. -- Defined in section 179 of the Code.

17 (2) Data processing. -- Defined in the Standard Industrial
18 Classification Manual issued by the United States Bureau of the
19 Census.

20 (3) Enterprise tier. -- The classification assigned to an area pursuant to
21 G.S. 105-129.3.

- 1 (4) Full-time job. -- A position that requires at least 1,600 hours of
2 work per year and is intended to be held by one employee during
3 the entire year. A full-time employee is an employee who holds a
4 full-time job.
- 5 (5) Machinery and equipment. -- Engines, machinery, tools, and
6 implements that are capitalized by the taxpayer for tax purposes
7 under the Code and are used or designed to be used in
8 manufacturing or processing, warehousing and distribution, or data
9 processing. The term does not include real property as defined in
10 G.S. 105-273 or rolling stock as defined in G.S. 105-333.
- 11 (6) Manufacturing and processing. -- Defined in the Standard
12 Industrial Classification Manual issued by the United States Bureau
13 of the Census.
- 14 (7) Purchase. -- Defined in section 179 of the Code.
- 15 (8) Warehousing and distribution. -- Defined in the Standard Industrial
16 Classification Manual issued by the United States Bureau of the
17 Census.
- 18 (9) Welfare recipient. -- A person who was a recipient of aid to
19 families with dependent children within the 12-month period
20 before being hired by the taxpayer."

21 Section 2. G.S. 105-129.4 reads as rewritten:

22 "**§ 105-129.4. (Repealed effective January 1, 2002) Eligibility; forfeiture.**

23 (a) Type of Business. -- A taxpayer is eligible for the credit for creating a
24 construction job for a welfare recipient under G.S. 105-129.8(a1) or the credit for
25 construction craftworker training under G.S. 105-129.11(b) if the taxpayer is engaged
26 in the business of construction. A taxpayer is eligible for ~~a credit~~ the remaining
27 credits allowed by this Article if the taxpayer engages in manufacturing or processing,
28 warehousing or distributing, or data processing, and the jobs with respect to which a
29 credit is claimed are created in that business, the machinery and equipment with
30 respect to which a credit is claimed are used in that business, and the research and
31 development for which a credit is claimed are carried out as part of that business.

32 (b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the
33 credit for worker training if the jobs for which the credit is claimed meet the wage
34 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the
35 credit for investing in machinery and equipment or the credit for research and
36 development if the jobs at the location with respect to which the credit is claimed
37 meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the
38 wage standard if they pay an average weekly wage that is at least ten percent (10%)
39 above the average weekly wage paid in the county in which the jobs will be located.
40 In calculating the average weekly wage of jobs, positions that pay a wage or salary at
41 a rate that exceeds one hundred thousand dollars (\$100,000) a year shall be excluded.
42 For the purpose of this subsection, the average wage in a county is the average wage
43 for all insured industries in the county as computed by the Employment Security
44 Commission for the most recent period for which data are available.

1 (c) Worker Training. -- A taxpayer is eligible for the tax credit for worker training
2 only for training workers who occupy jobs for which the taxpayer is eligible to claim
3 an installment of the credit for creating jobs or which are full-time positions at a
4 location with respect to which the taxpayer is eligible to claim an installment of the
5 credit for investing in machinery and equipment for the taxable year.

6 The credit for worker training is allowed only with respect to employees in
7 positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. §
8 213(a)(1) and for expenditures for training that would be eligible for expenditure or
9 reimbursement under the Department of Community Colleges' New and Expanding
10 Industry Program, as determined by guidelines adopted by the State Board of
11 Community Colleges. To establish eligibility, the taxpayer must obtain as part of the
12 application process under G.S. 105-129.6 the certification of the Department of
13 Community Colleges that the taxpayer's planned worker training would satisfy the
14 requirements of this paragraph. A taxpayer shall apply to the Department of
15 Community Colleges for this certification. The application must be on a form
16 provided by the Department of Community Colleges, must provide a detailed plan of
17 the worker training to be provided, and must contain any information required by the
18 Department of Community Colleges to determine whether the requirements of this
19 paragraph will be satisfied. If the Department of Community Colleges determines that
20 the planned worker training meets the requirements of this paragraph, the
21 Department of Community Colleges shall issue a certificate describing the location
22 with respect to which the credit is claimed and stating that the planned worker
23 training meets the requirements of this paragraph. The State Board of Community
24 Colleges may adopt rules in accordance with Chapter 150B of the General Statutes
25 that are needed to carry out its responsibilities under this paragraph.

26 (c1) Construction Craftworker Training. -- A taxpayer is eligible for the tax credit
27 for construction craftworker training only for training construction craftworkers in
28 positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. §
29 213(a)(1), and only for training provided pursuant to a program that satisfies the
30 following conditions:

- 31 (1) It combines classroom instruction and jobsite training in
32 construction craftwork.
33 (2) It includes competency testing to verify completion of each stage of
34 training.
35 (3) It is approved by the Department of Labor, the Department of
36 Community Colleges, or a statewide trade association that
37 represents employers engaged in the construction business.

38 To establish eligibility, the taxpayer must obtain as part of the application process
39 under G.S. 105-129.6 the certification of the Department of Community Colleges that
40 the taxpayer's planned construction craftworker training would satisfy the
41 requirements of this subsection. A taxpayer shall apply to the Department of
42 Community Colleges for this certification. The application must be on a form
43 provided by the Department of Community Colleges, must provide a detailed plan of
44 the construction craftworker training to be provided, and must contain any

1 information required by the Department of Community Colleges to determine
 2 whether the requirements of this subsection will be satisfied. If the Department of
 3 Community Colleges determines that the planned construction craftworker training
 4 meets the requirements of this subsection, the Department of Community Colleges
 5 shall issue a certificate describing the taxpayer, identifying the entity that approved
 6 the training program, and stating that the planned construction craftworker training
 7 meets the requirements of this subsection. The State Board of Community Colleges
 8 may adopt rules in accordance with Chapter 150B of the General Statutes that are
 9 needed to carry out its responsibilities under this subsection.

10 (d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the
 11 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit.
 12 A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided
 13 as a result of the credit plus interest at the rate established under G.S. 105-241.1(i),
 14 computed from the date the taxes would have been due if the credit had not been
 15 allowed. The past taxes and interest are due 30 days after the date the credit is
 16 forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is
 17 subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for
 18 creating jobs or the credit for investing in machinery and equipment, the taxpayer
 19 also forfeits any credit for worker training claimed for the jobs for which the credit
 20 for creating jobs was claimed or the jobs at the location with respect to which the
 21 credit for investing in machinery and equipment was claimed.

22 (e) Change in Ownership of Business. -- The sale, merger, acquisition, or
 23 bankruptcy of a business, or any other transaction by which an existing business
 24 reformulates itself as another business, does not create new eligibility in a succeeding
 25 business with respect to credits for which the predecessor was not eligible under this
 26 Article. A successor business may, however, take any installment of or carried-over
 27 portion of a credit that its predecessor could have taken if it had a tax liability."

28 Section 3. G.S. 105-129.8 reads as rewritten:

29 "**§ 105-129.8. (Repealed effective January 1, 2002) Credit Credits for creating jobs.**

30 (a) ~~Credit.~~ Creating Jobs. -- A taxpayer that meets the eligibility requirements set
 31 out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the
 32 taxable year, and hires an additional full-time employee during that year to fill a
 33 position located in this State is allowed a credit for creating a new full-time job. The
 34 amount of the credit for each new full-time job created is set out in the table below
 35 and is based on the enterprise tier of the area in which the position is located:

36 Area Enterprise Tier	Amount of Credit
37 Tier One	\$12,500
38 Tier Two	4,000
39 Tier Three	3,000
40 Tier Four	1,000
41 Tier Five	500

42 A position is located in an area if more than fifty percent (50%) of the employee's
 43 duties are performed in the area.

1 (a1) Creating Construction Jobs for Welfare Recipients. -- A taxpayer that is
2 engaged in the construction business, has five or more employees for at least 40
3 weeks during the taxable year, and hires a welfare recipient as an additional full-time
4 employee during the year is allowed a credit of five hundred dollars (\$500.00) for the
5 job.

6 (a2) The credit may not be taken in the taxable year in which the additional
7 employee is hired. Instead, the credit shall be taken in equal installments over the
8 four years following the taxable year in which the additional employee was hired and
9 shall be conditioned on the continued employment by the taxpayer of the number of
10 full-time employees the taxpayer had upon hiring the employee that caused the
11 taxpayer to qualify for the credit.

12 If, in one of the four years in which the installment of a credit accrues, the number
13 of the taxpayer's full-time employees falls below the number of full-time employees
14 the taxpayer had in the year in which the taxpayer qualified for the credit, the credit
15 expires and the taxpayer may not take any remaining installment of the credit. The
16 taxpayer may, however, take the portion of an installment that accrued in a previous
17 year and was carried forward to the extent permitted under G.S. 105-129.5.

18 If, in one of the four years in which the installment of a credit accrues, a job for
19 which the welfare recipient credit was allowed is no longer filled by a welfare
20 recipient, the credit expires and the taxpayer may not take any remaining installment
21 of the welfare recipient credit with respect to that job.

22 Jobs transferred from one area in the State to another area in the State shall not be
23 considered new jobs for purposes of this section. If, in one of the four years in which
24 the installment of a credit accrues, the position filled by the employee is moved to an
25 area in a higher- or lower-numbered enterprise tier, the remaining installments of the
26 credit shall be calculated as if the position had been created initially in the area to
27 which it was moved.

28 (b) Repealed by Session Laws 1989, c. 111, s. 1.

29 (b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

30 (d) Planned Expansion. -- A taxpayer that signs a letter of commitment with the
31 Department of Commerce to create at least twenty new full-time jobs in a specific
32 area within two years of the date the letter is signed qualifies for the credit in the
33 amount allowed by subsection (a) of this section based on the area's enterprise tier
34 for that year even though the employees are not hired that year. The credit shall be
35 available in the taxable year after at least twenty employees have been hired if the
36 hirings are within the two-year commitment period. The conditions outlined in
37 subsection (a) apply to a credit taken under this subsection except that if the area is
38 redesignated to a higher-numbered enterprise tier after the year the letter of
39 commitment was signed, the credit is allowed based on the area's enterprise tier for
40 the year the letter was signed. If the taxpayer does not hire the employees within the
41 two-year period, the taxpayer does not qualify for the credit. However, if the taxpayer
42 qualifies for a credit under subsection (a) in the year any new employees are hired,
43 the taxpayer may take the credit under that subsection.

1 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for
2 taxable years beginning on or after January 1, 1996."

3 Section 4. G.S. 105-129.11 reads as rewritten:

4 "**§ 105-129.11. (Repealed effective January 1, 2002) Credit for worker training.**
5 **Credits for worker training and construction craftworker training.**

6 (a) **Credit. Worker Training.** -- A taxpayer that provides worker training for five
7 or more of its eligible employees during the taxable year is allowed a credit equal to
8 fifty percent (50%) of its eligible expenditures for the training. For positions located
9 in an enterprise tier one area, the credit may not exceed one thousand dollars
10 (\$1,000) per employee trained during the taxable year. For other positions, the credit
11 may not exceed five hundred dollars (\$500.00) per employee trained during the
12 taxable year. A position is located in an area if more than fifty percent (50%) of the
13 employee's duties are performed in the area.

14 (b) **Eligibility.** ~~The eligibility of a taxpayer's expenditures and employees is~~
15 ~~determined as provided in G.S. 105-129.4.~~ **Construction Craftworker Training.** -- A
16 **taxpayer that is engaged in the construction business and provides construction**
17 **craftworker training to its eligible employees is allowed a credit equal to five hundred**
18 **dollars (\$500.00) for each employee who completes his or her 1,000th hour of the**
19 **provided training during the taxable year.**

20 (c) **Eligibility.** -- **The eligibility of a taxpayer's training, expenditures, and**
21 **employees is determined as provided in G.S. 105-129.4.**"

22 Section 5. This act is effective for taxable years beginning on or after
23 January 1, 1998.



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May 13, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Counsel *KCB*

RE: **House Bill 1173-Construction Worker Training Credit.
(Proposed Committee Substitute)**

House Bill 1173 amends Article 3A of Chapter 105 relating to tax incentives for new and expanding businesses. The bill provides tax credits for construction employers who hire welfare recipients and who provide craftworker training to their employees.

Section 1 of the bill adds two new definitions to the Article. "Construction" means the construction business, heavy construction business, and building-related special trades as defined in the Standard Industrial Classification Manual issued by the US Bureau of the Census. "Welfare recipient" means a person who has received aid to families with dependent children within 12 months prior to being hired.

Section 2 amends the eligibility provisions relating to the tax credits to include reference to the credit for creating a construction job for a welfare recipient and the credit for construction craftworker training. In order to be eligible for the craftworker training credit the training must be provided pursuant to a program that: (1) combines jobsite training and related instruction; (2) includes competency testing to verify completion of training; and (3) is approved by the Department of Labor, the Department of Community Colleges or a statewide trade association. The taxpayer must obtain certification from the appropriate state agency that the training program meets the requirements set forth in this provision.

Section 3 amends the provision relating to credits for job creation by adding a new subsection which authorizes a \$500 credit for taxpayers engaged in the construction business who have five or more employees for at least 40 weeks during the year and who hire a welfare recipient as an additional full-time employee. The credit may only be taken in installments over the four years following the year the employee is hired. The credit expires if, at any point during the four years the position is no longer filled by a welfare recipient.

Section 4 of the bill amends the provision relating to credits for worker training to include the construction craftworker training credit. It authorizes a \$500 credit to construction businesses that provide construction craftworker training to eligible employees when the employee completes 1,000 hours of training.

The act is effective for taxable years beginning on or after January 1, 1998.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 447 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE LUMBERTON
ECONOMIC DEVELOPMENT AND TOURIST DISTRICT AND TO AUTHORIZE THE
ISSUANCE OF CERTAIN ABC PERMITS IN THIS TYPE OF DISTRICT.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

SENATE BILL 447

favourable report

1

Short Title: Lumberton Economic Development District.

(Public)

Sponsors: Senators Weinstein; Conder, Odom, Rand, Shaw of Cumberland, Soles, and Wellons.

Referred to: Finance.

March 20, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE LUMBERTON ECONOMIC DEVELOPMENT
3 AND TOURIST DISTRICT AND TO AUTHORIZE THE ISSUANCE OF
4 CERTAIN ABC PERMITS IN THIS TYPE OF DISTRICT.

5 The General Assembly of North Carolina enacts:

6 Section 1. District Created. -- The Lumberton Economic Development
7 and Tourist District is created. The District consists of the area described in Section
8 2 of this act. The District is a body politic and corporate and a political subdivision
9 of the State. The District is subject to the Local Government Budget and Fiscal
10 Control Act, Article 3 of Chapter 159 of the General Statutes.

11 The Lumberton City Council shall serve, ex officio, as the governing
12 body of the District, and the officers of the City Council shall likewise serve as the
13 officers of the governing body of the District. The governing body of the District
14 shall promote economic development and tourism in the District and do all acts
15 reasonably necessary to fulfill this purpose.

16 A simple majority of the governing body of the District constitutes a
17 quorum. Approval by a majority of a quorum is sufficient to determine any matter
18 before the governing body of the District.

19 Section 2. Description of District. -- The Lumberton Economic
20 Development and Tourist District consists of the following area:

21 BEGINNING at a point where the western right-of-way line of Interstate 95 intersects
22 Lumber River and runs thence from said beginning point in a western direction with
23 Lumber River to the run of Saddletree Swamp; thence in a northern direction with

1 the run of Saddletree Swamp to the southern right-of-way line of North Carolina
2 Highway 211 (also known as Roberts Avenue); thence with southern right-of-way line
3 of North Carolina Highway 211 in an eastern direction to a point where the southern
4 right-of-way line of said highway intersects the run of Five Mile Branch; thence in a
5 northern direction with the run of Five Mile Branch to a point in the run of said
6 branch being located 500 feet west of (perpendicular distance) the western right-of-
7 way line of Interstate 95; thence leaving said Five Mile Branch in a northern
8 direction with a line being 500 feet west of and parallel to the western right-of-way
9 line of Interstate 95 to a point in the eastern property line of Mayfair Subdivision;
10 thence in a general northern direction with the various eastern property lines of
11 Mayfair Subdivision to the eastern property line of Mayfair North Subdivision; thence
12 in a general northern direction with the various eastern property lines of Mayfair
13 North Subdivision and beyond to a point in a ditch just south of the AA building;
14 thence in a western direction with said ditch to the run of Saddletree Swamp; thence
15 with the run of Saddletree Swamp in a northern direction approximately 1900 feet to
16 a point; thence leaving said swamp in an eastern direction to and with the southern
17 line of property owned by Lumberton Motors (Deed Book 920, Page 557) to a point
18 in said southern line being 500 feet (perpendicular distance) west of the western
19 right-of-way line of Interstate 95; thence in a northern direction 500 feet west of and
20 parallel to the western right-of-way line of Interstate 95 to a point 500 feet south of
21 and perpendicular to U.S. Highway 301 (also known as Fayetteville Road); thence in
22 a northwestern direction 500 feet south of and parallel to U.S. Highway 301 to a
23 point where this line intersects the northwestern line of Lawrence H. Oliver's
24 property (Deed Book 628, Pages 673 and 674) if it were extended; thence in a
25 northeastern direction to, with, and beyond Lawrence H. Oliver's northwestern
26 property line to a point in the northeastern right-of-way line of U.S. Highway 301;
27 thence with the northeastern right-of-way line of U.S. Highway 301 in a southeastern
28 direction to the most southern corner of Robeson Community College property;
29 thence with the southeastern property line of Robeson Community College property
30 to the western right-of-way line of Interstate 95; thence crossing Interstate 95 to a
31 point in the eastern right-of-way line of said Interstate 95, said point being Thomas
32 Carr Gibson's southwest corner (Deed Book 775, Page 665); thence with and beyond
33 Gibson's southern line (Deed Book 775, Page 665, Deed Book 490, Pages 84 and 85,
34 and Deed Book 485, Page 335) to a point in the center line of Secondary Road 1005
35 (also known as Barker Ten Mile Road); thence with the center line of Secondary
36 Road 1005 in a southern direction to a point at the intersection of the center line of
37 said Secondary Road 1005 with the northeastern right-of-way line of U.S. Highway
38 301 (also known as Secondary Road 1997 and Fayetteville Road); thence with the
39 eastern right-of-way line of U.S. Highway 301, in a southeastern direction to a point
40 in the run of Five Mile Branch; thence in a northeastern direction with the run of
41 Five Mile Branch approximately 352.63 feet to a point in the run of said branch;
42 thence leaving said branch 300 feet east of and parallel to U.S. Highway 301
43 approximately 488.4 feet to a point in the northern right-of-way line of a private drive
44 (54 feet in width); thence with the northern right-of-way line of said private drive in a

1 western direction to a point in the western right-of-way line of said U.S. Highway
2 301; thence with said western right-of-way line to a point 300 feet (perpendicular
3 distance) south of the southern right-of-way line of Liberty Hill Road; thence in a
4 western direction 300 feet south of and parallel to the southern right-of-way line of
5 Liberty Hill Road to a point in the eastern right-of-way line of Independence Drive;
6 thence with the eastern right-of-way line of Independence Drive in a northern
7 direction to a point in the southern right-of-way line of Liberty Hill Road; thence
8 with the southern right-of-way line of Liberty Hill Road in a western direction
9 crossing Independence Drive to the northwestern property corner of property owned
10 by the Church of Jesus Christ of Latter Day Saints; thence in a southern direction
11 with the western property line of said church property to a point 300 feet
12 (perpendicular distance) south of Liberty Hill Road; thence in a western direction
13 300 feet south of and parallel to the southern right-of-way line of Liberty Hill Road
14 to a point 500 feet east of (perpendicular distance) the eastern right-of-way of
15 Interstate 95; thence in a southern direction 500 feet east of and parallel to the
16 eastern right-of-way line of Interstate 95 to a point 500 feet north (perpendicular
17 distance) of North Carolina Highway 211 (also known as Roberts Avenue); thence in
18 a southeastern direction 500 feet north of and parallel to North Carolina Highway
19 211 to a point where if extended the western right-of-way line of McMillian Avenue
20 would intersect this line; thence in a southern direction to and with the western right-
21 of-way line of McMillian Avenue to a point being 135 feet south (perpendicular
22 distance) of North Carolina Highway 211; thence in a western direction 135 feet
23 southeast of and parallel to North Carolina Highway 211, crossing Rowland Avenue
24 to a point in the western right-of-way line of Rowland Avenue; thence in a southern
25 direction with the western right-of-way line of Rowland Avenue to a point in the
26 northern right-of-way line of a now abandoned V & C S Railroad right-of-way;
27 thence with said railroad right-of-way line in a southwestern and then southern
28 direction to a point on the northern line of Jennings Cotton Mills Subdivision (Map
29 Book 7, Page 48) approximately 80 feet north of West Twenty-fourth Street; thence in
30 a western direction, with the northern line of said Jennings Cotton Mills Subdivision
31 line to a point approximately 218.39 feet east of Interstate 95; thence in a southern
32 direction approximately 79.72 feet to a point in the northern right-of-way line of West
33 Twenty-fourth Street at its intersection with Delmar Street; thence in a western
34 direction with the northern right-of-way line of Twenty-fourth Street to a point 200
35 feet east (perpendicular distance) of the eastern right-of-way line of Interstate 95;
36 thence in a southern direction 200 feet east of and parallel to Interstate 95 to a point
37 in the center line of Carthage Road; thence in a western direction with the center
38 line of Carthage Road to the intersection of the center line of said Carthage Road
39 with the western right-of-way line of Interstate 95; and thence in a southern direction
40 to and with the western right-of-way line of Interstate 95 to the point of beginning.

41 Section 3. G.S. 18B-1006 is amended by adding a new subsection to
42 read:

43 "(1) Economic and Tourist Development District. -- Notwithstanding the
44 provisions of Article 6 of this Chapter, the Commission may issue permits for the sale

1 of mixed beverages to qualified businesses in an economic and tourist development
2 district. An 'economic and tourist development district' is a district that is a political
3 subdivision of the State, is within the corporate limits of a city, was established by an
4 act of the General Assembly enacted before July 1, 1997, and was established for the
5 purpose of promoting economic development and tourism in the district. The mixed
6 beverages purchase-transportation permit authorized by G.S. 18B-404(b) shall be
7 issued by a local board operating a store located in the city in which the district is
8 located. The governing body of a district that is eligible for mixed beverages permits
9 under this subsection must file with the Commission a certified copy of a map setting
10 out the boundaries of the district."

11 Section 4. This act is effective when it becomes law.



**North Carolina General Assembly
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May 13, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel and Sabra Faires, Counsel to the Senate Finance Committee

RE: **SENATE BILL 447 - LUMBERTON ECONOMIC DEVELOPMENT DISTRICT -**
Senator Weinstein

Senate Bill 447 creates the Lumberton Economic Development District as a unit of local government and authorizes the ABC Commission to issue mixed beverages permits to restaurants, hotels, and other eligible businesses in the district without an ABC election.

The District established in the bill is an area along I-95 in the City of Lumberton in Robeson County. Section 2 of the bill sets out the boundaries of the District. The District is to be governed by the City Council of Lumberton. The purpose of the District is to promote economic development and tourism in the District.

The bill is local in effect but is a public bill because the authorization in the bill to issue mixed beverages permits applies to all economic development districts that meet the description in the bill. To meet the description, a district must be a unit of government, be entirely within a city, be established for the purpose of promoting economic development, and be established before July 1, 1997. If this bill is enacted, the district created by this bill will be the only one that meets the description.

The following businesses are eligible for a mixed beverages permit: restaurants, hotels, private clubs, convention centers, community theatres, nonprofit organizations, and political organizations. To qualify as a restaurant, an establishment must derive at least 40% of its gross receipts from food and nonalcoholic beverages and have seating for at least 36 people.

MEMORANDUM

May 13, 1997

Page 2

The alcoholic beverage laws contain many classifications that appear general but are designed to apply to specific counties or areas only. The reason for this is that the North Carolina Constitution in Article II, Section 24 prohibits local acts regulating trade. The sale of alcoholic beverages is a form of trade. Therefore, local acts on alcoholic beverage sales are prohibited. A bill that establishes a general class is a public bill even if only one area fits in the class.

Under current law, mixed beverages cannot be sold in Lumberton because their sale has not been approved in an election in Robeson County or the City of Lumberton. No alcoholic beverages are authorized county-wide in Robeson County. Lumberton has authorized the on-premises sale of beer and unfortified wine at hotels, motels, and restaurants, has authorized the sale of off-premises beer and off-premises unfortified wine, and has authorized the operation of an ABC store.

The bill is effective when it becomes law.

VISITOR REGISTRATION SHEET

COMMERCE

MAY 14, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Henry Clegg Jr	Carolina A/C
Dave Simpson	"
JOHN BOYD	CAA. Eled. Contas. Assn.
WILLIAM A. DOWNOY	LIA. DOWNOY & SON, INC.
Henry Jones	Attorney - CECA
John M. May	NC CWA Nat. Coun.
Rick CARLISLE	DOC
Angie Harris	Commerce
Suzanne Summers	NC Equity
Helen Loken McNeill	The Real Estate Exchange 220# Wintergreen Dr. Lumberton NC 28358
B. N. French	Lumber River Real Estate 4310 Ludgore St. Lumberton, NC 28358
Linda Metzger	Century 21 The Real Estate Center 4850 Fayetteville Rd. Lumberton, N.C.
Myra J. Merton	Greentake Ent. 2643 Carriage Rd. Lumberton, NC 28358
David A. Biggs	METLIFE P.O. BOX 722, LUMBERTON, NC 28359 CHAIRMAN CHAMBER OF COMMERCE + HIS BUREAU
Mary J. Taylor	Sunshine House 3021 Roberts Ave. Lumberton, N.C. 28358
Renee H. Martin	Kelly's Green Cafe 3027 Roberts Ave. Lumberton, NC 28358
Mike Halt	Lumberton Chamber of Commerce
Troy Green	SEAN
Lyns Wilson	SI-AUC
Chris Hanafy	NC Electric Co-op.
Tom M. Killian	More - Vaalor
Nancy Pomeranz	DOR
John Nicholson	Belk Stokes Lumberton, NC.
Gene Felton	ABC Commission
Godall	NC BA
Alice Garland	Electricities
Sheri Schmidt	NC CDC

MINUTES

HOUSE COMMITTEE ON COMMERCE

May 21, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Walter Church, Co-Chair, William Hiatt, Co-Chair, Cary Allred, Rex Baker, Donald Bonner, Joanne Bowie, Jerry Braswell, Robert Brawley, Billy Creech, Donald Davis, Andrew Dedmon, Dub Dickson, Ruth Easterling, Stan Fox, Wayne Goodwin, Thomas Hardaway, Sandy Hardy, Dewey Hill, George Holmes, Bob Hunter, Larry Justus, Danny McComas, Paul McCrary, Ed McMahan, Frank Mitchell, Mia Morris, John Nichols, Edd Nye, John Rayfield, David Redwine, Dennis Reynolds, Gene Rogers, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Gregg Thompson, Cynthia Watson, Gene Wilson, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, May 21, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bill were discussed:

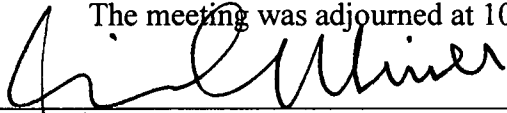
House bill 1108, AN ACT TO ALLOW THE ALCOHOL BEVERAGE AND CONTROL COMMISSION TO ISSUE PERMITS FOR "BREW ON PREMISES" BUSINESSES. Representative McMahan, one of the bill sponsors explained the bill and offered a proposed committee substitute. Representative Hall moved to adopt the committee substitute and have it heard before the committee. A vote was taken and the committee substitute was before the committee. Representative Nichols offered an amendment to the bill. Questions on the amendment were taken from the committee. Ms. Anne Fulton, Counsel for the ABC Commission answered member's questions. Mr. Chris Vilauri of the Beer and Wine Wholesalers also answered questions. A vote was taken on the Amendment and the amendment failed. Representative Hall moved for a favorable report as to the committee substitute. A vote was taken and House bill 1108 was given a favorable report as to the committee substitute, unfavorable to the original bill and the Committee substitute be referred to the Finance committee.

Senate bill 814, AN ACT TO PROVIDE FOR IN-STAND SALES OF ALCOHOLIC BEVERAGES IN CERTAIN STADIUMS, BALLPARKS, AND SIMILAR PUBLIC PLACES. Representative McMahan explained the bill and offered a proposed committee substitute. Representative Sherrill moved to hear the committee substitute. A voice vote was taken and the committee substitute was put before the committee. Questions were taken from the committee and Anne Fulton, counsel to the

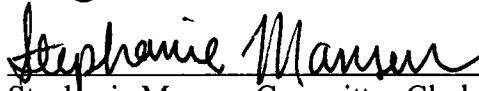
ABC Commission answered them. Representative Dickson moved for a favorable report. A vote was taken and Senate bill 814 was given a favorable report as to the committee substitute, unfavorable as to the original bill.

Senate bill 811, AN ACT TO AUTHORIZE THE SOUTHEASTERN NORTH CAROLINA REGIONAL ECONOMIC DEVELOPMENT COMMISSION TO HIRE AND CONTRACT FOR PERSONNEL. Representative Bonner explained the bill on behalf of Senator Soles. Representative McComas moved for a favorable report. A vote was taken and Senate bill 811 was given a favorable report.

The meeting was adjourned at 10:50 am.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
H.B. 1108 A BILL TO BE ENTITLED AN ACT TO ALLOW THE ALCOHOLIC
BEVERAGE CONTROL COMMISSION TO ISSUE PERMITS FOR "BREW ON
PREMISES" BUSINESSES.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill, unfavorable as to original bill and
recommendation that the committee substitute bill be re-referred to the Committee on
Finance.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 1108
Proposed Committee Substitute H1108-PCS7319

Short Title: Brew on Premises Permits.

(Public)

Sponsors:

Referred to:

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE ALCOHOLIC BEVERAGE CONTROL
3 COMMISSION TO ISSUE PERMITS FOR "BREW ON PREMISES"
4 BUSINESSES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 18B-307 reads as rewritten:

7 "**§ 18B-307. Manufacturing offenses.**

8 (a) Offenses. -- It shall be unlawful for any person, except as authorized by this
9 Chapter, to:

10 (1) Sell or possess equipment or ingredients intended for use in the
11 manufacture of any alcoholic ~~beverage; beverage, except~~
12 equipment and ingredients provided under a Brew on Premises
13 permit; or

14 (2) Knowingly allow real or personal property owned or possessed by
15 him to be used by another person for the manufacture of any
16 alcoholic ~~beverage; beverage, except pursuant to a Brew on~~
17 Premises permit.

18 (b) Unlawful Manufacturing. -- Except as provided in G.S. 18B- 306, it shall be
19 unlawful for any person to manufacture any alcoholic ~~beverage beverage, except at~~
20 an establishment with a Brew on Premises permit, without first obtaining the
21 applicable ABC permit and revenue licenses.

22 (c) Second Offense of Manufacturing. -- A second offense of unlawful
23 manufacturing of alcoholic beverage shall be a Class I felony."

1 Section 2. G.S. 18B-902(d) reads as rewritten:

2 "(d) Fees. -- An application for an ABC permit shall be accompanied by payment
3 of the following application fee:

- 4 (1) On-premises malt beverage permit -- \$200.00.
- 5 (2) Off-premises malt beverage permit -- \$200.00.
- 6 (3) On-premises unfortified wine permit -- \$200.00.
- 7 (4) Off-premises unfortified wine permit -- \$200.00.
- 8 (5) On-premises fortified wine permit -- \$200.00.
- 9 (6) Off-premises fortified wine permit -- \$200.00.
- 10 (7) Brown-bagging permit -- \$200.00, unless the application is for a
11 restaurant seating less than 50, in which case the fee shall be
12 \$100.00.
- 13 (8) Special occasion permit -- \$200.00.
- 14 (9) Limited special occasion permit -- \$25.00.
- 15 (10) Mixed beverages permit -- \$750.00.
- 16 (11) Culinary permit -- \$100.00.
- 17 (12) Unfortified winery permit -- \$150.00.
- 18 (13) Fortified winery permit -- \$150.00.
- 19 (14) Limited winery permit -- \$150.00.
- 20 (15) Brewery permit -- \$150.00.
- 21 (16) Distillery permit -- \$150.00.
- 22 (17) Fuel alcohol permit -- \$50.00.
- 23 (18) Wine importer permit -- \$150.00.
- 24 (19) Wine wholesaler permit -- \$150.00.
- 25 (20) Malt beverage importer permit -- \$150.00.
- 26 (21) Malt beverage wholesaler permit -- \$150.00.
- 27 (22) Bottler permit -- \$150.00.
- 28 (23) Salesman permit -- \$25.00.
- 29 (24) Vendor representative permit -- \$25.00.
- 30 (25) Nonresident malt beverage vendor permit -- \$50.00.
- 31 (26) Nonresident wine vendor permit -- \$50.00.
- 32 (27) Any special one-time permit under G.S. 18B-1002 -- \$25.00.
- 33 (28) Winery special event permit -- \$100.00.
- 34 (29) Mixed beverages catering permit -- \$100.00.
- 35 (30) Guest room cabinet permit -- \$750.00.
- 36 (31) Liquor importer/bottler permit -- \$250.00.
- 37 (32) Brew on Premises permit -- \$200.00."

38 Section 3. G.S. 18B-1001 is amended by adding a new subdivision to
39 read:

40 "(14) Brew on Premises Permit. -- A permit may be issued to a business,
41 in any county with a population of 500,000 or more, according to
42 the most recent estimate of population made by the Office of State
43 Budget and Management, where individual customers who are 21
44 years old or older may purchase ingredients and rent the

1 equipment, time, and space to brew malt beverages for personal
2 use in amounts set forth in 27 C.F.R § 25.205.

3 The customer shall:

- 4 a. Select a recipe and kettle;
5 b. Weigh out the proper ingredients and add them to the
6 kettle;
7 c. Transfer the wort to the fermenter;
8 d. Add the yeast;
9 e. Place the ingredients in a fermentation room; and
10 f. Filter, carbonate, and bottle the malt beverage.

11 The permittee may:

- 12 a. Assist the customer in all steps except adding the yeast; and
13 b. Transfer the ingredients from the fermentation room to the
14 cold room."

15 Section 4. This act is effective when it becomes law.



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May 21, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: **House Bill 1108 - Brew on Premises Permits.
(Proposed Committee Substitute)**

House Bill 1108 amends the G.S. 18B-1001 (Kinds of ABC permits) by adding a new provision authorizing the Alcoholic Beverage Control Commission to issue Brew on Premises permits to businesses in counties with a population of 500,000 or more. Brew on Premises businesses may sell ingredients and rent equipment, time and space to individual adult customers to brew malt beverages for personal use.

The bill further defines the steps in brewing to be used by customers, and provides that the business which obtains the permit may assist the customer with everything except adding yeast, and may transfer the ingredients from the fermentation room to the cold room. The bill also establishes an application fee of \$200 to be paid by the business seeking the permit.

The Proposed Committee Substitute clarifies that the customers of Brew on Premises businesses must be 21 years of age or older and may only brew malt beverages for personal use. It also limits the amount that can be produced to the limit set in federal regulation, which is 200 gallons annually for households with two or more adults and 100 gallons annually for households with one adult.

This act would become effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

Amendment failed

EDITION No. _____

H. B. No. 1108

DATE May 21, 1997

S. B. No. _____

Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) NICHOLS
Sen.) _____

1 moves to amend the bill on page 3, lines 4 THROUGH 7

2 () WHICH CHANGES THE TITLE

3 by REWRITING THE LINES TO READ:

4 " A BUSINESS, IN ANY COUNTY WHERE THE COUNTY

5 COMMISSIONERS HAVE AUTHORIZED THIS TYPE OF BUSINESS,

6 WHERE INDIVIDUAL CUSTOMERS

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED John M. Hills
X

ADOPTED _____ FAILED _____ TABLED _____

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 814 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR IN-STAND SALES OF
ALCOHOLIC BEVERAGES IN CERTAIN STADIUMS, BALLPARKS, AND SIMILAR
PUBLIC PLACES.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to House committee substitute bill, unfavorable as to original bill.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

S814-CSRU-001
PROPOSED HOUSE COMMITTEE SUBSTITUTE
SENATE BILL 814
THIS IS A DRAFT 20-MAY-97 18:11:16
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: In-Stand ABC Sales.

Law. to Comm. Subs

(Public)

Sponsors:

Referred to:

April 14, 1997

1 A BILL TO BE ENTITLED
2 AN ACT ACT TO PROVIDE FOR IN-STAND SALES OF ALCOHOLIC BEVERAGES
3 IN CERTAIN STADIUMS, BALLPARKS, AND SIMILAR PUBLIC PLACES.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 18B of the General Statutes is
6 amended by adding a new section to read:
7 "§ 18B-1009. In-stand sales.
8 Nothing in this Chapter shall be construed to prohibit a retail
9 permittee from selling for consumption, malt beverages in the
10 seating areas of stadiums, ballparks, and other similar public
11 places with a seating capacity of 60,000 or more during
12 professional sporting events, in municipalities with a population
13 greater than 450,000, according to the most recent estimate of
14 population made by the Office of State Budget and Management,
15 provided that:
16 (1) The seating areas are designated as part of the
17 retail permittee's licensed premises;
18 (2) The retail permittee has notified the Commission,
19 in writing, of its intent to sell malt beverages in
20 the seating areas at sporting events;

- 1 (3) Service of food and nonalcoholic beverages is
2 available in the seating areas;
3 (4) The retail permittee has certified to the
4 Commission that it has trained its employees:
5 a. To identify underage persons and intoxicated
6 persons; and
7 b. To refuse to sell malt beverages to those
8 persons as required by G.S. 18B-305; and
9 (5) The employees do not verbally shout or hawk the
10 sale of malt beverages."

11 Section 2. This act is effective when it becomes law.



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May 21, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **PROPOSED HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 814 -
IN STAND ABC SALES - Senator Odom**

The Propose House Committee Substitute for Senate Bill 814 allows a retail permittee under the ABC laws to sell malt beverages (beer) in the stands of a ballpark or stadium or other public place with a seating capacity of 60,000 or more in a city with a population of 450,000 or more if the following conditions are met:

1. The seating areas are designated as part of the permittee's licensed premises.
2. The permittee has notified the ABC Commission that it will sell malt beverages in the stands.
3. Food and nonalcoholic beverages are also available in the seating areas.
4. The permittee certifies to the Commission that it has trained its employees to identify intoxicated and underage persons.
5. The employees do not shout or hawk the sale of malt beverages.

The effect of this bill would be to permit the sale of beer at professional games in Charlotte in a public place with seating of 60,000 or more which is currently the only city in North Carolina meeting the bill's criteria. Although this bill would currently only affect Charlotte, it is a public bill because it establishes a general class even if only one area fits in the class. The sale of alcoholic beverages is a form of trade and Article II, Section 24 of the North Carolina Constitution prohibits local acts regulating trade.

The bill is effective when it becomes law.

S814-SMRU-001



North Carolina General Assembly
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April 17, 1997

MEMORANDUM

TO: Senate Commerce Committee

FROM: Linwood Jones, Staff Counsel

RE: Senate Bill 814 (In Stand ABC Sales)

Senate Bill 814 allows a retail permittee under the ABC laws to sell malt beverages (beer) in the stands of a ballpark or stadium or other public place with a seating capacity of 60,000 or more in a city with a population of 450,000 or more if the following conditions are met:

- (1) The seating areas are designated as part of the permittee's licensed premises
- (2) The permittee has notified the ABC Commission that it will sell malt beverages in the stands
- (3) Food and nonalcoholic beverages are also available in the seating areas
- (4) The permittee has trained its employees to identify intoxicated and underage persons.

S814-SMRN-001

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

S

1

SENATE BILL 814

Short Title: In-Stand ABC Sales.

(Public)

Sponsors: Senators Odom; Dannelly, Rucho, and Winner.

Referred to: Commerce.

April 14, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR IN-STAND SALES OF ALCOHOLIC BEVERAGES
3 IN CERTAIN STADIUMS, BALLPARKS, AND SIMILAR PUBLIC PLACES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 18B of the General Statutes is amended by adding a
6 new section to read:

7 "§ 18B-1009. In-stand sales.

8 Nothing in this Chapter shall be construed to prohibit a retail permittee from
9 selling for consumption, malt beverages in the seating areas of stadiums, ballparks,
10 and other similar public places with a seating capacity of 60,000 or more during
11 professional sporting events, in municipalities with a population greater than 450,000,
12 provided that:

- 13 (1) The seating areas are designated as part of the retail permittee's
14 licensed premises;
15 (2) The retail permittee has notified the Commission, in writing, of its
16 intent to sell malt beverages in the seating areas at sporting events;
17 (3) Service of food and nonalcoholic beverages is available in the
18 seating areas; and
19 (4) The retail permittee has trained its employees:
20 a. To identify underage persons and intoxicated persons; and
21 b. To refuse to sell malt beverages to those persons as required
22 by G.S. 18B-305."

23 Section 2. This act is effective when it becomes law.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 811 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE SOUTHEASTERN
NORTH CAROLINA REGIONAL ECONOMIC DEVELOPMENT COMMISSION TO
HIRE AND CONTRACT FOR PERSONNEL .
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 811

Short Title: Southeastern Regional Commission Staff.

(Public)

Sponsors: Senator Soles.

Referred to: State Government, Local Government, and Personnel.

April 10, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE SOUTHEASTERN NORTH CAROLINA
3 REGIONAL ECONOMIC DEVELOPMENT COMMISSION TO HIRE AND
4 CONTRACT FOR PERSONNEL.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 158-8.3 is amended by adding a new subsection to read:
7 "(f) Within the limits of funds available, the Commission may hire and fix the
8 compensation of any personnel necessary to its operations, contract with consultants
9 for any services as it may require, and contract with the State of North Carolina or
10 the federal government, or any agency or department thereof, for any services as may
11 be provided by those agencies. With the approval of any unit of local government,
12 the Commission may contract to use officers, employees, agents, and facilities of the
13 unit of local government. The Commission may carry out the provisions of any
14 contracts it may enter.
15 Within the limits of funds available, the Commission may lease, rent, purchase, or
16 otherwise obtain suitable quarters and office space for its staff, and may lease, rent, or
17 purchase necessary furniture, fixtures, and other equipment."
18 Section 2. This act is effective when it becomes law.



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May 14, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **SENATE BILL 811 - SOUTHEASTERN REGIONAL COMMISSION STAFF -**
Senator Soles

Senate Bill 811 would specifically authorize the Southeastern North Carolina Regional Economic Development Commission to hire staff, contract for services, and to rent or purchase equipment and office space, necessary to carry out the Commission's operations.

This bill would add a more specific authorization for this Commission to hire staff, contract with consultants, and to contract with other governmental agencies as may be necessary to carry out the Commission's operations than is currently in the law. The bill also authorizes the Commission to lease, rent, purchase or otherwise obtain suitable quarters and office space for its staff and also to similarly acquire furniture, fixtures and other equipment. This authorization is similar to the more general authorization given to all economic development commissions for these purposes as set forth in G.S. 158-10 and 158-11 and the powers previously given to the Northeastern North Carolina Regional Economic Development Commission. All expenditures must be within the limits of funds available.

The bill becomes effective when it becomes law.

§158-10. Staff and personnel; contracts for services.

Within the limits of appropriated funds, the commission may hire and fix the compensation of any personnel necessary to its operations, contract with consultants for such services as it may require, and contract with the State of North Carolina or the federal government, or any agency or department thereof, for such services as may be provided by such agencies; and it is hereby empowered to carry out the provisions of such contracts as it may enter. (1961, c. 722, s. 2.)

§158-11. Office and equipment.

Within the limits of appropriated funds, the commission may lease, rent, or purchase, or otherwise obtain suitable quarters and office space for its staff, and may lease, rent, or purchase necessary furniture, fixtures, and other equipment. (1961, c. 722, s. 2.)

§ 158-8.2. Creation of Northeastern North Carolina Regional Economic Development Commission.

(a) There is created the Northeastern North Carolina Regional Economic Development Commission to facilitate economic development and tourism development in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

.....

(g) Within the limits of funds available, the Commission may hire and fix the compensation of any personnel necessary to its operations, contract with consultants for any services as it may require, and contract with the State of North Carolina or the federal government, or any agency or department thereof, for any services as may be provided by those agencies. The Commission may carry out the provisions of any contracts it may enter.

Within the limits of funds available, the Commission may lease, rent, purchase, or otherwise obtain suitable quarters and office space for its staff, and may lease, rent, or purchase necessary furniture, fixtures, and other equipment.

VISITOR REGISTRATION SHEET

COMMERCE

MAY 21, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Jim	NCR A
Eric Garland	Electric Co-op Utilities
Hawk Johnson	Miller Brewery
Jim Blackburn	N.C. Assoc. County Commrs
Patrice Roesler	" " " "
John McMillan	Manning Field + Skinner PA
Nancy Bradley	NECB
Estheria & Craig	Electricities of NC
Andy Romack	N.C. L.M.
Brooks Skinner	AG's Office
Gene Upshur	CPL
Maude Haskins	Charlotte Chamber
JOE SAFFER	BOP owner
Tom McMillan	Moro - Van Allen
STEVE MATTHEWS	DISTILLED SPIRITS COUNCIL OF THE U.S.
William Potter	DISCUC
LEIGHTON POPE	ZDA, PA
Michael Chestnut	AG's Office
Paul Lehman	" "
MARIE G. WORLEY	LEGION OF VALOR 9199330989
Jack Kimbrell	Sr. Tarheel Legislature - Wake County
Margaret Michalove	Gov's Adv. Council on Aging & Sr. Rutherford Co
B. Bason	ABC Commission
Ann Fulton	ABC Commission
MICHAEL CROWELL	NC BEER & WINE WHOLESALE

MINUTES

HOUSE COMMITTEE ON COMMERCE

May 28, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Walter Church, Co-Chair, William Hiatt, Co-Chair, Cary Allred, Rex Baker, Daniel Blue, Donald Bonner, Joanne Bowie, Flossie Boyd-McIntyre, Jerry Braswell, Robert Brawley, Bill Culpepper, Donald Davis, Andrew Dedmon, Dub Dickson, Jerry Dockham, Ruth Easterling, Stan Fox, Wayne Goodwin, Thomas Hardaway, Sandy Hardy, Bob Hunter, John Hurley, Bill Ives, Danny McComas, Eugene McCombs, Paul McCrary, Ed McMahan, Frank Mitchell, Mia Morris, Edd Nye, Jean Preston, Liston Ramsey, John Rayfield, David Redwine, Gene Rogers, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Nurham Warwick, Cynthia Watson, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, February 19, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bills were discussed:

Chairman Miner re-referred Senate Bill 329, entitled AN ACT TO REPEAL THE REQUIREMENT THAT STATE SAVINGS BANKS USE THE LETTERS "SSB" OR THE WORDS "SAVINGS BANK" IN THEIR LEGAL NAME IN ORDER TO CONFORM WITH THE REQUIREMENTS APPLICABLE TO FEDERAL SAVINGS BANKS AND TO AMEND THE NORTH CAROLINA RECIPROCAL INTERSTATE BANKING ACT RELATING TO BANKS ACTING AS AGENTS FOR DEPOSITORY INSTITUTION AFFILIATES; Senate Bill 330, entitled AN ACT TO AMEND THE LAW GOVERNING SAFE-DEPOSIT BOXES; and Senate Bill 312, entitled AN ACT TO REGULATE CHECK-CASHING BUSINESSES to the House Commerce Subcommittee on Financial Institutions. Chairman Miner re-referred Senate Bill 486, entitled AN ACT TO CLARIFY THE DEFINITION OF ESTABLISHMENTS THAT ARE SUBJECT TO REGULATION AS FOOD AND LODGING FACILITIES to the House Commerce Subcommittee on Business and Labor. Chairman Miner re-referred House Bill 1126, entitled AN ACT TO EXEMPT LOCAL PAY PHONE SERVICES FROM SALES TAX to the House Commerce Subcommittee on Public Utilities.

Senate Bill 142, entitled AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE STATE PORTS STUDY COMMISSION TO PROVIDE THAT AT LEAST ONE MEMBER OF THE BOARD OF THE NORTH

CAROLINA STATE PORTS AUTHORITY BE AFFILIATED WITH A MAJOR EXPORTER OR IMPORTER USING THE STATE PORTS. Rep. McComas introduced the bill and offered an amendment. The amendment was adopted and the bill was made into a committee substitute. Rep. Hurley moved for a favorable report on the committee substitute and an unfavorable report on the original bill. The bill was voted upon and given a favorable report for the committee substitute.

House Bill 719, entitled AN ACT TO PROVIDE THAT THE UTILITIES COMMISSION SHALL SET RATES FOR THE MUNICIPALLY OWNED ELECTRIC UTILITIES IN THE TOWNS OF WASHINGTON AND BELHAVEN. Rep. Hardy, the bill sponsor, introduced the bill and offered a proposed committee substitute. Rep. Davis moved to adopt the committee substitute. The committee substitute was adopted. Rep. Dickson moved that the bill go to the study commission on deregulation of the electric industry. Rep. Dickson moved for an unfavorable report. The motion was not taken due to a need of further discussion on the bill. Questions were offered by the committee. Chairman Miner recognized Alice Garland of Electricities to answer questions and to address the committee. Ms. Garland voiced Electricities opposition to the bill. After several questions, Rep. Hardy requested that the bill be displaced.

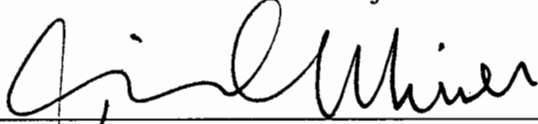
Chairman Miner displaced Senate Bill 844, entitled AN ACT TO STRENGTHEN THE OPEN MEETINGS LAW TO REQUIRE ACCOUNTS OF CLOSED MEETINGS AND TO CLARIFY WHAT ACTIONS ON ECONOMIC DEVELOPMENT INCENTIVES MAY BE TAKEN IN CLOSED SESSIONS and House Bill 1068, entitled AN ACT TO ALLOW A PERCENTAGE DISCOUNT TO MERCHANTS FOR COLLECTING STATE SALES AND USE TAXES.

House Bill 119, entitled AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE STATE PORTS STUDY COMMISSION TO REMOVE THE SUNSET ON THE STATE PORTS TAX CREDIT AND TO RAISE THE MAXIMUM CUMULATIVE CREDIT TO TWO MILLION DOLLARS. Rep. Smith, the bill sponsor, introduced and explained the bill. Rep. McComas offers an amendment. The amendment was adopted and the title bill was changed. The bill was made into a committee substitute. Chairman Miner recognized Mr. Jim Brown of the State Port Authority to address the committee. Mr. Brown voiced their support for the bill. Chairman Miner recognized Mr. Marvin Musselwhite of International Paper to address the committee. Mr. Musselwhite voiced their support for the bill. Rep. Smith moved for a favorable report for the committee substitute, an unfavorable report to the original bill, and have the bill re-referred to the House Finance Committee. The committee substitute was voted upon and it was given a favorable report and re-referred to the House Finance Committee.

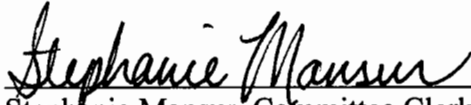
Chairman Miner assigned House Bill 903, entitled AN ACT TO PROHIBIT THE SITING OF A LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY THAT WOULD RESULT IN THE FACILITY'S BUFFER ZONE BEING LOCATED WITHIN THREE THOUSAND FEET OF A ONE HUNDRED-YEAR FLOODPLAIN OF A ONE

HUNDRED-YEAR POOL ELEVATION to a Sub-subcommittee. The Sub-subcommittee would be chaired by Rep. Hall. The other members are Rep. Easterling, Rep. Dickson, Rep. Hurley, and Rep. McCombs.

The committee was adjourned at 10:50 a.m.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for

S.B. 142 A BILL TO BE ENTITLED AN ACT TO IMPLEMENT THE
RECOMMENDATION OF THE STATE PORTS STUDY COMMISSION TO PROVIDE
THAT AT LEAST ONE MEMBER OF THE BOARD OF THE NORTH CAROLINA
STATE PORTS AUTHORITY BE AFFILIATED WITH A MAJOR EXPORTER OR
IMPORTER USING THE STATE PORTS.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance

With a favorable report as to committee substitute bill, unfavorable as to original bill.

With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

1 office. The Secretary of Commerce shall fill the first vacancy occurring after July 1,
2 1989, in a position on the Authority over which the Governor has appointive power.

3 The initial appointments by the Governor shall be made on or after March 8, 1977,
4 two terms to expire July 1, 1979; two terms to expire July 1, 1981; and three terms to
5 expire July 1, 1983. Thereafter, at the expiration of each stipulated term of office all
6 appointments made by the Governor shall be for a term of six years.

7 To stagger further the terms of members:

8 (1) Of the members appointed by the Governor to replace the
9 members whose terms expire on July 1, 1991, one member shall be
10 appointed to a term of five years, to expire on June 30, 1996; the
11 other member shall be appointed for a term of six years, to expire
12 on June 30, 1997;

13 (2) Of the members appointed by the Governor to replace the
14 members whose terms expire on July 1, 1993, one member shall be
15 appointed to a term of five years, to expire on June 30, 1998; the
16 other member shall be appointed to a term of six years, to expire
17 on June 30, 1999;

18 (3) Of those members appointed by the Governor to replace the
19 members whose terms expire on July 1, 1995, one member shall be
20 appointed to a term of five years, to expire on June 30, 2000; the
21 other member shall be appointed to a term of six years, to expire
22 on June 30, 2001.

23 Thereafter, at the expiration of each stipulated term of office all appointments made
24 by the governor shall be for a term of six years.

25 The members of the Authority appointed by the Governor shall be selected from
26 the State-at-large and insofar as practicable shall represent each section of the State
27 in all of the business, agriculture, and industrial interests of the State. At least one
28 member appointed by the Governor shall be affiliated with a major exporter or
29 importer currently using the State Ports. Any vacancy occurring in the membership of
30 the Authority appointed by the Governor shall be filled by the Governor for the
31 unexpired term. The Governor may remove a member appointed by the Governor
32 only for reasons provided by G.S. 143B-13.

33 The General Assembly shall appoint two persons to serve terms expiring June 30,
34 1983. The General Assembly shall appoint four persons to serve terms beginning July
35 1, 1983, to serve until June 30, 1985, and successors shall serve for two-year terms. Of
36 the two appointments to be made in 1982, one shall be made upon the
37 recommendation of the Speaker, and one shall be made upon the recommendation of
38 the President of the Senate. Of the four appointments made in 1983 and biennially
39 thereafter, two shall be made upon the recommendation of the President of the
40 Senate, and two shall be made upon the recommendation of the Speaker. To stagger
41 further the terms of members:

42 (1) Of the members appointed upon the recommendation of the
43 Speaker to replace the members whose terms expire on June 30,
44 1991, one member shall be appointed to a term of one year, to

1 expire on June 30, 1992; the other member shall be appointed to a
2 term of two years, to expire on June 30, 1993;
3 (2) Of the members appointed upon the recommendation of the
4 President of the Senate to replace the members whose terms expire
5 on June 30, 1991, one member shall be appointed to a term of one
6 year, to expire on June 30, 1992; the other member shall be
7 appointed to a term of two years, to expire on June 30, 1993.
8 Successors to these persons for terms beginning on or after January
9 1, 1997, shall be appointed by the General Assembly upon the
10 recommendation of the President Pro Tempore of the Senate.

11 Thereafter, at the expiration of each stipulated term of office all appointments made
12 by the General Assembly shall be for terms of two years.

13 Appointments by the General Assembly shall be made in accordance with G.S.
14 120-121, and vacancies in those appointments shall be filled in accordance with G.S.
15 120-122. Members appointed by the General Assembly may be removed only for
16 reasons provided by G.S. 143B-13.

17 The Governor shall appoint from the members of the Authority the chairman and
18 vice-chairman of the Authority. The members of the Authority shall appoint a
19 treasurer and secretary of the Authority.

20 The Authority shall meet once in each 60 days at such regular meeting time as the
21 Authority by rule may provide and at any place within the State as the Authority
22 may provide, and shall also meet upon the call of its chairman or a majority of its
23 members. A majority of its members shall constitute a quorum for the transaction of
24 business. The members of the Authority shall not be entitled to compensation for
25 their services, but they shall receive per diem and necessary travel and subsistence
26 expense in accordance with G.S. 138-5. No member of the Authority may participate
27 in any discussion or vote on any matter before the Authority on which the member
28 has a conflict of interest."

29 Section 2. The member of the Authority representative of businesses
30 using the State Ports, to be appointed by the Governor pursuant to Section 1 of this
31 act, shall be appointed to replace the member of the Authority whose term expires
32 June 30, 1998.

33 Section 3. This act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 142

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

S142-ARU-001

Date _____, 1997

Comm. Sub.
Amends Title

Representative

1 moves to amend the bill on page 3, line 24,
2 by rewriting the line to read:
3 "expense in accordance with G.S. 138-5. No member of the Authority
4 may participate in any discussion or vote on any matter before the
5 Authority on which the member has a conflict of interest."

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if House Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



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May 28, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **SENATE BILL 142 - PORT USER ON PORTS BOARD - Senator Rand**

Senate Bill 142 would require that one appointment to the State Ports Authority made by the Governor be a person affiliated with a major exporter or importer currently using the State Ports. This bill is a recommendation of the State Ports Study Commission and is very similar to House Bill 160 which has passed the House.

Section 1 of the bill amends G.S. 143B-452 which creates the State Ports Authority and its board. This provision adds the requirement that at least one of the appointees of the Governor be person affiliated with a major exporter or importer currently using the State Ports. The House added an amendment to the study commission bill to clarify that no member of the Authority may participate in any discussion or vote on any matter before the Authority on which the member has a conflict of interest.

The board of the State Ports Authority has 11 members, 7 selected by the Governor (6 appointees and the Secretary of Commerce) and 4 appointed by the General Assembly (2 upon the recommendation of the President Pro Tempore (beginning January 1, 1997), 2 upon the recommendation of the Speaker). The Governor's appointees serve 6-year terms, and their terms are currently staggered so that the Governor has one appointment per year. The General Assembly's appointees serve 2-year terms, and their terms are currently staggered so that the General Assembly appointees 2 members each year.

Section 2 of the bill provides that the Governor's appointment of a port user would be for the member whose term expires June 30, 1998.

The bill would become effective when it becomes law.

S142-SMRU-002

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

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H719-HPCSRL-002
HOUSE PROPOSED COMMITTEE SUBSTITUTE FOR
HOUSE BILL 719

displaced

Short Title: Washington/Belhaven Electric Rates. (Local)

Sponsors:

Referred to:

April 1, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT TRANSFERS FROM ELECTRIC UTILITY REVENUES TO THE
3 GENERAL FUND, TO LIMIT ELECTRIC UTILITY RESERVES, AND TO
4 PROVIDE FOR REBATES OF EXCESSIVE ELECTRIC UTILITY REVENUES IN
5 THE TOWNS OF WASHINGTON AND BELHAVEN.
6 The General Assembly of North Carolina enacts:
7 Section 1. The Town of Washington in Beaufort County is
8 prohibited from transferring to its general fund more than two
9 and one-half percent (2.5%) each fiscal year of revenues received
10 from the operation of its municipally owned electric utility.
11 Section 2. The municipally owned electric utility of
12 the Town of Washington in Beaufort County is prohibited from
13 maintaining a reserve fund in excess of twenty-five percent
14 (25.0%) of the gross revenues received from supplying electricity
15 during the previous fiscal year. The term "reserve fund" means
16 the amount in excess of the amount necessary to operate the
17 electric utility system during the current fiscal year plus the
18 amount necessary to allow the maximum transfer of funds from
19 electric utility revenues to the town's general fund pursuant to
20 Section 1 of this act.
21 Section 3. Not later than 30 days after the close of
22 each fiscal year, the municipally owned electric utility of the

1 Town of Washington in Beaufort County shall calculate the amount
2 that may be held in reserve during the current fiscal year and
3 shall refund any excess amount to the residential rate payers of
4 the electric utility. Only those residential rate payers who had
5 been supplied electricity for the 12 months preceding the end of
6 the previous fiscal year shall be entitled to the refund. The
7 refund shall be calculated by dividing the total amount of money
8 to be refunded by the total amount of residential kilowatt hours
9 sold during the previous fiscal year. The quotient of this
10 calculation will be multiplied by the number of kilowatt hours
11 consumed during the previous fiscal year by each rate payer and
12 the product of this calculation will equal the refund to each
13 rate payer.

14 Section 4. From the revenue received from the operation
15 of its municipally owned electric utility, the Town of Belhaven
16 in Washington County, may transfer no more than the following
17 amounts to its general fund:

- 18 (1) For fiscal year 1996-97, ten percent (10.0%).
- 19 (2) For fiscal year 1997-98, seven and one-half percent
20 (7.5%).
- 21 (3) For fiscal year 1998-99, five percent (5.0%).
- 22 (4) For fiscal year 1999-2000 and all fiscal years
23 thereafter, two and one-half percent (2.5%).

24 Section 5. The municipally owned electric utility of
25 the Town of Belhaven in Beaufort County is prohibited from
26 maintaining a reserve fund in excess of twenty-five percent
27 (25.0%) of the gross revenues received from supplying electricity
28 during the previous fiscal year. The term "reserve fund" means
29 the amount in excess of the amount necessary to operate the
30 electric utility system during the current fiscal year plus the
31 amount necessary to allow the maximum transfer of funds from
32 electric utility revenues to the town's general fund pursuant to
33 Section 1 of this act.

34 Section 6. Not later than 30 days after the close of
35 each fiscal year, the municipally owned electric utility of the
36 Town of Belhaven in Beaufort County shall calculate the amount
37 that may be held in reserve during the current fiscal year and
38 shall refund any excess amount to the residential rate payers of
39 the electric utility. Only those residential rate payers who had
40 been supplied electricity for the 12 months preceding the end of
41 the previous fiscal year shall be entitled to the refund. The
42 refund shall be calculated by dividing the total amount of money
43 to be refunded by the total amount of residential kilowatt hours
44 sold during the previous fiscal year. The quotient of this

1 calculation will be multiplied by the number of kilowatt hours
2 consumed during the previous fiscal year by each rate payer and
3 the product of this calculation will equal the refund to each
4 rate payer.

5 Section 7. This act applies only to the Towns of
6 Washington and Belhaven.

7 Section 8. This act becomes effective July 1, 1997 and
8 shall remain in effect until June 30, 2000.



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May 28, 1997

MEMORANDUM

TO: House Committee on Commerce

FROM:  Steven Rose, Committee Counsel for Public Utilities

**RE: Proposed Committee Substitute for House Bill 719; Washington
and Belhaven electricity revenue transfers**

The proposed committee substitute for House Bill 719 is a local bill affecting the Towns of Washington and Belhaven. It regulates the amount of revenue that may be transferred from the operation of the municipal electric utilities to the General Fund and it limits the amount the municipally owned electric utilities may maintain in reserve funds.

Sections 1 through 3 apply to the Town of Washington. Section 1 limits the amount the town may transfer from electricity receipts to the General Fund to 2.5 percent each fiscal year.

Section 2 limits the amount that the Town of Washington electric utility may maintain in a reserve fund to 25 percent of the gross revenues received from supplying electricity during the previous fiscal year. It defines "reserve fund" as the amount in excess of the amount necessary to operate the municipal electric utility system during the current fiscal year plus the amount necessary to allow the maximum transfer of funds (2.5%) from electric utility revenues to the General Fund.

Section 3 requires that the town refund to residential rate payers any amounts held in excess of the reserve fund authorized in Section 2 of the bill. Refunds are paid to residential rate payers who had been customers for the twelve months preceding the end of the fiscal year. The refund is calculated by dividing the total amount of money to be refunded (the amount in excess of the permitted reserve) by the total amount of residential kilowatt hours sold during the previous fiscal year. The result of this calculation (the quotient) is then multiplied by the number of kilowatt hours consumed during the previous fiscal year by each rate payer entitled to a refund.

Sections 4 through 6 of the bill apply to the Town of Belhaven. Section 4 limits the amount of municipal electric utility income the town may transfer to the General Fund. The limitation for the 1996-97 fiscal year is 10%. It drops progressively until it reaches a limitation of 2.5% for the 1999-2000 fiscal year.

Section 5 limits the reserve fund for the Town of Belhaven electric utility in the same way that Section 2 limits the reserve fund for the Town of Washington electric utility. Section 6 requires that excess amounts be refunded. The provisions of Section 6 are identical to those of Section 3.

The act becomes effective July 1, 1997 and remains in effect until June 30, 2000.

Municipalities are permitted to operate various public enterprises including electric utilities, under the provisions of Article 16 of Chapter 160A of the General Statutes. The rates and services of municipal electric utilities are not regulated by the Utilities Commission.

H719-SMRL-001

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for

H.B. 119 A BILL TO BE ENTITLED AN ACT TO IMPLEMENT THE
RECOMMENDATION OF THE STATE PORTS STUDY COMMISSION TO REMOVE
THE SUNSET ON THE STATE PORTS TAX CREDIT AND TO RAISE THE MAXIMUM
CUMULATIVE CREDIT TO FIVE MILLION DOLLARS.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance

With a favorable report as to committee substitute bill, which changes the title, unfavorable
as to original bill and recommendation that the committee substitute bill be re-referred to the
Committee on Finance.

With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 119*
Proposed Committee Substitute H119-PCS8244

Short Title: Remove Sunset/Ports Tax Credit.

(Public)

Sponsors:

Referred to:

February 12, 1997

1 A BILL TO BE ENTITLED

2 AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE STATE PORTS
3 STUDY COMMISSION TO REMOVE THE SUNSET ON THE STATE PORTS
4 TAX CREDIT AND TO RAISE THE MAXIMUM CUMULATIVE CREDIT TO
5 TWO MILLION DOLLARS.

6 The General Assembly of North Carolina enacts:

7 Section 1. Section 4 of Chapter 977 of the 1991 Session Laws, as
8 amended by Section 3 of Chapter 495 of the 1995 Session Laws, reads as rewritten:

9 "Sec. 4. This act is effective for taxable years beginning on or after March 1, 1992,
10 ~~and ending on or before February 28, 1998. 1992.~~"

11 Section 2. Section 4 of Chapter 681 of the 1993 Session Laws, as
12 amended by Section 17 of Chapter 17 of the 1995 Session Laws and by Section 4 of
13 Chapter 495 of the 1995 Session Laws, reads as rewritten:

14 "Sec. 4. This act is effective for taxable years beginning on or after January 1,
15 1994, ~~and ending on or before February 28, 1998. 1994.~~"

16 Section 3. G.S. 105-151.22(b) reads as rewritten:

17 "(b) Limitations. -- This credit may not exceed fifty percent (50%) of the amount
18 of tax imposed by this Division for the taxable year reduced by the sum of all credits
19 allowable, except tax payments made by or on behalf of the taxpayer. Any unused
20 portion of the credit may be carried forward for the succeeding five years. The
21 maximum cumulative credit that may be claimed by a taxpayer under this section is
22 ~~one two~~ million dollars ~~(\$1,000,000). (\$2,000,000).~~"

23 Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 119*

Short Title: Remove Sunset/Ports Tax Credit.

(Public)

Sponsors: Representatives Smith; Dedmon, Goodwin, Moore, Mosley, Owens, Preston, and Wainwright.

Referred to: State Government, if favorable, Finance.

February 12, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE STATE PORTS
3 STUDY COMMISSION TO REMOVE THE SUNSET ON THE STATE PORTS
4 TAX CREDIT AND TO RAISE THE MAXIMUM CUMULATIVE CREDIT TO
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18 of tax imposed by this Division for the taxable year reduced by the sum of all credits
19 allowable, except tax payments made by or on behalf of the taxpayer. Any unused
20 portion of the credit may be carried forward for the succeeding five years. The
21 maximum cumulative credit that may be claimed by a taxpayer under this section is
22 ~~one five million dollars (\$1,000,000).~~ (\$5,000,000)."

23 Section 4. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 119

S. B. No. _____

COMMITTEE SUBSTITUTE _____

DATE May 28, 1999

Amendment No. 1

(to be filled in by
Principal Clerk)

Rep.) _____
Sen.) _____

1 moves to amend the bill on page 1, line 22

2 () WHICH CHANGES THE TITLE

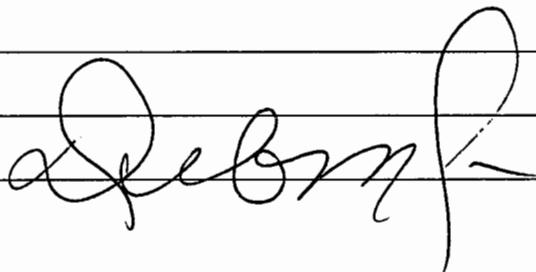
3 by REWRITING THE LINE TO READ:

4 "ONE TWO MILLION DOLLARS (~~1,000,000~~). (2,000,000)."

6 AND ON PAGE 1, LINE 5

7 BY DELETING THE WORD "FIVE" AND SUBSTITUTING

8 THE WORD "TWO".

SIGNED 

ADOPTED X FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

COMMERCE

MAY 28, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Sam Risher	NCUC
Drew Coole	Legislative Intern
Shida Fletcher	Town of Beech MT
Jimmy Roberts	C.U.C.A.
Tommy Warr	Carson Health Care System
Jim Brown	N.C. State Parts. -
John Cyran	N.C. State Exchange
Rob Schold	NCSCD
D. Coe	NCPOC
C. Heagerty	Electric Co-ops
George Long	NC DOR
Richard Hiss	Town of Spring Lake
Billy H. Manning	WPAIA Town - Spring Lake
Robert Sawitt	lobbyist
Max Munschultz	Payroll + Spreads
William Jennings Bryan	Chicago
Charles L. Turner	Mayor pro Tem. Ailer City NC
Robert A. Siler	Town comm. Siler City NC
Keane B. Siler	Mayor - Siler City
Satchel Pairs	NCACC
Gene Upchurch	CP&L
John McAlisten	Duke Power
Codrey Calk	Town of North Wilkesboro
JAMES BENTLEY	Town of N. Wilkesboro
Tara Humphreys	NCLM
Eleanore Hajian	"
VLMcBride	MCTA

MINUTES

HOUSE COMMITTEE ON COMMERCE

June 11, 1997

10:00 AM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Walter Church, Co-Chair, William Hiatt, Co-Chair, Martha Alexander, Rex Baker, Donald Bonner, Joanne Bowie, Robert Brawley, Lanier Cansler, Bill Culpepper, Donald Davis, Andrew Dedmon, Dub Dickson, Ruth Easterling, Stan Fox, Wayne Goodwin, Thomas Hardaway, Dewey Hill, John Hurley, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Paul McCrary, Ed McMahan, Frank Mitchell, Mia Morris, Charles Neeley, John Nichols, Edd Nye, Liston Ramsey, John Rayfield, David Redwine, Gene Rogers, Drew Saunders, Ronald Smith, Edgar Starnes, Gregg Thompson, Nurham Warwick, Cynthia Watson, Michael Wilkins, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 10:00 am on Wednesday, June 11, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bills were discussed:

Senate Bill 263, entitled AN ACT TO AMEND THE WORKERS' COMPENSATION ACT SO THAT NONRESIDENT ALIENS RECEIVE COMPENSATION EQUAL TO THAT RECEIVED BY OTHER WORKERS' UNDER THE ACT. Sen. Fountain, the bill sponsor, introduced and explained the bill. Rep. Ives moved for a favorable report. The bill was voted upon and it was given a favorable report.

Senate Bill 844, entitled AN ACT TO STRENGTHEN THE OPEN MEETINGS LAW TO REQUIRE ACCOUNTS OF CLOSED MEETINGS AND TO PROHIBIT VOTING ON ECONOMIC DEVELOPMENT INCENTIVES IN CLOSED SESSIONS. Sen. Hoyle, the bill sponsor, introduced the bill and offered a proposed committee substitutes. Rep. Hall moved for adoption of the committee substitute. The motion passed and the committee substitute was before the committee. Questions were offered by the committee. Chairman Miner recognized Walker Reagan, Staff Counsel, to answer questions. Chairman Miner recognized Mr. Ken Eudy of the North Carolina Press Association to address the committee. Rep. Baker moved for a favorable report for the committee substitute and a unfavorable report for the original bill. The bill was voted upon and the committee substitute received a favorable report.

Senate Bill 838, entitled AN ACT TO ESTABLISH TOURISM RESORTS AND TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE PERMITS TO THESE ENTITIES. Sen. Ballance, the bill sponsor, introduced and explained the bill. Rep. McComas moved for a favorable report. Questions were offered by the committee. Chairman Miner recognized Anne Fulton, General Counsel for the ABC Commission, to answer questions and address the committee. Walker Reagen, Staff Counsel, was recognized to answer questions. Rep. Davis moves for a roll call vote. The motion failed. Rep. McComas called for previous question. The motion passed and the bill was voted on by voice vote. The bill received a favorable report.

The committee adjourned at 10:50 a.m.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 263 A BILL TO BE ENTITLED AN ACT TO AMEND THE WORKERS'
COMPENSATION ACT SO THAT NONRESIDENT ALIENS RECEIVE
COMPENSATION EQUAL TO THAT RECEIVED BY OTHER WORKERS UNDER THE
ACT.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

SENATE BILL 263
Judiciary Committee Substitute Adopted 4/28/97

law. report

2

Short Title: Workers' Comp./Nonresident Aliens.

(Public)

Sponsors:

Referred to:

February 27, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE WORKERS' COMPENSATION ACT SO THAT
2 NONRESIDENT ALIENS RECEIVE COMPENSATION EQUAL TO THAT
3 RECEIVED BY OTHER WORKERS UNDER THE ACT.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 97-38 reads as rewritten:

7 "**§ 97-38. Where death results proximately from compensable injury or occupational**
8 **disease; dependents; burial expenses; compensation to aliens; election by partial**
9 **dependents.**

10 If death results proximately from a compensable injury or occupational disease and
11 within six years thereafter, or within two years of the final determination of disability,
12 whichever is later, the employer shall pay or cause to be paid, subject to the
13 provisions of other sections of this Article, weekly payments of compensation equal to
14 sixty-six and two-thirds percent (66 2/3%) of the average weekly wages of the
15 deceased employee at the time of the accident, but not more than the amount
16 established annually to be effective October 1 as provided in G.S. 97-29, nor less than
17 thirty dollars (\$30.00), per week, and burial expenses not exceeding two thousand
18 dollars (\$2,000), to the person or persons entitled thereto as follows:

19 (1) Persons wholly dependent for support upon the earnings of the
20 deceased employee at the time of the accident shall be entitled to
21 receive the entire compensation payable share and share alike to
22 the exclusion of all other persons. If there be only one person

- 1 wholly dependent, then that person shall receive the entire
2 compensation payable.
- 3 (2) If there is no person wholly dependent, then any person partially
4 dependent for support upon the earnings of the deceased employee
5 at the time of the accident shall be entitled to receive a weekly
6 payment of compensation computed as hereinabove provided, but
7 such weekly payment shall be the same proportion of the weekly
8 compensation provided for a whole dependent as the amount
9 annually contributed by the deceased employee to the support of
10 such partial dependent bears to the annual earnings of the
11 deceased at the time of the accident.
- 12 (3) If there is no person wholly dependent, and the person or all
13 persons partially dependent is or are within the classes of persons
14 defined as 'next of kin' in G.S. 97-40, whether or not such persons
15 or such classes of persons are of kin to the deceased employee in
16 equal degree, and all so elect, he or they may take, share and share
17 alike, the commuted value of the amount provided for whole
18 dependents in (1) above instead of the proportional payment
19 provided for partial dependents in (2) above; provided, that the
20 election herein provided may be exercised on behalf of any infant
21 partial dependent by a duly qualified guardian; provided, further,
22 that the Industrial Commission may, in its discretion, permit a
23 parent or person standing in loco parentis to such infant to
24 exercise such option in its behalf, the award to be payable only to
25 a duly qualified guardian except as in this Article otherwise
26 provided; and provided, further, that if such election is exercised
27 by or on behalf of more than one person, then they shall take the
28 commuted amount in equal shares.

29 When weekly payments have been made to an injured employee before his death,
30 the compensation to dependents shall begin from the date of the last of such
31 payments. Compensation payments due on account of death shall be paid for a
32 period of 400 weeks from the date of the death of the employee; provided, however,
33 after said 400-week period in case of a widow or widower who is unable to support
34 herself or himself because of physical or mental disability as of the date of death of
35 the employee, compensation payments shall continue during her or his lifetime or
36 until remarriage and compensation payments due a dependent child shall be
37 continued until such child reaches the age of 18.

38 Compensation payable under this Article to aliens not residents (or about to
39 become nonresidents) of the United States or Canada, shall be the same in amounts
40 as provided for residents, except that dependents in any foreign country except
41 Canada shall be limited to surviving wife spouse and child or children, or if there be
42 no surviving wife spouse or child or children, to the surviving father or ~~mother whom~~
43 ~~the employee has supported, either in whole or in part, for a period of one year prior~~
44 ~~to the date of the injury; provided, that the Commission may, in its discretion, or,~~

1 ~~upon application of the employer or insurance carrier shall commute all future~~
2 ~~installments of compensation to be paid to such aliens to their present value and~~
3 ~~payment of one half of such commuted amount to such aliens shall fully acquit the~~
4 ~~employer and the insurance carrier. mother.~~"

5 Section 2. This act is effective when it becomes law and applies to all
6 awards for compensation under Chapter 97 of the General Statutes entered on or
7 after that date.



**North Carolina General Assembly
Legislative Services Office**

George R. Hall, Legislative Services Officer
(919) 733-7044

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Room 5, Legislative Building
16 W. Jones Street
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Terrence D. Sullivan, Director
Research Division
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(919) 733-2578

June 11, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **SENATE BILL 263-WORKERS' COMPENSATION/NONRESIDENT ALIENS**
- Senator Odom

Senate Bill 263 amends the law for the payment of death benefits under Workers' Compensation to treat payments to the survivors of nonresident aliens the same as residents.

Under current law, workers' compensation benefits paid to the survivors of a non-resident alien residing in another country are limited to certain beneficiaries and maybe limited to an amount of one-half the present value of all future payments due and paid in a lump sum.

This bill eliminates any difference in the amount of benefits paid to survivors of workers' covered by workers' compensation based residence status, but limits the next of kin that are eligible for payments to surviving spouses, children or parents.

This bill becomes effective when it becomes law and applies to awards of compensation entered on or after that date.

S263-SMRU-002

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 263 (First Edition)

SHORT TITLE: Workers' Comp./Nonresident Aliens

SPONSOR(S): Senator Odom

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

No Fiscal Impact Expected

PRINCIPAL DEPARTMENT & PROGRAM AFFECTED: North Carolina Industrial Commission

EFFECTIVE DATE: Applies to workers' compensation awards on or after the date the bill becomes law.

BILL SUMMARY: Deletes provision in GS 97-38 that limits workers' compensation awards to nonresident aliens (except those from Canada). The effect of the bill is to allow all nonresident aliens the same rights as U.S. residents under the state's Workers' Compensation Act including the amount of the wage benefit claim and survivors benefits. Applies to workers' compensation awards on or after date the bill becomes law.

ASSUMPTIONS AND METHODOLOGY:

1. The North Carolina Industrial Commission, who administers the state's Workers' Compensation Act, estimates that expanding the rights for nonresident aliens will have an insignificant impact on the administration of claims. The Commission estimates for the period 1976 through June 1996 that there were 139 workers' compensation cases affecting nonresident aliens; of those cases, only 14 were estimated to be death benefit claims.

TECHNICAL CONSIDERATIONS: None.

FISCAL RESEARCH DIVISION

(733-4910)

PREPARED BY: Mark Trogdon

APPROVED BY: Tom Covington TomC

DATE:

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for

S.B. 844 A BILL TO BE ENTITLED AN ACT TO STRENGTHEN THE OPEN MEETINGS LAW TO REQUIRE ACCOUNTS OF CLOSED MEETINGS AND TO PROHIBIT VOTING ON ECONOMIC DEVELOPMENT INCENTIVES IN CLOSED SESSIONS.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)



**North Carolina General Assembly
Legislative Services Office**

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Suite 545, LOB
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Raleigh, NC 27603-5925
(919) 733-2578

June 11, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **PROPOSED HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 844 - STRENGTHEN OPEN GOVERNMENT - Senator Hoyle.**

The Proposed House Committee Substitute for Senate Bill 844 would amend the Open Meetings Law by requiring more detailed minutes or recordings of closed sessions and by clarifying what matters related to offers of economic incentives may be discussed in closed session and what matters must be voted on in open session.

Section 1 of the bill amends G.S. 143-318.10(e) by requiring that a general account of a closed session must be kept so that a person not in attendance would have a reasonable understanding of what transpired. The bill allows that this account may be a written narrative, or a sound or video recording. These accounts would be treated the same as minutes of a closed session and would be public records that may be withheld from public inspection so long as public inspection would frustrate the purpose for a closed session.

Section 2 amends G.S. 143-318.11(a)(4) which permits a closed session by a public body to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body. This bill would allow a public body to agree on a tentative list of economic development incentives that may be offered by the public body in negotiations but specifically requires that any action approving the signing of an incentive contract or commitment or authorizing the expenditures of money for these purposes be done in open session.

The bill becomes effective on October 1, 1997.

S844-SMRU-003

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

4

SENATE BILL 844
Judiciary Committee Substitute Adopted 4/28/97
Third Edition Engrossed 5/1/97
House Committee Substitute Favorable 6/12/97

Short Title: Strengthen Open Government.

(Public)

Sponsors:

Referred to:

April 15, 1997

1

A BILL TO BE ENTITLED

2

AN ACT TO STRENGTHEN THE OPEN MEETINGS LAW TO REQUIRE

3

ACCOUNTS OF CLOSED MEETINGS AND TO CLARIFY WHAT ACTIONS

4

ON ECONOMIC DEVELOPMENT INCENTIVES MAY BE TAKEN IN

5

CLOSED SESSIONS.

6

The General Assembly of North Carolina enacts:

7

Section 1. G.S. 143-318.10(e) reads as rewritten:

8

"(e) Every public body shall keep full and accurate minutes of all official

9

meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such

10

minutes may be in written form or, at the option of the public body, may be in the

11

form of sound or video and sound recordings. When a public body meets in closed

12

session, it shall keep a general account of the closed session so that a person not in

13

attendance would have a reasonable understanding of what transpired. Such

14

accounts may be a written narrative, or video or audio recordings. Such minutes and

15

accounts shall be public records within the meaning of the Public Records Law, G.S.

16

132-1 et seq.; provided, however, that minutes or an account of a closed session

17

conducted in compliance with G.S. 143-318.11 may be withheld from public

18

inspection so long as public inspection would frustrate the purpose of a closed

19

session."

20

Section 2. G.S. 143-318.11(a) reads as rewritten:

1 "(a) Permitted Purposes. -- It is the policy of this State that closed sessions shall be
2 held only when required to permit a public body to act in the public interest as
3 permitted in this section. A public body may hold a closed session and exclude the
4 public only when a closed session is required:

5 (1) To prevent the disclosure of information that is privileged or
6 confidential pursuant to the law of this State or of the United
7 States, or not considered a public record within the meaning of
8 Chapter 132 of the General Statutes.

9 (2) To prevent the premature disclosure of an honorary degree,
10 scholarship, prize, or similar award.

11 (3) To consult with an attorney employed or retained by the public
12 body in order to preserve the attorney-client privilege between the
13 attorney and the public body, which privilege is hereby
14 acknowledged. General policy matters may not be discussed in a
15 closed session and nothing herein shall be construed to permit a
16 public body to close a meeting that otherwise would be open
17 merely because an attorney employed or retained by the public
18 body is a participant. The public body may consider and give
19 instructions to an attorney concerning the handling or settlement of
20 a claim, judicial action, or administrative procedure. If the public
21 body has approved or considered a settlement, other than a
22 malpractice settlement by or on behalf of a hospital, in closed
23 session, the terms of that settlement shall be reported to the public
24 body and entered into its minutes as soon as possible within a
25 reasonable time after the settlement is concluded.

26 (4) To discuss matters relating to the location or expansion of
27 industries or other businesses in the area served by the public
28 ~~body.~~ body, including agreement on a tentative list of economic
29 development incentives that may be offered by the public body in
30 negotiations. The action approving the signing of an economic
31 development contract or commitment, or the action authorizing
32 the payment of economic development expenditures, shall be taken
33 in an open session.

34 (5) To establish, or to instruct the public body's staff or negotiating
35 agents concerning the position to be taken by or on behalf of the
36 public body in negotiating (i) the price and other material terms of
37 a contract or proposed contract for the acquisition of real property
38 by purchase, option, exchange, or lease; or (ii) the amount of
39 compensation and other material terms of an employment contract
40 or proposed employment contract.

41 (6) To consider the qualifications, competence, performance,
42 character, fitness, conditions of appointment, or conditions of
43 initial employment of an individual public officer or employee or
44 prospective public officer or employee; or to hear or investigate a

1 complaint, charge, or grievance by or against an individual public
2 officer or employee. General personnel policy issues may not be
3 considered in a closed session. A public body may not consider the
4 qualifications, competence, performance, character, fitness,
5 appointment, or removal of a member of the public body or
6 another body and may not consider or fill a vacancy among its
7 own membership except in an open meeting. Final action making
8 an appointment or discharge or removal by a public body having
9 final authority for the appointment or discharge or removal shall
10 be taken in an open meeting.

11 (7) To plan, conduct, or hear reports concerning investigations of
12 alleged criminal misconduct."

13 Section 3. This act becomes effective October 1, 1997.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

S

D

SENATE BILL 844
Judiciary Committee Substitute Adopted 4/28/97
Third Edition Engrossed 5/1/97
Proposed House Committee Substitute S844-PCS2772

Short Title: Strengthen Open Government.

(Public)

Sponsors:

Referred to:

April 15, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO STRENGTHEN THE OPEN MEETINGS LAW TO REQUIRE
3 ACCOUNTS OF CLOSED MEETINGS AND TO CLARIFY WHAT ACTIONS
4 ON ECONOMIC DEVELOPMENT INCENTIVES MAY BE TAKEN IN
5 CLOSED SESSIONS.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 143-318.10(e) reads as rewritten:
8 "(e) Every public body shall keep full and accurate minutes of all official
9 meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such
10 minutes may be in written form or, at the option of the public body, may be in the
11 form of sound or video and sound recordings. When a public body meets in closed
12 session, it shall keep a general account of the closed session so that a person not in
13 attendance would have a reasonable understanding of what transpired. Such
14 accounts may be a written narrative, or video or audio recordings. Such minutes and
15 accounts shall be public records within the meaning of the Public Records Law, G.S.
16 132-1 et seq.; provided, however, that minutes or an account of a closed session
17 conducted in compliance with G.S. 143-318.11 may be withheld from public
18 inspection so long as public inspection would frustrate the purpose of a closed
19 session."
20 Section 2. G.S. 143-318.11(a) reads as rewritten:

1 "(a) Permitted Purposes. -- It is the policy of this State that closed sessions shall be
2 held only when required to permit a public body to act in the public interest as
3 permitted in this section. A public body may hold a closed session and exclude the
4 public only when a closed session is required:

- 5 (1) To prevent the disclosure of information that is privileged or
6 confidential pursuant to the law of this State or of the United
7 States, or not considered a public record within the meaning of
8 Chapter 132 of the General Statutes.
- 9 (2) To prevent the premature disclosure of an honorary degree,
10 scholarship, prize, or similar award.
- 11 (3) To consult with an attorney employed or retained by the public
12 body in order to preserve the attorney-client privilege between the
13 attorney and the public body, which privilege is hereby
14 acknowledged. General policy matters may not be discussed in a
15 closed session and nothing herein shall be construed to permit a
16 public body to close a meeting that otherwise would be open
17 merely because an attorney employed or retained by the public
18 body is a participant. The public body may consider and give
19 instructions to an attorney concerning the handling or settlement of
20 a claim, judicial action, or administrative procedure. If the public
21 body has approved or considered a settlement, other than a
22 malpractice settlement by or on behalf of a hospital, in closed
23 session, the terms of that settlement shall be reported to the public
24 body and entered into its minutes as soon as possible within a
25 reasonable time after the settlement is concluded.
- 26 (4) To discuss matters relating to the location or expansion of
27 industries or other businesses in the area served by the public
28 ~~body.~~ body, including agreement on a tentative list of economic
29 development incentives that may be offered by the public body in
30 negotiations. The action approving the signing of an economic
31 development contract or commitment, or the action authorizing
32 the payment of economic development expenditures, shall be taken
33 in an open session.
- 34 (5) To establish, or to instruct the public body's staff or negotiating
35 agents concerning the position to be taken by or on behalf of the
36 public body in negotiating (i) the price and other material terms of
37 a contract or proposed contract for the acquisition of real property
38 by purchase, option, exchange, or lease; or (ii) the amount of
39 compensation and other material terms of an employment contract
40 or proposed employment contract.
- 41 (6) To consider the qualifications, competence, performance,
42 character, fitness, conditions of appointment, or conditions of
43 initial employment of an individual public officer or employee or
44 prospective public officer or employee; or to hear or investigate a

1 complaint, charge, or grievance by or against an individual public
2 officer or employee. General personnel policy issues may not be
3 considered in a closed session. A public body may not consider the
4 qualifications, competence, performance, character, fitness,
5 appointment, or removal of a member of the public body or
6 another body and may not consider or fill a vacancy among its
7 own membership except in an open meeting. Final action making
8 an appointment or discharge or removal by a public body having
9 final authority for the appointment or discharge or removal shall
10 be taken in an open meeting.
11 (7) To plan, conduct, or hear reports concerning investigations of
12 alleged criminal misconduct."
13 Section 3. This act becomes effective October 1, 1997.

VISITOR REGISTRATION SHEET

COMMERCE

JUNE 11, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
T. Jerry Williams	NC Bankers Assn
V. Paul Gault	Law & Consulting
Jim O'Donnell	
J. W. Blake	Check Cashing Headquarters
Jim Blair	NC Check Cashing Assoc.
William Jennings Bryan	Nashville, NC
Tony Tarasco	interested citizen
George Everett	MEIC
Kevin Carpenter	PCS
Kathie Austin Pedgett	OSPL
Shirley K. Kistner	STHCB
John Henderson	CAL of N.C.
Paul Stock	NC BANKERS ASSN.
Grady Allen	" " "
McNeil Chastnut	AG's OFFICE
Phil Lehman	" "
Jane G. Gray	Dept. of Justice
Angela L. Murphy	Speaker's Office
Jane Smith	NCCOB
Dr. M. Meacham	Deputy Commissioner of Banks
Jim House	NC Bear & W. ins
Home West	Citizen
Judi Walend	Burwell, NC
Jerry Green	NLZES
Ann Fulton	ABC Commission
Larry Heckner	Household Financial Group
Rob Schotfield	NC CDC

MINUTES

HOUSE COMMITTEE ON COMMERCE

June 25, 1997

1:00 PM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

William Hiatt, Co-Chair, Timothy Tallent, Co-Chair, Martha Alexander, Rex Baker, Daniel Blue, Donald Bonner, Joanne Bowie, Robert Brawley, Lanier Cansler, Donald Davis, Andrew Dedmon, Dub Dickson, Jerry Dockham, Ruth Easterling, Stan Fox, Bobby Hall, Sandy Hardy, Dewey Hill, John Hurley, Bill Ives, Larry Justus, Danny McComas, Eugene McCombs, Ed McMahan, Mia Morris, John Nichols, Edd Nye, John Rayfield, David Redwine, Dennis Reynolds, Drew Saunders, Wilma Sherrill, Ronald Smith, Edgar Starnes, Nurham Warwick, Cynthia Watson, Michael Wilkins, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 1:00 pm on Wednesday, June 25, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bills were discussed:

Senate Bill 994, entitled AN ACT TO PROHIBIT THE DIRECT SHIPMENT OF ALCOHOLIC BEVERAGES TO CONSUMERS IN NORTH CAROLINA. Sen. Anthony Rand, the bill sponsor, introduced and explained the bill. Questions were taken from the committee. Rep. Rex Baker moves for a favorable report. The bill was voted on and received a favorable report.

Senate Bill 330, entitled AN ACT TO AMEND THE LAW GOVERNING SAFE-DEPOSIT BOXES. Sen. Walter Dalton, the bill sponsor, introduced and explained the bill. Questions were taken from Rep. Rex Baker and Rep. John Rayfield. Rep. Andrew Dedmon moves for a favorable report. The bill was voted on and received a favorable report.

Senate Bill 848, entitled AN ACT TO PROVIDE THAT A SECONDARY SUPPLIER OF ELECTRIC SERVICE MAY FURNISH SERVICE WITHIN THE CORPORATE LIMITS OF A CITY WITH WRITTEN CONSENT FROM THE CITY, AND TO MAKE TECHNICAL CHANGES TO THE LAW REGARDING MUNICIPAL ELECTRIC SERVICE. Sen. Walter Dalton, the bill sponsor, introduced a proposed committee substitute and explained the bill. Rep. Dub Dickson moved to have the committee substitute before the committee. There was no objection and the committee substitute was before the committee. Question were taken from the

committee. Rep. Edgar Starnes moved for a favorable report on the committee substitute and for an unfavorable report to the original bill. The committee voted. It gave a favorable report to the committee substitute and an unfavorable report to the original bill.

Senate Bill 312, entitled AN ACT TO REGULATE CHECK-CASHING BUSINESSES. Sen. Walter Dalton, the bill sponsor, introduced and explained the bill. Rep. Bobby Hall informed the committee that the bill had been given unanimous approval in the House Commerce Subcommittee on Financial Institutions and stated that it was a good bill. Questions were taken from Rep. Daniel Blue, Rep. Tim Tallent, Rep. Stan Fox, and Rep. Rex Baker. Chairman Miner recognized Jane Grey of the Attorney Generals office and Jim Blair of the North Carolina Check Cashing Association for comments and answers. Rep. Tim Tallent moved for a favorable report and to re-refer the bill to the House Finance Committee. Rep. Larry Womble offered an amendment. Questions and comments were taken from Rep. Danny McComas and Rep. Edgar Starnes. Chairman Miner recognized Jim Blair to answer their questions. The amendment was put forth to the committee for adoption. The committee voted and the amendment failed. The committee voted on the bill. The bill received a favorable report from the committee and it was re-referred to the House Finance Committee.

Senate Bill 847, entitled AN ACT TO EXEMPT FROM SALES AND USE TAX REUSABLE INDUSTRIAL CONTAINERS USED AS PACKAGING FOR TANGIBLE PERSONAL PROPERTY. Sen. Thomas Odom, the bill sponsor, introduced a proposed committee substitute and explained the bill. Rep. Wilma Sherrill moved that the committee substitute to be before the committee. There was no objection and the committee substitute was before committee. Rep. Danny McComas moved for a favorable report to the committee substitute, an unfavorable report to the original report and to have the committee substitute re-referred to the House Finance Committee. Questions were taken from Rep. Rex Baker and Rep. Edgar Starnes. The committee voted on the motion. The motion passed. The committee's action was to give the committee substitute a favorable report, an unfavorable report to the original bill, and to have the committee substitute re-referred to the House Finance Committee.

The House Commerce Committee adjourned at 1:50 P.M.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 994 A BILL TO BE ENTITLED AN ACT TO PROHIBIT THE DIRECT SHIPMENT
OF ALCOHOLIC BEVERAGES TO CONSUMERS IN NORTH CAROLINA.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

2

SENATE BILL 994

Law report Commerce Committee Substitute Adopted 4/28/97

Short Title: No Direct ABC Shipments-Consumers.

(Public)

Sponsors:

Referred to:

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE DIRECT SHIPMENT OF ALCOHOLIC
3 BEVERAGES TO CONSUMERS IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 18B of the General Statutes is amended by adding a
6 new section to read:

7 "§ 18B-102.1. Direct shipments from out-of-state prohibited.

8 (a) It is unlawful for any person who is an out-of-state retail or wholesale dealer
9 in the business of selling alcoholic beverages to ship or cause to be shipped any
10 alcoholic beverage directly to any North Carolina resident who does not hold a valid
11 wholesaler's permit under Article 11 of this Chapter.

12 (b) The Commission shall mail a notice by certified mail ordering a person who
13 violates the provisions of subsection (a) of this section to cease and desist any
14 shipments of alcoholic beverages to North Carolina residents. If the offender cannot
15 produce a receipt or otherwise show that applicable State taxes have been paid on
16 the shipped alcohol within 30 days after this notice has been deposited by certified
17 mail addressed to the out-of-state retail or wholesale dealer either at the address
18 shown on the shipment or the last known address of that dealer in any legal registry,
19 such as a registry with the Secretary of State for incorporation of a business, or within
20 30 days after personal service of the notice on the out-of-state retail or wholesale
21 dealer, it shall be presumptive evidence of his intent to ship alcoholic beverages
22 directly to a North Carolina resident who does not hold a valid wholesaler's permit
23 issued by the Commission.

1 (c) This section shall not apply to producers of beverage alcohol holding a basic
2 permit from the Bureau of Alcohol, Tobacco and Firearms.

3 (d) Upon determination by the Commission that a holder of a basic permit from
4 the Bureau of Alcohol, Tobacco and Firearms has made an illegal shipment to
5 consumers in North Carolina, the Commission shall notify the Bureau of Alcohol,
6 Tobacco and Firearms in writing and by certified mail and request the Bureau to take
7 appropriate action.

8 (e) Whoever violates the provisions of this section shall be guilty of a Class I
9 felony and shall pay a fine of not more than ten thousand dollars (\$10,000)."

10 Section 2. This act becomes effective December 1, 1997.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 330 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW GOVERNING
SAFE-DEPOSIT BOXES.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 330 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW GOVERNING
SAFE-DEPOSIT BOXES.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

2

SENATE BILL 330
Commerce Committee Substitute Adopted 3/26/97

Law report

Short Title: Safe-Deposit Boxes.

(Public)

Sponsors:

Referred to:

March 10, 1997

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW GOVERNING SAFE-DEPOSIT BOXES.
3 The General Assembly of North Carolina enacts:
4 Section 1. G.S. 53-43.7 reads as rewritten:
5 "§ 53-43.7. **Safe-deposit boxes; unpaid rentals; procedure; escheats.**
6 (a) If the rental due on a safe-deposit box has not been paid for ~~one year~~, 90 days,
7 the lessor may send a notice by registered mail or certified mail, return receipt
8 requested, to the last known address of the lessee stating that the safe-deposit box will
9 be opened and its contents stored at the expense of the lessee unless payment of the
10 rental is made within 30 days. If the rental is not paid within 30 days from the
11 mailing of the notice, the box may be opened in the presence of an officer of the
12 lessor and of a notary public who is not a director, officer, employee or stockholder
13 of the lessor. The contents shall be sealed in a package by the notary public who
14 shall write on the outside the name of the lessee and the date of the opening. The
15 notary public shall execute a certificate reciting the name of the lessee, the date of
16 the opening of the box and a list of its contents. The certificate shall be included in
17 the package and a copy of the certificate shall be sent by registered mail or certified
18 mail, return receipt requested, to the last known address of the lessee. The package
19 shall then be placed in the general vaults of the lessor at a rental not exceeding the
20 rental previously charged for the box.
21 (b) Any property, including documents or writings of a private nature, which has
22 little or no apparent value, need not be sold but may be destroyed by the Treasurer

1 or by the lessor, if retained by the lessor pursuant to a determination by the Treasurer
2 under G.S. 116B-31(c).

3 (c) If the contents of the safe-deposit box have not been claimed within two years
4 of the mailing of the certificate, the lessor may send a further notice to the last known
5 address of the lessee stating that, unless the accumulated charges are paid within 30
6 days, the contents of the box will be delivered to the State Treasurer as abandoned
7 property under the provisions of Chapter 116B.

8 (d) The lessor shall submit to the Treasurer a verified inventory of all of the
9 contents of the safe-deposit box upon delivery of the contents of the box or such part
10 thereof as shall be required by the Treasurer under G.S. 116B-31(c); but the lessor
11 may deduct from any cash of the lessee in the safe-deposit box an amount equal to
12 accumulated charges for rental and shall submit to the Treasurer a verified statement
13 of such charges and deduction. If there is no cash, or insufficient cash to pay
14 accumulated charges, in the safe-deposit box, the lessor may submit to the Treasurer
15 a verified statement of accumulated charges or balance of accumulated charges due,
16 and the Treasurer shall remit to the lessor the charges or balance due, up to the value
17 of the property in the safe-deposit box delivered to him, less any costs or expenses of
18 sale; but if the charges or balance due exceeds the value of such property, the
19 Treasurer shall remit only the value of the property, less costs or expenses of sale.
20 Any accumulated charges for safe-deposit box rental paid by the Treasurer to the
21 lessor shall be deducted from the value of the property of the lessee delivered to the
22 Treasurer.

23 (e) Repealed by Session Laws 1979, 2nd Session, c. 1311, s. 5.

24 (f) ~~A copy of~~ An explanation of the contractual provisions pertaining to default,
25 together with reference to this section shall be printed on every contract for rental of
26 a safe-deposit box."

27 Section 2. This act becomes effective July 1, 1997.



North Carolina General Assembly
Legislative Services Office

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June 3, 1997

MEMORANDUM

TO: Representative Bobby Ray Hall, Chairman,
House Financial Institutions Subcommittee.

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: Senate Bill 330 - Safe - Deposit Boxes. (2d Edition)

Senate Bill 330 amends G.S. 53-43.7 relating to unpaid rent on safe deposit boxes. Under present law, if the rent is one year past due, the lessor may send a notice by registered mail to the last known address of the lessee that the safe-deposit box will be opened and the contents stored at the lessee's expense unless the rent is paid within 30 days.

This bill changes the period of time a lessor must wait from one year to 90 days and changes the notice requirement from registered mail to certified mail, return receipt requested. This bill also changes the requirement that a copy of the law be printed on every contract for rental of a safe-deposit box. Under this amendment the contract need only contain an explanation of the contractual provisions pertaining to default, and make reference to this section of the law.

This act would become effective July 1, 1997.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 848 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A SECONDARY
SUPPLIER OF ELECTRIC SERVICE MAY FURNISH SERVICE WITHIN THE
CORPORATE LIMITS OF A CITY WITH WRITTEN CONSENT FROM THE CITY, AND
TO MAKE TECHNICAL CHANGES TO THE LAW REGARDING MUNICIPAL
ELECTRIC SERVICE.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill, which changes the title,
unfavorable as to the original bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 848
Proposed Committee Substitute S848-PCS8735

Short Title: Municipal Electric Amendments.

(Public)

Sponsors:

Referred to:

April 15, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT CERTAIN SECONDARY SUPPLIERS OF
3 ELECTRIC SERVICE MAY FURNISH SERVICE WITHIN THE CORPORATE
4 LIMITS OF A CITY WITH WRITTEN CONSENT FROM THE CITY, TO
5 ALLOW THE BOARD OF AN ELECTRIC MEMBERSHIP CORPORATION
6 TO VOTE BY PROXY ON DECISIONS TO ENCUMBER CORPORATE
7 PROPERTY OR TO DISSOLVE THE CORPORATION, AND TO MAKE
8 TECHNICAL CHANGES TO THE LAW REGARDING MUNICIPAL
9 ELECTRIC SERVICE.

10 The General Assembly of North Carolina enacts:

11 Section 1. G.S. 160A-331 reads as rewritten:

12 "§ 160A-331. Definitions.

13 Unless the context otherwise requires, the following words and phrases shall have
14 the meanings indicated when used in this Part:

15 (1) 'Assigned area' means any portion of an area annexed to or
16 incorporated into a city which, on or before the effective date of
17 annexation or incorporation, had been assigned by the North
18 Carolina Utilities Commission to a specific electric supplier
19 pursuant to G.S. 62-110.2.

20 (1a) 'Assigned supplier' means a person, firm, or corporation to which
21 the North Carolina Utilities Commission had assigned a specific
22 area for service as an electric supplier pursuant to G.S. 62-110.2.

1 which area, in whole or in part, is subsequently annexed to or
2 incorporated into a city.

3 (±) (1b) The 'determination date' is

- 4 a. April 20, 1965, with respect to areas within the corporate
5 limits of any city as of April 20, 1965;
6 b. The effective date of annexation with respect to areas
7 annexed to any city after April 20, 1965;
8 c. The date a primary supplier comes into being with respect
9 to any city first incorporated after April 20, 1965.

10 (2) 'Line' means any conductor located inside the city for distributing
11 or transmitting electricity, other than

- 12 a. For overhead construction, a conductor from the pole
13 nearest the premises of a consumer to such premises, or a
14 conductor from a line tap to such premises, and
15 b. For underground construction, a conductor from the
16 transformer (or the junction point, if there be one) nearest
17 the premises of a consumer to such premises.

18 (3) 'Premises' means the building, structure, or facility to which
19 electricity is being or is to be furnished. Two or more buildings,
20 structures, or facilities that are located on one tract or contiguous
21 tracts of land and are used by one electric consumer for
22 commercial, industrial, institutional, or governmental purposes,
23 shall together constitute one 'premises,' except that any such
24 building, structure, or facility shall not, together with any other
25 building, structure, or facility, constitute one 'premises' if the
26 electric service to it is separately metered and the charges for such
27 service are calculated independently of charges for service to any
28 other building, structure, or facility.

29 (4) 'Primary supplier' means a city that owns and maintains its own
30 electric system, or a person, firm, or corporation that furnishes
31 electric service within a city pursuant to a franchise granted by, or
32 contract with, a city, or that, having furnished service pursuant to a
33 franchise or contract, is continuing to furnish service within a city
34 after the expiration of the franchise or contract.

35 (5) 'Secondary supplier' means a person, firm, or corporation that
36 furnishes electricity at retail to one or more consumers other than
37 itself within the limits of a city but is not a primary supplier. A
38 primary supplier that furnishes electric service within a city
39 pursuant to a franchise or contract that limits or restricts the
40 classes of consumers or types of electric service permitted to such
41 supplier shall, in and with respect to any area annexed by the city
42 after April 20, 1965, be a primary supplier for such classes of
43 consumers or types of service, and if it furnishes other electric
44 service in the annexed area on the effective date of annexation,

1 shall be a secondary supplier, in and with respect to such annexed
2 area, for all other electric service. A primary supplier that
3 continues to furnish electric service after the expiration of a
4 franchise or contract that limited or restricted such primary
5 supplier with respect to classes of consumers or types of electric
6 service shall, in and with respect to any area annexed by the city
7 after April 20, 1965, be a secondary supplier for all electric service
8 if it is furnishing electric service in the annexed area on the
9 effective date of annexation."

10 Section 2. G.S. 160A-332(a) reads as rewritten:

11 "(a) The suppliers of electric service inside the corporate limits of any city in
12 which a secondary supplier was furnishing electric service on the determination date
13 (as defined in G.S. 160A-331(1)) shall have rights and be subject to restrictions as
14 follows:

- 15 (1) The secondary supplier shall have the right to serve all premises
16 being served by it, or to which any of its facilities are attached, on
17 the determination date.
- 18 (2) The secondary supplier shall have the right, subject to subdivision
19 (3) of this section, to serve all premises initially requiring electric
20 service after the determination date which are located wholly
21 within 300 feet of its lines and located wholly more than 300 feet
22 from the lines of the primary supplier, as such suppliers' lines
23 existed on the determination date.
- 24 (3) Any premises initially requiring electric service after the
25 determination date which are located wholly within 300 feet of a
26 secondary supplier's lines and wholly within 300 feet of another
27 secondary supplier's lines, but wholly more than 300 feet from the
28 primary supplier's lines, as the lines of all suppliers existed on the
29 determination date, may be served by the secondary supplier which
30 the consumer chooses, and no other supplier shall thereafter
31 furnish electric service to such premises, except with the written
32 consent of the supplier then serving the premises.
- 33 (4) A primary supplier shall not furnish electric service to any
34 premises which a secondary supplier has the right to serve as set
35 forth in subdivisions (1), (2), ~~and (3)~~ (3), and (6a) of this section,
36 except with the written consent of the secondary supplier.
- 37 (5) Any premises initially requiring electric service after the
38 determination date which are located wholly or partially within
39 300 feet of the primary supplier's lines and are located wholly or
40 partially within 300 feet of the secondary supplier's lines, as such
41 suppliers' lines existed on the determination date, may be served
42 by either the secondary supplier or the primary supplier,
43 whichever the consumer chooses, and no other supplier shall

1 thereafter furnish service to such premises, except with the written
2 consent of the supplier then serving the premises.

- 3 (6) Any premises initially requiring electric service after the
4 determination date, which are located only partially within 300 feet
5 of the secondary supplier's lines and are located wholly more than
6 300 feet from the primary supplier's lines, as such supplier's lines
7 existed on the determination date, may be served either by the
8 secondary supplier or the primary supplier, whichever the
9 consumer chooses, and no other supplier shall thereafter furnish
10 service to such premises, except with the written consent of the
11 supplier then serving the premises.

- 12 (6a) Notwithstanding any other provision of law, a secondary supplier,
13 upon obtaining the prior written consent of the city, shall be the
14 exclusive provider of electric service within (i) any assigned area
15 for which that secondary supplier had been assigned supplier prior
16 to the determination date; or (ii) any area previously unassigned by
17 the North Carolina Utilities Commission pursuant to G.S. 62-110.2.
18 However, any rights of other electric suppliers existing under G.S.
19 62-110.2 prior to the determination date to provide service shall
20 continue to exist without impairment in the areas described in (i)
21 and (ii) above.

- 22 (7) Except as provided in subdivisions (1), (2), (3), (5), ~~and (6) (6),~~
23 ~~and (6a)~~ of this section, a secondary supplier shall not furnish
24 electric service within the corporate limits of any city unless it first
25 obtains the written consent of the city and the primary supplier."

26 Section 3. G.S. 117-10.2 reads as rewritten:

27 **"§ 117-10.2. Restriction on municipal service.**

28 ~~No~~ Except as otherwise provided in this section, no electric membership
29 corporation shall furnish electric service to, or within the limits of, any incorporated
30 city or town, except pursuant to a franchise that may be granted under the provisions
31 of G.S. 117-10.1, or as permitted under ~~G.S. 160-511, 160-512, and 160-513; provided,~~
32 ~~that an~~ G.S. 160A-331, 160A-332, and 160A-333. An electric membership
33 corporation may furnish electric service to, or within the limits of, any incorporated
34 city or town if the city or town and all electric suppliers, including public utilities,
35 other electric membership corporations and other cities or towns, then furnishing
36 electric service to or within such city or town consent thereto in writing."

37 Section 4. G.S. 117-20 reads as rewritten:

38 **"§ 117-20. Encumbrance, sale, etc., of property.**

39 No corporation may sell, mortgage, lease or otherwise encumber or dispose of any
40 of its property (other than merchandise and property which lie within the limits of an
41 incorporated city or town, or which shall represent not in excess of ten percent (10%)
42 of the total value of the corporation's assets, or which in the judgment of the board
43 are not necessary or useful in operating the corporation) unless

- 1 (1) Authorized so to do by the votes cast in person or by proxy by at
2 least two-thirds of its total membership, ~~without proxies~~, and
3 (2) The consent of the holders of seventy-five per centum (75%) in
4 amount of the bonds of such corporation then outstanding is
5 obtained.

6 Notwithstanding the foregoing provisions of this section, the members of such a
7 corporation may, by the affirmative majority of the votes cast in person or by proxy at
8 any meeting of the members, delegate to the board of directors the power and
9 authority (i) to borrow moneys from any source and in such amounts as the board
10 may from time to time determine, (ii) to mortgage or otherwise pledge or encumber
11 any or all of the corporation's property or assets as security therefor, and (iii) with
12 respect to Electric Membership Corporations only, to sell and lease back any of the
13 corporation's property or assets."

14 Section 5. G.S. 117-24 reads as rewritten:

15 "**§ 117-24. Dissolution.**

16 Any corporation created hereunder may be dissolved by filing, as hereinafter
17 provided, a certificate which shall be entitled and endorsed 'Certificate of Dissolution
18 of' (the blank space being filled in with the name of the corporation) and shall
19 state:

- 20 (1) Name of the corporation, and if such corporation is a corporation
21 resulting from a consolidation as herein provided, the names of the
22 original corporations.
23 (2) The date of filing of the certificate of incorporation, and if such
24 corporation is a corporation resulting from a consolidation as
25 herein provided, the dates on which the certificates of
26 incorporation of the original corporations were filed.
27 (3) That the corporation elects to dissolve.
28 (4) The name and post-office address of each of its directors, and the
29 name, title and post-office address of each of its officers.

30 Such certificate shall be subscribed and acknowledged in the same manner as an
31 original certificate of incorporation by the president or a vice-president, and the
32 secretary or an assistant secretary, who shall make and annex an affidavit, stating that
33 they have been authorized to execute and file such certificate by the votes cast in
34 person or by proxy by at least two-thirds of its total ~~membership, without proxies.~~
35 membership.

36 A certificate of dissolution and a certified copy or copies thereof shall be filed in
37 the same place as an original certificate of incorporation and thereupon the
38 corporation shall be deemed to be dissolved.

39 Such corporation shall continue for the purpose of paying, satisfying and
40 discharging any existing liabilities or obligations and collecting or liquidating its
41 assets, and doing all other acts required to adjust and wind up its business and affairs,
42 and may sue and be sued in its corporate name. Any assets remaining after all
43 liabilities or obligations of the corporation have been satisfied or discharged shall be
44 distributed among the members in such manner as is provided for in the

1 corporation's charter or bylaws, and the charter or bylaws may provide for
2 distributions to persons who were members in one or more prior years."

3 Section 6. This act is effective when it becomes law and shall expire on
4 the date of the adjournment sine die of the 1999 General Assembly.



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June 25, 1997

MEMORANDUM

TO: House Committee on Commerce

FROM:  Steven Rose, Committee Counsel for Public Utilities

RE: Proposed Committee Substitute for Senate Bill 848; Municipal Electric Amendments

The proposed committee substitute for Senate Bill 848 makes changes in Chapter 160A and Chapter 117 dealing with the furnishing of electric utility service to annexed areas of municipalities and dealing with the operation of electric membership corporations.

Section 1 of the bill amends G.S. 160A-331 which provides the definitions for Part II of Article 16 of Chapter 160A, dealing with electric service in urban areas. It adds a definition for "assigned area" and for "assigned supplier." An assigned area means any portion of an area annexed by or incorporated into a city which had previously been assigned by the North Carolina Utilities Commission to a specific electric supplier. An assigned supplier is the entity to which the Utilities Commission had assigned a specific area for electric service, which area is subsequently annexed by or incorporated into a city.

Section 2 of the bill amends G.S. 160A-332(a), which specifies how electrical service areas within city limits are determined between potentially competing suppliers. The amendment adds a new subdivision (6a) to provide that a secondary supplier, with the written consent of the city, will be the exclusive supplier of electric service within the newly annexed territory if it had been assigned that territory by the North Carolina Utilities Commission prior to April 20, 1965, or if the area had previously been unassigned. Rights of electric suppliers that existed in the area prior to the determination date continue unimpaired.

Section 3 amends G.S. 117-10.2, which deals with restrictions on municipal service by electric membership corporations. The amendments delete obsolete statutory references and substitutes current statutory references.

Section 4 of the bill amends G.S. 117-20 which deals with the encumbrance or sale of electric membership corporation and telephone membership corporation property. In order to sell or encumber property, except that which lies within the limits of a municipality, or represents 10% or less of the corporation's assets, or is deemed not useful to its operation, authorization is required by at least 2/3 of the total membership voting in person. The amendment would permit proxies.

Section 5 amends G.S. 117-24 which deals with the dissolution of electric membership corporations. The statute presently provides that dissolution may only take place with the approval of a 2/3 vote of the membership voting in person. The amendment would permit the use of proxies.

The act is effective when it becomes law and expires on the date of adjournment sine die of the 1999 General Assembly.

S848-SMRL-001

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 312 A BILL TO BE ENTITLED AN ACT TO REGULATE CHECK-CASHING
BUSINESSES.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
Finance.
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for

S.B. 312 A BILL TO BE ENTITLED AN ACT TO REGULATE CHECK-CASHING
BUSINESSES.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
Finance.

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance

With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)

With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

S

2

SENATE BILL 312
Commerce Committee Substitute Adopted 4/2/97

*Quinn
law.
report*

Short Title: Regulate Check Cashing/AB.

(Public)

Sponsors:

Referred to: Finance.

March 5, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE CHECK-CASHING BUSINESSES.
3 The General Assembly of North Carolina enacts:
4 Section 1. Chapter 53 of the General Statutes is amended by adding the
5 following new Article to read:

6 "ARTICLE 22.

7 "Check-Cashing Businesses.

8 "§ 53-275. Definitions.

9 As used in this Article, unless the context clearly requires otherwise, the term:

- 10 (1) 'Cashing' means providing currency for payment instruments, but
11 does not include the bona fide sale or exchange of travelers checks
12 and foreign denomination payment instruments.
13 (2) 'Check-cashing service' means any person or entity engaged in the
14 business of cashing checks, drafts, or money orders for a fee,
15 service charge, or other consideration.
16 (3) 'Commission' means the State Banking Commission.
17 (4) 'Commissioner' means the Commissioner of Banks.
18 (5) 'Licensee' means a person or entity licensed to engage in a check-
19 cashing business under this Article.
20 (6) 'Person' means an individual, partnership, association, or
21 corporation.

22 "§ 53-276. License required.

1 No person or other entity may engage in the business of cashing checks, drafts, or
2 money orders for consideration without first obtaining a license under this Article.
3 No person or other entity providing a check-cashing service may avoid the
4 requirements of this Article by providing a check or other currency equivalent
5 instead of currency when cashing payment instruments.

6 **"§ 53-277. Exemptions.**

7 (a) This Article shall not apply to:

8 (1) A bank, savings institution, credit union, or farm credit system
9 organized under the laws of the United States or any state; and

10 (2) Any person or entity principally engaged in the bona fide retail
11 sale of goods or services, who either as an incident to or
12 independently of a retail sale or service and not holding itself out
13 to be a check-cashing service, from time to time cashes checks,
14 drafts, or money orders for a fee or other consideration, where not
15 more than two dollars (\$2.00) is charged for the service.

16 (b) A person licensed under Article 16 of this Chapter (Money Transmitters Act)
17 is exempt from G.S. 53-276, 53-278, 53-279, and 53-284, but is deemed a licensee for
18 purposes of the remaining provisions of this Article. This exemption does not apply
19 to an agent of a person licensed under Article 16 of this Chapter.

20 **"§ 53-278. Application for license; investigation; application fee.**

21 (a) An application for licensure under this Article shall be in writing, under oath,
22 and on a form prescribed by the Commissioner. The application shall set forth all of
23 the following:

24 (1) The name and address of the applicant.

25 (2) If the applicant is a firm or partnership, the name and address of
26 each member of the firm or partnership.

27 (3) If the applicant is a corporation, the name and address of each
28 officer, director, registered agent, and principal.

29 (4) The addresses of the locations of the business to be licensed.

30 (5) Other information concerning the financial responsibility,
31 background experience, and activities of the applicant and its
32 members, officers, directors, and principals as the Commissioner
33 requires.

34 (b) The Commissioner may make such investigations as the Commissioner deems
35 necessary to determine if the applicant has complied with all applicable provisions of
36 this Article and State and federal law.

37 (c) The application shall be accompanied by payment of a two hundred fifty
38 dollar (\$250.00) application fee and a five hundred dollar (\$500.00) investigation fee.
39 These fees are not refundable or abatable, but, if the license is granted, payment of
40 the application fee shall satisfy the fee requirement for the first license year or
41 remaining part thereof.

42 (d) Licenses shall expire annually and may be renewed upon payment of a license
43 fee of two hundred fifty dollars (\$250.00) plus a fifty dollar (\$50.00) fee for each
44 branch location certificate issued under a license.

1 "§ 53-279. Liquid assets required; other qualifications; denial of license; hearing.

2 (a) Every licensee and applicant shall have and maintain liquid assets of at least
3 fifty thousand dollars (\$50,000) per licensee.

4 (b) Upon the filing and investigation of an application, and compliance by the
5 applicant with G.S. 53-278, and this section, the Commissioner shall issue and deliver
6 to the applicant the license applied for to engage in business under this Article at the
7 locations specified in the application, provided that the Commissioner finds that the
8 financial responsibility, character, reputation, experience, and general fitness of the
9 applicant and its members, officers, directors, and principals are such as to warrant
10 belief that the business will be operated efficiently and fairly, in the public interest,
11 and in accordance with law. If the Commissioner fails to make such findings, no
12 license shall be issued, and the Commissioner shall notify the applicant of the denial
13 and the reasons therefor. The applicant shall be entitled to an informal hearing on
14 the denial provided the applicant requests the hearing in writing within 30 days after
15 the Commissioner has mailed the notice required under this subsection to the
16 applicant. In the event of a hearing, which shall be held in the offices of the
17 Commissioner of Banks in Raleigh, the Commissioner shall reconsider the application
18 and, after hearing, issue a written order granting or denying the application.

19 "§ 53-280. Maximum fees for service; fees posted; endorsement of checks cashed.

20 (a) Notwithstanding any other provision of law, no check-cashing business
21 licensed under this Article shall directly or indirectly charge or collect fees or other
22 consideration for check-cashing services in excess of the following:

23 (1) Three percent (3%) of the face amount of the check or five dollars
24 (\$5.00), whichever is greater, for checks issued by the federal
25 government, State government, or any agency of the State or
26 federal government, or any county or municipality of this State.

27 (2) Ten percent (10%) of the face amount of the check or five dollars
28 (\$5.00), whichever is greater, for personal checks.

29 (3) Five percent (5%) of the face amount of the check or five dollars
30 (\$5.00), whichever is greater, for all other checks, or for money
31 orders.

32 (b) A licensee may not advance monies on the security of any check unless the
33 account from which the check being presented is drawn is legitimate, open, and
34 active. Except as provided by G.S. 53-281(a), any licensee who cashes a check for a
35 fee shall deposit the check not later than three business days from the date the check
36 is cashed.

37 (c) A licensee shall ensure that in every location conducting business under a
38 license issued under this Article, there is conspicuously posted and at all times
39 displayed a notice stating the fees charged for cashing checks, drafts, and money
40 orders. A licensee shall further ensure that notice of the fees currently charged at
41 every location shall be filed with the Commissioner.

42 (d) A licensee shall endorse every check, draft, or money order presented by the
43 licensee for payment in the name of the licensee.

44 "§ 53-281. Postdated or delayed deposit checks.

1 (a) A licensee may defer the deposit of a personal check cashed for a customer for
2 up to 31 days pursuant to the provisions of this section.

3 (b) The face amount of any postdated or delayed deposit check cashed pursuant
4 to this section shall not exceed three hundred dollars (\$300.00).

5 (c) Each postdated or delayed deposit check cashed by a licensee shall be
6 documented by a written agreement that has been signed by the customer and the
7 licensee. The written agreement shall contain a statement of the total amount of any
8 fees charged, expressed both as a dollar amount and as an effective annual percentage
9 rate (APR). The written agreement shall authorize the licensee to defer deposit of
10 the personal check until a specific date not later than 31 days from the date the check
11 is cashed.

12 (d) A licensee shall not directly or indirectly charge any fee or other consideration
13 for cashing a postdated or delayed deposit check in excess of fifteen per cent (15%)
14 of the face amount of the check.

15 (e) No check cashed under the provisions of this section shall be repaid by the
16 proceeds of another check cashed by the same licensee or any affiliate of the licensee.
17 A licensee shall not, for any consideration, renew or otherwise extend any postdated
18 or delayed check or withhold such check from deposit for any period beyond the
19 time set forth in the written agreement with the customer.

20 **"§ 53-282. Record keeping; receipt requirements.**

21 (a) Every person required to be licensed under this Article shall maintain in its
22 offices such books, accounts, and records as the Commissioner may reasonably
23 require. The books, accounts, and records shall be maintained separate from any
24 other business in which the person is engaged, and shall be retained for a period
25 prescribed by the Commissioner.

26 (b) The licensee shall ensure that each customer cashing a check shall be
27 provided a receipt showing the name or trade name of the licensee, the transaction
28 date, amount of the check, and the fee charged.

29 (c) The Commissioner may examine the books, accounts, and records in order to
30 determine whether the person is complying with this Article and rules adopted
31 pursuant thereto. The cost of the examination shall be paid by the licensee and shall
32 be determined by applying the hourly rate for special examinations adopted by the
33 State Banking Commission by regulation.

34 **"§ 53-283. Prohibited practices.**

35 No person required to be licensed under this Article shall do any of the following:

- 36 (1) Charge fees in excess of those authorized under this Article.
37 (2) Engage in the business of making loans of money, or extensions of
38 credit, or discounting notes, bills of exchange, items, or other
39 evidences of debt; or accepting deposits or bailments of money or
40 items, except as expressly provided by G.S. 53-281.
41 (3) Use or cause to be published or disseminated any advertising
42 communication which contains any false, misleading, or deceptive
43 statement or representation.

- 1 (4) Conduct business at premises or locations other than locations
2 licensed by the Commissioner.
- 3 (5) Engage in unfair, deceptive, or fraudulent practices.
- 4 (6) Cash a check, draft, or money order made payable to a payee
5 other than a natural person unless the licensee has previously
6 obtained appropriate documentation from the executive entity of
7 the payee clearly indicating the authority of the natural person or
8 persons cashing the check, draft, or money order on behalf of the
9 payee.
- 10 **§ 53-284. Suspension and revocation of license; grounds; procedure.**
- 11 (a) The Commissioner may suspend or revoke any license or licenses issued
12 pursuant to this Article if, after notice and opportunity for hearing, the Commissioner
13 issues written findings that the licensee has engaged in any of the following conduct:
- 14 (1) Violated this Article or applicable State or federal law or rules.
- 15 (2) Made a false statement on the application for a license under this
16 Article.
- 17 (3) Refused to permit investigation by the Commissioner authorized
18 under this Article.
- 19 (4) Failed to comply with an order of the Commissioner.
- 20 (5) Demonstrated incompetency or untrustworthiness to engage in the
21 business of check cashing.
- 22 (6) Been convicted of a felony or misdemeanor involving fraud,
23 misrepresentation, or deceit.
- 24 (b) The Commissioner may not suspend or revoke any license issued under this
25 Article unless the licensee has been given notice and opportunity for hearing in
26 accordance with Article 3A of Chapter 150B of the General Statutes.
- 27 **§ 53-285. Cease and desist orders.**
- 28 If the Commissioner determines that a person required to be licensed under this
29 Article has violated this Article or rules adopted pursuant to it, then the
30 Commissioner may, upon notice and opportunity for hearing in accordance with
31 Article 3A of Chapter 150B of the General Statutes, order the person to cease and
32 desist from the violations and to comply with this Article. The Commissioner may
33 enforce compliance with an order issued pursuant to this section by the imposition
34 and collection of civil penalties authorized under this Article.
- 35 **§ 53-286. Civil penalties and restitution.**
- 36 The Commissioner may order and impose civil penalties upon any person required
37 to be licensed under this Article for violations of this Article or rules adopted
38 thereunder. Civil penalties shall not exceed one thousand dollars (\$1,000) per
39 violation. All civil money penalties collected under this Article shall be paid to the
40 county school fund. The Commissioner may also order repayment of unlawful or
41 excessive fees charged to customers.
- 42 **§ 53-287. Criminal penalties.**

1 A violation of G.S. 53-276 by a person required to obtain a license under this
2 Article is a Class I felony. Each transaction involving the unlawful cashing of a
3 check, draft, or money order constitutes a separate offense.

4 **"§ 53-288. Commissioner to adopt rules.**

5 The Commissioner may adopt rules necessary to carry out the purposes of this
6 Article, to provide for the protection of the public, and to assist licensees in
7 interpreting and complying with this Article.

8 **"§ 53-289. Commission may review rules, orders, or acts by Commissioner.**

9 The Commission shall have full authority to review any rule, regulation, order, or
10 act of the Commissioner done pursuant to or with respect to the provisions of this
11 Article, and any person aggrieved by any such rule, regulation, order, or act may
12 appeal to the Commission for review upon giving notice in writing within 20 days
13 after such rule, regulation, order, or act complained of is adopted, issued, or done."

14 Section 2. The Commissioner of Banks shall report to the 2001 General
15 Assembly on the practices of licensees with regard to checks cashed pursuant to the
16 provisions of G.S. 53-281, including any evidence as to consumer complaints, unfair
17 or deceptive trade practices, and the frequency of repeat use by individuals of
18 postdated or delayed deposit checks. It is the intent of the General Assembly that the
19 sunset contained in Section 3 of this act be repealed if there is no evidence of
20 excessive complaints or unfair and deceptive trade practices.

21 Section 3. This act becomes effective October 1, 1997, and the provisions
22 of G.S. 53-281 shall expire on July 31, 2001.



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June 25, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: **Senate Bill 312 - Regulate Check Cashing/AB
(2d Edition)**

Senate Bill 312 adds a new Article 22 to Chapter 53 authorizing the Commissioner of Banks to regulate the business of check cashing. The bill requires all persons engaged in the business of check cashing to obtain a license from the Commissioner. Applications for licenses must be on a form prescribed by the Commissioner and must be accompanied by a \$250 application fee and a \$500 one-time investigation fee. Licenses must be renewed annually at a fee of \$250 plus a \$50 fee for each branch operated under the license.

The bill exempts the following entities from the licensing requirement: (1) banks, savings institutions, credit unions or farm credit systems, and (2) retailers who occasionally cash checks and charge a fee of no more than two dollars for the service. Licensed money transmitters are exempt from the licensing provisions of the act but are subject to the remaining provisions.

The maximum fees which may be charged for check cashing services are set forth as follows:

1. the greater of \$5 or 3% of the face amount of a check issued by a governmental entity.
2. the greater of \$5 or 10% of the face amount of a personal check.
3. the greater of \$5 or 5% of the face amount of all other checks or money orders.

The following activities are deemed prohibited practices under the act;

1. charging fees in excess of the statutory limits.
2. making loans.
3. conducting business at a location other than as approved in the license.
4. false, misleading or deceptive advertising.
5. unfair, deceptive or fraudulent practices.
6. cashing checks made payable to an entity, without obtaining written authorization naming a natural person to accept the proceeds.

The Commissioner of Banks is authorized to suspend or revoke licenses, issue cease and desist orders, and impose civil penalties of up to \$1,000 for violations of the act. In addition, conducting a check cashing business without a license is punishable as a Class I felony. The Commissioner is authorized to adopt rules to implement the act and persons aggrieved by a rule order or act of the Commissioner may appeal to the Banking Commission.

The second edition of the bill made several significant changes. First, it raised the liquid assets requirement from \$25,000 to \$50,000. This is the amount which all licensees must maintain to be eligible for a license. Next, it added a new section 53-281 which allows licensees to cash postdated or delayed deposit checks so long as the face amount does not exceed \$300. The customer and the licensee must enter a written agreement which states the fees charged, both as a dollar amount and as an effective annual percentage rate, and the deposit may not be deferred for more than 31 days. A licensee may not charge a fee in excess of 15% for cashing a postdated or delayed deposit check and checks cashed under this section may not be repaid by the proceeds of another check cashed by the same licensee or an affiliate of that licensee. Section 3 of the bill provides that this provision will sunset on July 31, 2001.

The second edition also added a new section 2 to the bill which directs the Commissioner of Banks to report to the 2001 General Assembly on the practices of licensees with regard to the provision relating to postdated and delayed deposit checks. The section notes that it is the intent of the General Assembly to remove the sunset on this provision if there is not evidence of excessive complaints or unfair and deceptive practices.

The act becomes effective October 1, 1997 and the provisions of G.S. 53-281 expire on July 31, 2001.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

S. B. No. 312

COMMITTEE SUBSTITUTE _____

DATE June 25, 1997

Amendment No. 1

(to be filled in by
Principal Clerk)

(Rep.) Womble
Sen.)

1 moves to amend the bill on page 3, line 26

2 () WHICH CHANGES THE TITLE:

3 by deleting the word "State," at the end of
4 the line and substituting the phrase,
5 "State, or a ~~postal~~ money order issued by
6 the United States Postal Service";

7
8 and on page 3, line 30, by rewriting
9 the line to read:

10
11 "(\$5.00), whichever is greater, for all other checks,
12 or for all other money orders."

SIGNED Gary Shible

ADOPTED _____ FAILED X TABLED _____

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
COMMERCE.

Committee Substitute for

S.B. 847 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM SALES AND USE
TAX REUSABLE INDUSTRIAL CONTAINERS USED AS PACKAGING FOR
TANGIBLE PERSONAL PROPERTY.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance

With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)

With a favorable report as to House committee substitute bill, unfavorable as to Senate
committee substitute bill and recommendation that the committee substitute be re-referred to
the committee on Finance.

And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 847
Finance Committee Substitute Adopted 5/19/97
Proposed House Committee Substitute
S847-CSRO-002
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: No Sales Tax on Reusable Containers. (Public)

Sponsors:

Referred to:

April 15, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT FROM SALES AND USE TAX REUSABLE INDUSTRIAL
3 CONTAINERS USED AS PACKAGING FOR TANGIBLE PERSONAL PROPERTY.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 105-164.13(23) reads as rewritten:
6 "(23) Sales of the following packaging items:
7 a. ~~wrapping~~ Wrapping paper, labels, wrapping
8 twine, paper, cloth, plastic bags,
9 cartons, packages and containers, cores,
10 cones or spools, wooden boxes, baskets,
11 coops and barrels, including paper cups,
12 napkins and drinking straws and like
13 articles sold to manufacturers, producers
14 and retailers, when such materials are
15 used for packaging, shipment or delivery
16 of tangible personal property which is
17 sold either at wholesale or retail and
18 when such articles constitute a part of
19 the sale of such tangible personal

1 property and are delivered with it to the
2 customer.
3 b. A container that is used as packaging by
4 the owner of the container or another
5 person to enclose tangible personal
6 property for delivery to a purchaser of
7 the property and is required to be
8 returned to its owner for reuse."

9 Section 2. This act becomes effective October 1, 1997,
10 and applies to sales made on or after that date.



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June 25, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: **Senate Bill 847 - No Sales Tax/Reusable Containers.
(Proposed House Committee Substitute)**

Senate Bill 847 amends the law relating to Retail Sales and Use tax to exempt reusable industrial containers used as packaging for tangible personal property from the tax. Under current law, most kinds of containers of tangible personal property which are sold as part of the sale of the personal property, are already exempt from the sales and use tax. This bill would also exempt containers which are leased or otherwise used solely to deliver the property and then returned and reused.

The Proposed House Committee Substitute merely restructures the bill by amending the existing subdivision (23) of G.S. 105-164.13, rather than adding a new subdivision (23a).

This act becomes effective October 1, 1997, and applies to sales made on or after that date.

VISITOR REGISTRATION SHEET

COMMERCE

JUNE 25, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
<i>She Hunt</i>	<i>Electric Co-op</i>
<i>Oscar Smith</i>	<i>AARP</i>
<i>Richard C Hatch</i>	<i>AARP</i>
<i>Olene Ogles</i>	<i>AARP</i>
<i>Polly Williams</i>	<i>AARP/Older Women's League</i>
<i>Laura MacFadden</i>	<i>Rex Healthcare</i>
<i>Ken Eudy</i>	<i>Capital Strategies</i>
<i>Joe M. Clee</i>	<i>Good Neighbors</i>
<i>Sandra King</i>	<i>Porter & Steel</i>
<i>Ann Deane</i>	<i>WCSR</i>
<i>Travis Porter</i>	<i>Porter & Steel</i>
<i>John McMay</i>	<i>NE CWA</i>
<i>David Andrus</i>	<i>DFFNC</i>
<i>David Kirkman</i>	<i>AGO</i>
<i>Scott Mow</i>	<i>DEHNR</i>
<i>George Long</i>	<i>NC DOR</i>
<i>Sam Taylor</i>	<i>Wankle Carby Co</i>
<i>Judy White</i>	<i>C.U.C.A.</i>
<i>SHIRLEY D. LINGGERT</i>	<i>EMERILITIES OF NC</i>
<i>Jane Feather</i>	<i>NC Atty. General's Office</i>
<i>Phil Tolman</i>	<i>" " " "</i>
<i>Moni Clustans</i>	<i>Atty Gen's Office</i>
<i>Rob Schjorndal</i>	<i>MSCDC</i>
<i>Chris Fitzsimon</i>	<i>Common Sense Foundation</i>
<i>Richard E. Clark</i>	<i>NCALU</i>
<i>Karla Cross</i>	<i>ESC</i>
<i>Michael W. Rhodes</i>	<i>DEH-DEHNR</i>

MINUTES

HOUSE COMMITTEE ON COMMERCE

JULY 2, 1997

2:00 PM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

Cherie Berry, Co-Chair, William Hiatt, Co-Chair, Martha Alexander, Rex Baker, Daniel Blue, Donald Bonner, Robert Brawley, James Crawford, Bill Culpepper, Donald Davis, Dub Dickson, Jerry Dockham, Bobby Hall, Sandy Hardy, George Holmes, John Hurley, Danny McComas, Eugene McCombs, Paul McCrary, Frank Mitchell, Mia Morris, John Nichols, Jean Preston, Liston Ramsey, John Rayfield, David Redwine, Dennis Reynolds, Gene Rogers, Drew Saunders, Ronald Smith, Edgar Starnes, Nurham Warwick, Cynthia Watson, Michael Wilkins, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 2:00 pm on Wednesday, July 2, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding.

Chairman Miner called the meeting to order and the following bills were discussed:

Senate Bill 208, entitled AN ACT PERTAINING TO THE SANITIZATION OF COOKING UTENSILS PROVIDED BY LODGING ESTABLISHMENTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE. Sen. Virginia Foxx, the bill sponsor, introduced and explained the bill. Questions were taken from the committee. Rep. Frank Mitchell moved for a favorable report. The committee voted and Senate Bill 208 received a favorable report.

Senate Bill 974, entitled AN ACT TO AUTHORIZED THE EMPLOYMENT SECURITY COMMISSION TO WAIVE INTEREST ON LATE CONTRIBUTIONS. Sen. Virginia Foxx, the bill sponsor, introduced and explained the bill. Questions were taken from Rep. Liston Ramsey, Rep. Daniel Blue, and Rep. Larry Womble. Chairman Miner recognized Bill Gilkeson, staff attorney, to answer questions and help explain the bill. Rep. William Hiatt moved for a favorable report and that the bill be re-referred to the House Finance Committee. The committee voted on the motion. The motion passed and Senate Bill 974 received a favorable report and was re-referred to the House Finance Committee.

House Bill 1125, entitled AN ACT TO REVISE THE CLASSIFICATION OF LENDERS WHO MAY CONTRACT FOR THE PAYMENT OF CHARGES IN CERTAIN CIRCUMSTANCES. Chairman Miner, the bill sponsor, introduced a

proposed committee substitute. Rep. William Hiatt moved that the proposed committee substitute be adopted. The committee voted and the motion passed. Chairman Miner gave the bill a favorable report and re-referred the bill to the House Rules Committee.

Senate Bill 565, entitled AN ACT TO CLARIFY THE APPLICATION OF THE COMMISSIONER OF BANK'S RATE TO VARIABLE RATE LOANS WITH ADJUSTMENT PERIODS GREATER THAN ONE MONTH AND TO REPEAL THE LAWS GOVERNING VARIABLE RATE LOANS OF MANUFACTURED HOMES AND INSTALLMENT RATES AND FEES. Sen. Eric Reeves, the bill sponsor, introduced and explained the bill. Rep. Daniel Blue removed himself from voting on this bill due to a conflict of interest. Questions were taken from Rep. W. W. Dickson. Chairman Miner recognized Mr. Paul Stock of the North Carolina Bankers' Association to answer questions and to address the committee. Rep. Frank Mitchell moved for a favorable report. The committee voted and the motion passed. Senate Bill 565 received a favorable report.

Senate Bill 23, entitled AN ACT TO REQUIRE THAT EVERY DWELLING UNIT LEASED AS RENTAL PROPERTY IN CERTAIN CITIES BE FURNISHED WITH A SOURCE OF HEAT. Sen. Eric Reeves, the bill sponsor, introduced a proposed committee substitute and explained the bill. Rep. Daniel Blue moved to adopt the committee substitute. The committee voted and the committee substitute was adopted. Rep. Daniel Blue moves for a favorable report to the committee substitute and an unfavorable report to the original bill. Questions were taken from Rep. John Nichols, Rep. Liston Ramsey, Rep. Robert Brawley, Rep. Martha Alexander, and Rep. Bobby Hall. Rep. Bobby Hall offers an amendment to change line 16 of the committee substitute. Rep. Bobby Hall moved for adoption of the amendment. The committee voted and the amendment was adopted. A vote was taken and Senate Bill 23 was given a favorable report for the committee substitute, unfavorable to the original bill.

Senate Bill 253, entitled AN ACT TO REQUIRE THE REGISTRATION OF TELEPHONIC SELLERS IN NORTH CAROLINA, AND TO MAKE THE OFFERING OF TELEPHONE SALES RECOVERY SERVICES A CRIMINAL OFFENSE. Sen. Leslie Winner, the bill sponsor, introduced and explained the bill. Questions were taken from Rep. Danny McComas, Rep. David Redwine, Rep. Gene Rogers, and Rep. Bill Culpepper. Rep. Bill Culpepper offered an amendment to clarify the language about calls to minors. The committee voted and the amendment was adopted. The bill was rolled into a committee substitute. Chairman Miner recognized Mr. Richard Hatch of AARP to address the committee and urged the committee to support it. Chairman Miner also recognized Mr. David Cookman of the Attorney General's office for comments. Rep. Danny McComas moved for a favorable report to the committee substitute, unfavorable to the original bill and to have the bill re-referred to the House Judiciary II Committee. The committee voted and the motion passed. Senate Bill 253 received a favorable report as to the committee substitute, unfavorable to the original bill and it was re-referred to the House Judiciary II Committee.

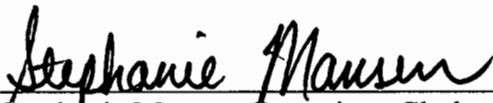
Senate Bill 562, entitled AN ACT TO INCREASE THE AMOUNT OF THE PROCESSING FEE CHARGED FOR RETURNED CHECKS. Rep. Bobby Hall introduced and explained the bill for bill sponsor, Sen. Ed Warren. Questions were taken from Rep. David Redwine. Rep. Edgar Starnes moved for a favorable report and to have the bill re-referred to the House Finance Committee. The committee held a voice vote and the motion passed. Senate Bill 562 received a favorable report and it was re-referred to the House Finance Committee.

Senate Bill 699, entitled AN ACT TO PROVIDE THAT THE PLACE OF BUSINESS OF A MOTOR VEHICLE DEALER WHO SELLS ONLY TRAILERS OF SEMITRAILERS DOES NOT HAVE TO MEET THE REQUIREMENTS SET FOR AN ESTABLISHED OFFICE OR SALESROOM OF A MOTOR VEHICLE DEALER. Sen. Hamilton Horton, the bill sponsor, introduced and explained the bill. Rep. William Hiatt offered an amendment. Sen. Horton explained the amendment. The committee voted and the amendment was adopted. Questions were taken from the committee. The bill was rolled into a committee substitute. Rep. Larry Womble moved for a favorable report to the committee substitute, unfavorable to the original bill. The committee voted and the motion passed. The committee substitute for Senate Bill 699 received a favorable report, unfavorable to the original bill.

The committee adjourned at 2:50 p.m.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner** for the Committee on **Commerce**.

Committee Substitute for

S.B. 208 A BILL TO BE ENTITLED AN ACT PERTAINING TO THE SANITIZATION OF COOKING UTENSILS PROVIDED BY LODGING ESTABLISHMENTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

S

2

SENATE BILL 208*
Commerce Committee Substitute Adopted 4/1/97

Short Title: Lodging Establishments/Sanitation.

law. report

(Public)

Sponsors:

Referred to:

February 20, 1997

- 1 A BILL TO BE ENTITLED
2 AN ACT PERTAINING TO THE SANITIZATION OF COOKING UTENSILS
3 PROVIDED BY LODGING ESTABLISHMENTS, AS RECOMMENDED BY
4 THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
5 COMMITTEE.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 130A-248(a3) reads as rewritten:
8 "(a3) The rules adopted by the Commission pursuant to subsections (a), (a1), and
9 (a2) of this section shall address, but not be limited to, the following:
10 (1) Sanitation requirements for cleanliness of floors, walls, ceilings,
11 storage spaces, utensils, ventilation equipment, and other areas and
12 items;
13 (2) Requirements for:
14 a. Lighting and water supply;
15 b. Wastewater collection, treatment, and disposal facilities; and
16 c. Lavatory and toilet facilities, food protection, and waste
17 disposal;
18 (3) The cleaning and bactericidal treatment of eating and drinking
19 utensils and other food-contact ~~surfaces~~; surfaces. A requirement
20 imposed under this subdivision to sanitize multiuse eating and
21 drinking utensils and other food-contact surfaces does not apply to
22 utensils and surfaces provided in the guest room of the lodging
23 unit for guests to prepare food while staying in the guest room.

- 1 (3a) The appropriate and reasonable use of gloves or utensils by
- 2 employees who handle unwrapped food;
- 3 (4) The methods of food preparation, transportation, catering, storage,
- 4 and serving;
- 5 (5) The health of employees;
- 6 (6) Animal and vermin control; and
- 7 (7) The prohibition against the offering of unwrapped food samples to
- 8 the general public unless the offering and acceptance of the
- 9 samples are continuously supervised by an agent of the entity
- 10 preparing or offering the samples or by an agent of the entity on
- 11 whose premises the samples are made available. As used in this
- 12 subdivision, 'food samples' means unwrapped food prepared and
- 13 made available for sampling by and without charge to the general
- 14 public for the purpose of promoting the food made available for
- 15 sampling. This subdivision does not apply to unwrapped food
- 16 prepared and offered in buffet, cafeteria, or other style in exchange
- 17 for payment by the general public or by the person or entity
- 18 arranging for the preparation and offering of such unwrapped food.
- 19 This subdivision shall not apply to open air produce markets nor
- 20 to farmer market facilities operated on land owned or leased by
- 21 the State of North Carolina or any local government.
- 22 The rules shall contain a system for grading establishments, such as Grade A, Grade
- 23 B, and Grade C. The rules shall be written in a manner that promotes consistency in
- 24 both the interpretation and application of the grading system."
- 25 Section 2. This act is effective when it becomes law.



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June 25, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **SENATE BILL 208 - Sanitization of Cooking Utensils Provided by Lodging Establishments - Senator Foxx**

Senate Bill 208 exempts multiuse utensils provided in the guest room of a lodging unit for guests to prepare food while staying in the guest room from the normal sanitization requirements. This bill is a recommendation of the Joint Administrative Procedure Oversight Committee and is identical to House Bill 165 which passed the House after this bill passed the Senate.

The purpose of this bill is to make consistent the application of law governing the sanitation of cooking utensils in certain lodging establishments. Under current law, certain lodging establishments are required to sanitize re-usable cooking and eating utensils when those utensils are provided in the lodging unit for guests to use in preparing their food (G.S. 130A-248). Condominiums and private homes that are rented to guests and that also provide re-usable cooking and eating utensils for guest use are exempt from regulation (G.S. 130A-250). Thus, although the service provided by both regulated and nonregulated establishments is the same, as is the risk of public exposure to disease, the application of law is more burdensome on the regulated establishment than on the nonregulated establishment. This bill exempts the regulated establishments from the sanitation requirement. Regulations pertaining to the cleaning of utensils and surfaces still apply. If enacted, this statutory change will be the basis for a temporary rule pertaining to the sanitation requirements.

Section 1 of the bill amends G.S. 130A-248(a3) to provide that sanitation requirements for eating and drinking utensils and other food contact surfaces do not apply to multiuse utensils and surfaces provided in the guest room of the lodging unit for guests to prepare food while staying in the guest room.

Section 2 makes the bill effective when it becomes law.

S208-SMRU-002

From the Report to the 1997 General Assembly by the
JOINT ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE

FINDING NUMBER 5:

The following findings pertain to 15A NCAC 18A.1812, a rule adopted by the Health Services Commission.

Reasonable regulation of establishments that provide food and lodging services to the general public is necessary for the protection of the public health. However, regulation that is more restrictive than necessary to achieve its purpose can impose hardships on business that significantly outweigh the benefits to the general public. Moreover, a law that regulates a service provided by one entity more stringently than an identical service provided by a different type of entity should be carefully reviewed to ensure that there is justification for the inconsistency in regulation. Thus, the Committee finds as follows:

- (1) Lodging establishments such as motels, hotels, and tourist homes are regulated under Article 8 of Chapter 130A of the General Statutes. Rules adopted under that Article include those pertaining to the sanitation of re-usable cooking and eating utensils provided by the establishment for use by guests in the preparation of food in their lodging unit.
- (2) Condominiums and private homes are exempt from regulation under Article 8, G.S. 130A-250, although many of these apartments and homes are rented to the general public and provide the same level and type of re-usable cooking and eating utensils for use by renters in preparation of food in the rental unit.
- (3) The public health concern about cleanliness of cooking and eating utensils is relevant to both types of entities. Yet one entity is required to sanitize the utensils, while the other entities are not. Moreover, the sanitization process required of the regulated establishment is more burdensome than is reasonably necessary to protect the public health, especially given that public exposure to the relevant health risks is relatively the same in establishments that are regulated and in those that are exempt from regulation.
- (4) The law should apply equitably to all lodging establishments that provide the same or substantially similar services to the general public, such that the public health concerns are addressed without unjustifiably burdensome regulation on one segment of business or industry.

RECOMMENDATION NUMBER 5:

The Committee recommends that General Assembly enact legislation which clarifies that rules pertaining to sanitation of eating and drinking utensils do not apply to utensils in lodging units that provide utensils for guests to use in preparing food while staying in the lodging unit. (SEE LEGISLATIVE PROPOSAL 5)

§ 130A-248. Regulation of food and lodging establishments.

(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay and establishments that prepare and sell meat food products or poultry products. However, any establishment that prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the definition of a private club as provided in G.S. 130A-247(2).

(a1) For the protection of the public health, the Commission shall adopt rules governing the sanitation of hotels, motels, tourist homes, and other establishments that provide lodging for pay.

(a2) For the protection of the public health, the Commission shall adopt rules governing the sanitation of private homes offering bed and breakfast accommodations to eight or fewer persons per night, and rules governing the sanitation of bed and breakfast inns as defined in G.S. 130A-247. In carrying out this function, the Commission shall adopt requirements that are the least restrictive so as to protect the public health and not unreasonably interfere with the operation of bed and breakfast inns.

(a3) The rules adopted by the Commission pursuant to subsections (a), (a1), and (a2) of this section shall address, but not be limited to, the following:

- (1) Sanitation requirements for cleanliness of floors, walls, ceilings, storage spaces, utensils, ventilation equipment, and other areas and items;
- (2) Requirements for:
 - a. Lighting and water supply;
 - b. Wastewater collection, treatment, and disposal facilities; and
 - c. Lavatory and toilet facilities, food protection, and waste disposal;
- (3) The cleaning and bactericidal treatment of eating and drinking utensils and other food-contact surfaces;
- (3a) The appropriate and reasonable use of gloves or utensils by employees who handle unwrapped food;
- (4) The methods of food preparation, transportation, catering, storage, and serving;
- (5) The health of employees;
- (6) Animal and vermin control; and
- (7) The prohibition against the offering of unwrapped food samples to the general public unless the offering and acceptance of the samples are continuously supervised by an agent of the entity preparing or offering the samples or by an agent of the entity on whose premises the samples are made available. As used in this subdivision, "food samples" means unwrapped food prepared and made available for sampling by and without charge to the general public for the purpose of promoting the food made available for sampling. This subdivision does not apply to unwrapped food prepared and offered in buffet, cafeteria, or other style in exchange for payment by the general public or by the person or entity arranging for the preparation and offering of such unwrapped food. This subdivision shall not apply to open air produce markets nor to farmer market facilities operated on land owned or leased by the State of North Carolina or any local government.

The rules shall contain a system for grading establishments, such as Grade A, Grade B, and Grade C. The rules shall be written in a manner that promotes consistency in both the interpretation and application of the grading system.

(a4)

§ 130A-250. Exemptions.

The following shall be exempt from this Part:

- (1) Establishments that provide lodging described in G.S. 130A-248(a1) with four or fewer lodging units;
- (2) Condominiums;
- (3) Establishments that prepare or serve food or provide lodging to regular boarders or permanent house guests only;
- (4) Private homes that occasionally offer lodging accommodations, which may include the providing of food, for two weeks or less to persons attending special events, provided these homes are not bed and breakfast homes or bed and breakfast inns;
- (5) Private clubs;
- (6) Curb markets operated by the State Agricultural Extension Service;
- (7) Establishments that prepare or serve food or drink for pay no more frequently than once a month for a period not to exceed two consecutive days;
- (8) Establishments that put together, portion, set out, or hand out only drinks using single service containers that are not reused on the premises; and
- (9) Markets where meat food products or poultry products are prepared and sold and which are under the continuous inspection by the North Carolina Department of Agriculture or the United States Department of Agriculture.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner** for the Committee on **Commerce**.

- Committee Substitute for
S.B. 974 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE EMPLOYMENT
SECURITY COMMISSION TO WAIVE INTEREST ON LATE CONTRIBUTIONS.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 974

Short Title: ESC Waive Interest.

(Public)

law report

Sponsors: Senators Foxx; Ballantine, Carpenter, Carrington, Cochrane, Conder, Cooper, Gulley, Hartsell, Horton, Jordan, Kerr, Ledbetter, Lucas, Phillips, Shaw of Cumberland, Shaw of Guilford, Soles, Warren, Webster, Weinstein, Wellons, and Winner.

Referred to: Finance.

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE EMPLOYMENT SECURITY COMMISSION TO
3 WAIVE INTEREST ON LATE CONTRIBUTIONS.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 96-10(j) reads as rewritten:
6 "(j) Waiver of Interest and Penalties. -- The Commission may, for good cause
7 shown, reduce or waive any interest assessed on unpaid contributions under this
8 section. The Commission ~~shall have the power to~~ may reduce or waive any penalty
9 provided in G.S. 96-10(a) or G.S. 96-10(g). The late filing penalty under G.S. 96-
10 10(g) shall be waived when the mailed report bears a postmark that discloses that it
11 was mailed by midnight of the due date but was addressed or delivered to the wrong
12 State or federal agency. The late payment penalty and the late filing penalty imposed
13 by G.S. 96-10(a) and G.S. 96-10(g) shall be waived where the delay was caused by
14 any of the following:
15 (1) The death or serious illness of the employer or a member of his
16 immediate family, or by the death or serious illness of the person
17 in the employer's organization responsible for the preparation and
18 filing of the report;
19 (2) Destruction of the employer's place of business or business records
20 by fire or other casualty;

- 1 (3) Failure of the Commission to furnish proper forms upon timely
2 application by the employer, by reason of which failure the
3 employer was unable to execute and file the report on or before
4 the due date;
- 5 (4) The inability of the employer or the person in the employer's
6 organization responsible for the preparation and filing of reports to
7 obtain an interview with a representative of the Commission upon
8 a personal visit to the central office or any local office for the
9 purpose of securing information or aid in the proper preparation of
10 the report, which personal interview was attempted to be had
11 within the time during which the report could have been executed
12 and filed as required by law had the information at the time been
13 obtained;
- 14 (5) The entrance of one or more of the owners, officers, partners, or
15 the majority stockholder into the Armed Forces of the United
16 States, or any of its allies, or the United Nations, provided that the
17 entrance was unexpected and is not the annual two weeks training
18 for reserves; and
- 19 (6) Other circumstances where, in the opinion of the Chairman, the
20 Assistant Administrator, or their designees, the imposition of
21 penalties would be inequitable.

22 In the waiver of any penalty, the burden shall be upon the employer to establish to
23 the satisfaction of the Chairman, the Assistant Administrator, or their designees, that
24 the delinquency for which the penalty was imposed was due to any of the foregoing
25 facts or circumstances.

26 ~~Such waiver~~ The waiver or reduction of interest or a penalty under this subsection
27 shall be valid and binding upon the Commission. The reason for any ~~such~~ reduction
28 or waiver shall be made a part of the permanent records of the employing unit to
29 which it applies."

30 Section 2. This act is effective when it becomes law.



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June 25, 1997

TO: Rep. David Miner, Chair, House Commerce Committee.

FROM: William R. Gilkeson, Staff Attorney.

RE: Senate Bill 974 – ESC Waive Interest.

Senate Bill 974, introduced by Senator Foxx, would make clear that the Employment Security Commission may grant to tax-delinquent employers not only waivers of late penalties but also waivers of interest.

Current law requires employers to pay unemployment insurance contributions (also known as taxes) on their employees. If they do not pay them, the employers are charged late penalties at the rate of 10% of the taxes due and interest of $\frac{1}{2}$ of 1% per month. G.S. 96-10(j) grants ESC the power to reduce or waive the penalty. ESC may do so for one of the reasons listed in the statute. But the statute says nothing about reducing or waiving the interest.

ESC reportedly has assumed it has the power to waive the interest as well.

SB 974 WOULD add language to the statute giving ESC the power to reduce or waive the interest payments on late taxes. It could waive the interest for good cause shown.

The bill would be effective upon becoming law.

(see statutes on other side.)

§ 96-10. Collection of contributions.

(a) Interest on Past-Due Contributions. — Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall bear interest at the rate of one half of one percent (0.5%) per month from and after such date until payment plus accrued interest is received by the Commission. An additional penalty in the amount of ten percent (10%) of the taxes due shall be added, but said penalty shall in no event be less than five dollars (\$5.00). Penalties and interest collected pursuant to this subsection shall be paid into the Special Employment Security Administration Fund. If any employer, in good faith, pays contributions to another state or to the United States under the Federal Unemployment Tax Act, prior to a determination of liability by this Commission, which contributions were legally payable to this State, such contributions, when paid to this State, shall be deemed to have been paid by the due date under the law of this State if paid by the due date of such other state or the United States.

← Interest on late taxes.

← Penalty on late taxes.

(g) Upon the motion of the Commission, any employer refusing to submit any report required under this Chapter, after 10 days' written notice sent by the Commission by registered or certified mail to the employer's last known address, may be enjoined by any court of competent jurisdiction from hiring and continuing in employment any employees until such report is properly submitted. When an execution has been returned to the Commission unsatisfied, and the employer, after 10 days' written notice sent by the Commission by registered mail to the employer's last known address, refuses to pay the contributions covered by the execution, such employer shall upon the motion of the Commission be enjoined by any court of competent jurisdiction from hiring and continuing in employment any employees until such contributions have been paid.

An employer who fails to file a report within the required time shall be assessed a late filing penalty of five percent (5%) of the amount of contributions due with the report for each month or fraction of a month the failure continues. The penalty may not exceed twenty-five percent (25%) of the amount of contributions due or five dollars (\$5.00), whichever is greater. An employer who fails to file a report within the required time but owes no contributions shall not be assessed a penalty unless the employer's failure to file continues for more than 30 days.

This subsection is referred to in un-redlined portion of bill, but it does not affect interest payments

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner** for the Committee on **Commerce**.

Committee Substitute for
H.B. 1125 A BILL TO BE ENTITLED AN ACT TO REVISE THE CLASSIFICATION OF
LENDERS WHO MAY CONTRACT FOR THE PAYMENT OF CHARGES IN CERTAIN
CIRCUMSTANCES.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to House committee substitute bill, which changes the title,
unfavorable as to original bill and recommendation that the committee substitute bill be re-
referred to the Committee on Rules, Calendar and Operations of the House.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

HOUSE BILL 1125
Proposed Committee Substitute
H1125-CSRO-001

*adopted
sent to
Rules* D

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Study Mortgage Lenders.

(Public)

Sponsors:

Referred to:

April 21, 1997

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY
3 THE ISSUE OF ALLOWING CERTAIN MORTGAGE BANKERS TO MAKE HOME
4 LOANS AND TO CHARGE FEES RELATED TO THOSE LOANS.
5 The General Assembly of North Carolina enacts:
6 Section 1. The Legislative Research Commission is
7 authorized to study the issue of allowing certain mortgage
8 bankers to make home loans and to charge fees related to those
9 loans.
10 Section 2. The Commission may make an interim report to
11 the 1998 Regular Session of the 1997 General Assembly and a final
12 report, including any legislative proposals, to the 1999 General
13 Assembly.
14 Section 3. This act is effective when it becomes law.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miner** for the Committee on **Commerce**.

Committee Substitute for

S.B. 565 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE APPLICATION OF THE COMMISSIONER OF BANK'S RATE TO VARIABLE RATE LOANS WITH ADJUSTMENT PERIODS GREATER THAN ONE MONTH AND TO REPEAL THE LAWS GOVERNING VARIABLE RATE LOANS OF MANUFACTURED HOMES AND INSTALLMENT RATES AND FEES.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

2

SENATE BILL 565
Commerce Committee Substitute Adopted 4/30/97

Short Title: Variable Rate Loans.

law report

(Public)

Sponsors:

Referred to:

April 1, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE APPLICATION OF THE COMMISSIONER OF
3 BANK'S RATE TO VARIABLE RATE LOANS WITH ADJUSTMENT
4 PERIODS GREATER THAN ONE MONTH AND TO REPEAL THE LAWS
5 GOVERNING VARIABLE RATE LOANS OF MANUFACTURED HOMES
6 AND INSTALLMENT RATES AND FEES.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 24-1.1(c) reads as rewritten:

9 "(c) On the fifteenth day of each month, the Commissioner of Banks shall
10 announce and publish the maximum rate of interest permitted by subdivision (1) of
11 subsection (a) of this section on that date. Such rate shall be the latest published
12 noncompetitive rate for U.S. Treasury bills with a six-month maturity as of the
13 fifteenth day of the month plus six percent (6%), rounded upward or downward, as
14 the case may be, to the nearest one-half of one percent (1/2 of 1%) or sixteen percent
15 (16%), whichever is greater. If there is no nearest one-half of one percent (1/2 of
16 1%), the Commissioner shall round downward to the lower one-half of one percent
17 (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the
18 term of loans made under this section during the following calendar month when the
19 parties to such loans have agreed that the rate of interest to be charged by the lender
20 and paid by the borrower shall not vary or be adjusted during the term of the loan.
21 The parties to a loan made under this section may agree to a rate of interest which
22 shall vary or be adjusted during the term of the loan in which case the maximum rate
23 of interest permitted on such loans during a month during the term of the loan shall

1 be the greater of the rate announced by the Commissioner in (i) the preceding
2 calendar ~~month~~ month or (ii) the calendar month preceding that in which the rate is
3 varied or adjusted."

4 Section 2. G.S. 24-1.1C and G.S. 24-1.2 are repealed.

5 Section 2.1. G.S. 24-1.2A reads as rewritten:

6 "**§ 24-1.2A. Equity lines of credit.**

7 (a) Notwithstanding any other provision of this Chapter, the parties to an equity
8 line of credit, as defined in G.S. 45-81, may contract in writing for interest at rates
9 which shall not exceed the maximum rates permitted under ~~G.S. 24-1.2(2a)~~; G.S. 24-
10 1.1(c); provided, however, that the parties may contract for interest rates which shall
11 be adjustable or variable, so long as for adjustable or variable rate contracts the rate
12 in effect for a given period does not exceed the maximum rate permitted under ~~G.S.~~
13 ~~24-1.2(2a)~~ G.S. 24-1.1(c) for the same period.

14 (b) Fees may be charged on equity lines of credit which in the aggregate, over the
15 life of the contract based on the maximum limit of the line of credit, do not exceed
16 those permitted under G.S. 24-10. Any lender may charge a party to a loan or
17 extension of credit governed by this section a fee for the modification, renewal,
18 extension, or amendment of any terms of the loan or extension of credit, such fee not
19 to exceed the greater of one-quarter of one percent (1/4 of 1%) of the balance
20 outstanding at the time of the modification, renewal, extension, or amendment of
21 terms, or fifty dollars (\$50.00)."

22 Section 3. This act becomes effective October 1, 1997, and applies to
23 loans made on or after that date, and Section 1 of this act applies to variations or
24 adjustments in rates occurring on or after that date regardless of the date on which
25 the loan was made.



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July 2, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel

RE: **Senate Bill 565 - Variable Rate Loans.
Second Edition**

Senate Bill 565 amends several provision contained in Chapter 24 relating to interest rates. Section 1 of the bill amends G.S. 24-1.1(c) which deals with the contractual interest rate on certain loans of \$25,000 or less. Currently, the law provides that if the parties agree to vary or adjust the rate during a month during the term of the loan, the maximum rate of interest shall be the rate announced by the Commissioner of Banks in the preceding calendar month. The Commissioner is authorized to set the rate on the fifteenth of each month for nonvariable rate loans. The Commissioner's rate shall be the greater of the rate for six month Treasury bills plus 6% (rounded to the nearest ½ of 1%) or 16%.

This bill would allow variable rates to be adjusted on a basis other than monthly. It provides that the maximum rate of interest permitted would be the greater of the rate announced by the Commissioner in the preceding calendar month or the calendar month preceding that in which the rate is varied or adjusted.

Section 2 of the bill repeals two sections of Chapter 24. G.S. 24-1.1C authorizes variable rate loans for manufactured home loans. A federal statute passed in 1982 superseded this section. It contains comparable consumer protections and is the law relied upon by lenders making such loans. G.S. 24-1.2 sets limits on the rate of interest and fees which may be charged on certain types of installment loans. If this section is repealed, installment loans will be subject to the rate and fee limitations applicable to contract loans under G.S. 24-1.1. Currently, the two sections contain identical rate and fee limitations. Section 2.1 of the bill makes a conforming change to G.S. 24-1.2A to remove reference to section of law being repealed by this act.

This act would become effective October 1, 1997 and apply to loans made on or after that date, and section 1 would apply to variations or adjustments in rates occurring on or after that date regardless of the date on which the loan was made.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miner** for the Committee on **Commerce**.

Committee Substitute for

S.B. 23 A BILL TO BE ENTITLED AN ACT TO REQUIRE THAT EVERY DWELLING UNIT LEASED AS RENTAL PROPERTY IN CERTAIN CITIES BE FURNISHED WITH A SOURCE OF HEAT.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance
- With a favorable report as to House committee substitute bill, unfavorable as to original bill.
- With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 23
Second Edition Engrossed 3/19/97
Proposed House Committee Substitute S23-PCS8740

Short Title: Require Rental Property Heat.

(Public)

Sponsors:

Referred to:

February 3, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT EVERY DWELLING UNIT LEASED AS RENTAL
3 PROPERTY IN CERTAIN CITIES BE FURNISHED WITH A SOURCE OF
4 HEAT.

5 The General Assembly of North Carolina enacts:

6 Section 1. Part 6 of Article 19 of Chapter 160A of the General Statutes is
7 amended by adding a new section to read:

8 "**§ 160A-443A. Heat source required.**

9 (a) A city shall, by ordinance, require that by January 1, 1998, every dwelling unit
10 leased as rental property within the city shall have, at a minimum, a central heating
11 system or sufficient chimneys, flues, or gas vents, with heating appliances connected,
12 so as to heat at least one habitable room, excluding the kitchen, to a minimum
13 temperature of 68 degrees Fahrenheit measured three feet above the floor with an
14 outside temperature of 20 degrees Fahrenheit.

15 (b) All heating systems and heating appliances shall be installed and maintained
16 in a good and safe working condition by the owner of the dwelling unit.

17 (c) Portable kerosene heaters are not acceptable as a permanent source of heat as
18 required by subsection (a) of this section, but may be used as a supplementary source
19 in single family dwellings and duplex units. An owner who has complied with
20 subsection (a) shall not be held in violation of this section where an occupant of a
21 dwelling unit uses a kerosene heater as a primary source of heat.

1 (d) This section applies only to cities with a population of 200,000 or over,
2 according to the most recent decennial federal census.

3 (e) Nothing in this section shall be construed as:

4 (1) Diminishing the rights of or remedies available to any tenant under
5 a lease agreement, statute, or at common law; or

6 (2) Prohibiting a city from adopting an ordinance with more stringent
7 heating requirements than provided for by this section."

8 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

S23-CSRU-004

PROPOSED COMMITTEE SUBSTITUTE

SENATE BILL 23

THIS IS A DRAFT 25-JUN-97 12:22:36

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

law report

Short Title: Require Rental Property Heat.

(Public)

Sponsors:

Referred to:

February 3, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT EVERY DWELLING UNIT LEASED AS RENTAL
3 PROPERTY IN CERTAIN CITIES BE FURNISHED WITH A SOURCE OF HEAT.
4 The General Assembly of North Carolina enacts:
5 Section 1. Part 6 of Article 19 of Chapter 160A of the
6 General Statutes is amended by adding a new section to read:
7 "§ 160A-443A. Heat source required.
8 (a) A city shall, by ordinance, require that by January 1,
9 1998, every dwelling unit leased as rental property within the
10 city shall have, at a minimum, a central heating system or
11 sufficient chimneys, flues, or gas vents, with heating appliances
12 connected, so as to heat at least one habitable room, excluding
13 the kitchen, to a minimum temperature of 68 degrees Fahrenheit
14 measured three feet above the floor with an outside temperature
15 of 20 degrees Fahrenheit.
16 (b) All heating systems and appliances shall be installed and
17 maintained in a good and safe working condition by the owner of
18 the dwelling unit.
19 (c) Portable kerosene heaters are not acceptable as a
20 permanent source of heat as required by subsection (a) of this
21 section, but may be used as a supplementary source in single

1 family dwellings and duplex units. An owner who has complied
2 with subsection (a) shall not be held in violation of this
3 section where an occupant of a dwelling unit uses a kerosene
4 heater as a primary source of heat.

5 (d) This section applies only to cities with a population of
6 200,000 or over, according to the most recent decennial federal
7 census.

8 (e) Nothing in this section shall be construed as:

9 (1) diminishing the rights of or remedies available to
10 any tenant under a lease agreement, statute, or at
11 common law; or

12 (2) prohibiting a city from adopting an ordinance with
13 more stringent heating requirements than provided
14 for by this section."

15 Section 2. This act is effective when it becomes law.



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300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 25, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel and Linwood Jones, Co-Counsel to the Senate Commerce Committee.

RE: **SENATE BILL 23 - REQUIRE RENTAL PROPERTY HEAT** - Senator Reeves.

Senate Bill 23 requires that every dwelling unit in a city of 200,000 or more that is leased as rental property must have at least one heated habitable room other than the kitchen. The source of the heat must be a central heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected. The heat source must be capable of heating the room to a temperature of 68 degrees Fahrenheit.

The owner of the dwelling unit must ensure that the heating appliances work and are properly maintained. If the owner of a single-family dwelling or duplex provides the heat in accordance with this act and the tenant uses a portable kerosene heater instead as the primary source of heat, the owner is not liable.

This bill only applies to cities with a population of 200,000 or more, based on the most recent census. Under the most recent census (1990), only Charlotte and Raleigh would be covered by this bill.

This bill would take effect upon becoming law.

S23-SMRU-001

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

S. B. No. 23

COMMITTEE SUBSTITUTE _____

DATE July 2, 1987

Amendment No. 1

(to be filled in by
Principal Clerk)

Rep.) Hall
Sen.)

1 moves to amend the bill on page 1, line 16

2 () WHICH CHANGES THE TITLE

3 by INSERTING BETWEEN THE WORDS

4 "AND" AND "APPLIANCES" THE WORD "HEATING"

5 _____

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SIGNED Robby R. Hall

ADOPTED X FAILED _____ TABLED _____

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miner** for the Committee on **Commerce**.

- Committee Substitute for
S.B. 253 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE REGISTRATION OF
TELEPHONIC SELLERS IN NORTH CAROLINA, AND TO MAKE THE OFFERING OF
TELEPHONE SALES RECOVERY SERVICES A CRIMINAL OFFENSE.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to House committee substitute bill, unfavorable as to original bill,
and recommendation that the committee substitute bill be re-referred to the Committee on
Judiciary II.
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 253
Commerce Committee Substitute Adopted 4/8/97
Proposed House Committee Substitute S253-PCS1856

Short Title: Telephone Consumer Protection/AB.

(Public)

Sponsors:

Referred to:

February 27, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE REGISTRATION OF TELEPHONIC SELLERS IN
3 NORTH CAROLINA, AND TO MAKE THE OFFERING OF TELEPHONE
4 SALES RECOVERY SERVICES A CRIMINAL OFFENSE.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 66 of the General Statutes is amended by adding a
7 new Article to read:

8 "ARTICLE 33.

9 "Telephonic Seller Registration and Bond Requirement.

10 "§ 66-260. Definitions.

11 As used in this Article, unless the context requires otherwise:

- 12 (1) 'Gift or prize' means any premium, bonus, award, or any other
13 thing of value.
14 (2) 'Item' means any good or any service. 'Item' includes coupon
15 books, vouchers, or certificates that are to be used with businesses
16 other than the seller's business.
17 (3) 'Owner' means a person who owns or controls ten percent (10%)
18 or more of the equity of, or otherwise has a claim to ten percent
19 (10%) or more of the net income of, a telephonic seller.
20 (4) 'Person' includes any individual, firm, association, corporation,
21 partnership, joint venture, or any other business entity.

- 1 (5) 'Principal' means an owner, an executive officer of a corporation,
2 a general partner of a partnership, a sole proprietor of a sole
3 proprietorship, a trustee of a trust, or any other individual with
4 similar supervisory functions with respect to any person.
- 5 (6) 'Purchaser' or 'prospective purchaser' means a person who is
6 solicited to become obligated to a telephonic seller or to make any
7 donation or gift to any person represented by the telephonic seller.
- 8 (7) 'Room operator' means any principal, employee, or agent
9 responsible for the operational management and supervision of
10 facilities from which telephonic sales calls are made or received.
- 11 (8) 'Salesperson' means any individual employed, appointed, or
12 authorized by a telephonic seller, whether referred to by the
13 telephonic seller as an agency, representative, or independent
14 contractor, who attempts to solicit or solicits a sale on behalf of the
15 telephonic seller.
- 16 (9) 'Secretary' means the Office of the Secretary of State.
- 17 (10) 'Telephone solicitation' or 'attempted telephone solicitation'
18 means any telephonic communication designed to persuade any
19 person to purchase goods or services, to enter a contest, or to
20 contribute to a charity or a person represented to be a charity,
21 regardless of whether the telephone call initiating the solicitation is
22 placed by the (i) telephonic seller or (ii) a person responding to
23 any unsolicited notice or notices sent or provided by or on behalf
24 of the seller, which notice or notices represent to the recipient that
25 he or she has won a gift or prize, that the recipient may obtain or
26 qualify for credit by contacting the seller, or that the seller has
27 buyers interested in purchasing the recipient's property.
- 28 (11) 'Telephonic seller' or 'seller' means a person who, directly or
29 through salespersons, causes a telephone solicitation or attempted
30 telephone solicitation to occur. 'Telephonic seller' and 'seller' do
31 not include any of the following:
- 32 a. A securities 'dealer' within the meaning of G.S. 78A-2(2) or
33 a person excluded from the definition of 'dealer' by that
34 provision: a 'salesman' within the meaning of G.S. 78A-
35 2(9); an 'investment adviser' within the meaning of G.S.
36 78C-2(1) or a person excluded from the definition of
37 'investment adviser' by that provision; or an 'investment
38 adviser representative' within the meaning of G.S. 78C-2(3);
39 provided that such persons shall be excluded from the terms
40 'telephonic seller' and 'seller' only with respect to activities
41 regulated by Chapters 78A and 78C.
- 42 b. Any person conducting sales or solicitations on behalf of a
43 licensee of the Federal Communications Commission or

- 1 holder of a franchise or certificate of public convenience
2 and necessity from the North Carolina Utilities Commission.
- 3 c. Any insurance agent or broker who is properly licensed by
4 the Department of Insurance and who is soliciting within the
5 scope of the agent's or broker's license or any employee or
6 independent contractor of an insurance company licensed by
7 the Department of Insurance conducting sales or
8 solicitations on behalf of that company.
- 9 d. Any federally chartered bank or savings institution or any
10 bank or savings institution properly licensed by the State or
11 subject to federal regulating authorities.
- 12 e. Any organization that is exempt under section 501(c)(3) of
13 the Internal Revenue Code of 1986 or any successor section,
14 or that is organized exclusively for one or more of the
15 purposes specified in section 501(c)(3) of the Internal
16 Revenue Code of 1986 or any successor section and that
17 upon dissolution shall distribute its assets to an entity that is
18 exempt under section 501(c)(3) of the Internal Revenue
19 Code of 1986 or any successor section, the United States, or
20 a state; any 'charitable solicitor' properly licensed under
21 Article 2 of Chapter 131F of the General Statutes, or any
22 person exempt from Chapter 131F of the General Statutes
23 under G.S. 131F-3.
- 24 f. A person who periodically issues and delivers catalogs to
25 potential purchasers and the catalog:
- 26 1. Includes a written description or illustration and the
27 sales price of each item offered for sale;
 - 28 2. Includes at least 24 full pages of written material or
29 illustrations;
 - 30 3. Is distributed in more than one state; and
 - 31 4. Has an annual circulation of not less than 250,000
32 customers.
- 33 g. A person engaging in a commercial telephone solicitation
34 where the solicitation is an isolated transaction and not done
35 in the course of a pattern of repeated transactions of a like
36 nature.
- 37 h. A person primarily soliciting the sale of a newspaper of
38 general circulation, a publisher of a magazine or other
39 periodical of general circulation, or an agent of such a
40 publisher acting pursuant to a written agency agreement.
- 41 i. A person soliciting the sale of services provided by a cable
42 television system operating under the authority of a local
43 franchise.

- 1 j. Any passenger airline licensed by the Federal Aviation
2 Administration.
- 3 k. Any person holding a real estate broker's or sales agent's
4 license under Chapter 93A of the General Statutes and who
5 is soliciting within the scope of the broker's or agent's
6 license.
- 7 l. Any person soliciting a transaction regulated by the
8 Commodities Futures Trading Commission, provided the
9 person is registered or temporarily licensed by the
10 Commodities Futures Trading Commission under the
11 Commodity Exchange Act, 7 U.S.C. § 1, et seq.
- 12 m. Any person soliciting a purchase from a business, provided
13 the person soliciting makes reasonable efforts to ensure that
14 the person solicited has actual authority to bind the business
15 to a purchase agreement.
- 16 n. A foreign corporation, limited liability company, or limited
17 partnership that has obtained and maintained a certificate of
18 authority to transact business or conduct affairs in this State
19 pursuant to Chapter 55, 55A, or 57C or Article 5 of Chapter
20 59 of the General Statutes and that only transacts business
21 or conducts affairs in this State using the name set forth in
22 the certificate of authority.
- 23 o. An issuer or a subsidiary of an issuer that has a class of
24 securities which is subject to section 12 of the Securities
25 Exchange Act of 1934 (15 U.S.C. § 781) and which is either
26 registered or exempt from registration under paragraph (A),
27 paragraph (B), paragraph (C), paragraph (E), paragraph (F),
28 paragraph (G), or paragraph (H) of subsection (g)(2) of that
29 section.
- 30 p. A person soliciting the sale of food, seeds, or plants when a
31 sale does not involve an amount in excess of one hundred
32 dollars (\$100.00) directed to a single address.
- 33 q. A person soliciting:
- 34 1. Without intent to complete or obtain provisional
35 acceptance of a sale during the telephone solicitation;
- 36 2. Who does not make the major sales presentation
37 during the telephone solicitation but arranges for the
38 major sales presentation to be made at a later face-to-
39 face meeting between the salesperson and the
40 purchaser;
- 41 3. Who does not cause an individual to go to the
42 prospective purchaser to collect payment for the
43 purchase or to deliver any item purchased directly
44 following the telephone solicitation; or

- 1 4. Who offers to send the purchaser descriptive
2 literature and does not require payment prior to the
3 purchaser's review of the descriptive literature.
- 4 r. A person soliciting the purchase of contracts for the
5 maintenance or repair of items previously purchased from
6 the person making the solicitation or on whose behalf the
7 solicitation is made.
- 8 s. A book, video, recording, or multimedia club or contractual
9 plan or arrangement:
- 10 1. Under which the seller provides the consumer with a
11 form with which the consumer can instruct the seller
12 not to ship the offered merchandise.
- 13 2. Which is regulated by the Federal Trade Commission
14 trade regulation concerning 'use of negative option
15 plans by sellers in commerce'.
- 16 3. Which provides for the sale of books, recordings,
17 multimedia products or goods, or videos which are
18 not covered under paragraphs 1. or 2. of this sub-
19 subdivision, including continuity plans, subscription
20 arrangements, standing order arrangements,
21 supplements, and series arrangements under which
22 the seller periodically ships merchandise to a
23 consumer who has consented in advance to receive
24 such merchandise on a periodic basis.
- 25 t. A person who for at least two years has been operating
26 under the same name as that used in connection with its
27 telemarketing operations and retail establishment in North
28 Carolina where consumer goods are displayed and offered
29 for sale on a continuing basis if a majority of the person's
30 business involves the buyers obtaining services or products
31 at the person's retail establishment.
- 32 u. A person:
- 33 1. Who provides telephone solicitation services under
34 contract to sellers;
- 35 2. Who has been operating continuously for at least
36 three years under the same business name; and
- 37 3. For whom at least seventy-five percent (75%) of the
38 person's contracts are performed on behalf of other
39 persons exempt under this section.
- 40 v. A person soliciting political contributions in accordance
41 with Article 22A of Chapter 163 of the General Statutes.
- 42 w. The seller of a 'business opportunity' as defined in G.S. 66-
43 94, while engaged in activities subject to regulation under
44 Article 19 of Chapter 66 of the General Statutes, provided

1 that such seller has complied with the provisions of G.S. 66-
2 97.

3 x. A 'loan broker' as defined in G.S. 66-106, while engaged in
4 activities subject to regulation under Article 20 of Chapter
5 66 of the General Statutes, provided that such loan broker
6 has complied with the provisions of G.S. 66-109.

7 y. A 'membership camping operator' as defined in G.S. 66-
8 232(10) or a 'salesperson' as defined in G.S. 66-232(16),
9 while engaged in activities subject to regulation under
10 Article 31 of Chapter 66 of the General Statutes, provided
11 that such persons have complied with the provisions of G.S.
12 66-234 and G.S. 66-237, as applicable.

13 **"§ 66-261. Registration of telephonic sellers.**

14 (a) Not less than 10 days before commencing telephone solicitations in this State,
15 a telephonic seller shall register with the Secretary by filing the information required
16 in G.S. 66-262 and paying a filing fee of one hundred dollars (\$100.00). A telephonic
17 seller is doing business in this State if it solicits or attempts to solicit prospective
18 purchasers from locations in this State or solicits or attempts to solicit prospective
19 purchasers who are located in this State.

20 (b) The information required in G.S. 66-262 shall be submitted on a form
21 provided by the Secretary and shall contain the notarized signatures of each principal
22 of the telephonic seller.

23 (c) Registration of a telephonic seller shall be valid for one year from the effective
24 date thereof and may be annually renewed by making the filing required in G.S. 66-
25 262 and paying the filing fee of one hundred dollars (\$100.00). Registration shall not
26 be deemed effective unless all required information is provided and any deficiencies
27 or errors noted by the Secretary have been corrected to the satisfaction of the
28 Secretary.

29 (d) Whenever, prior to expiration of a seller's annual registration, there is a
30 change in the information required by G.S. 66-262, the seller shall, within 10 days
31 after the change, file an addendum with the Secretary updating the information.

32 **"§ 66-262. Filing information.**

33 (a) Each filing submitted to the Secretary shall contain all of the following
34 information:

35 (1) The name or names, including any assumed names, under which
36 the telephonic seller is doing or intends to do business in this State.

37 (2) The telephonic seller's business form and place of organization
38 and, if the seller is a corporation, copies of its articles of
39 incorporation and bylaws and amendments thereto, or if a
40 partnership, a copy of the partnership agreement.

41 (3) Complete street address of the telephonic seller's principal place of
42 business.

43 (4) The complete street address of each location from which telephone
44 solicitations are placed by the telephonic seller.

- 1 (5) A listing of all telephone numbers to be used by the telephonic
2 seller, including area codes, and the complete street address of the
3 business premises served by each number.
- 4 (6) The name and title of each principal.
- 5 (7) The complete street address of the residence, the date of birth, and
6 the social security number of each principal.
- 7 (8) The true name, street address, date of birth, and the social security
8 number of each room operator, together with the room operator's
9 full employment history during the preceding two years.
- 10 (9) The name and address of all banks or savings institutions where
11 the telephonic seller maintains deposit accounts.
- 12 (10) The name and address of each long-distance telephone carrier used
13 by the telephonic seller.
- 14 (11) A summary of each civil or criminal proceeding brought against
15 the telephonic seller, any of its principals, or any of its room
16 operators during the preceding five years by federal, State, or local
17 officials relating to telephonic sales practices of each. The
18 summary shall include the date each action was commenced, the
19 criminal or civil charges alleged, the case caption, the court file
20 number, the court venue, and the disposition of the action. For
21 purposes of this section, a 'civil proceeding includes' means
22 assurances of voluntary compliance, assurances of discontinuance,
23 consent judgments, and similar agreements executed with federal,
24 State, or local officials.

25 (b) For purposes of this section, 'street address' does not include a private mail
26 service address.

27 **"§ 66-263. Bond requirement; prizes and gifts.**

28 (a) At least 10 days before the commencement of any promotion offering any gift
29 or prize with an actual or represented market value of five hundred dollars (\$500.00)
30 or more, the telephonic seller shall notify the Secretary in writing of the details of the
31 promotion, fully describing the nature and number of all gifts or prizes and their
32 current market value, the seller's rules and regulations governing the promotion, and
33 the date the gifts or prizes are to be awarded. All gifts or prizes offered shall be
34 awarded. Concurrent with notifying the Secretary under this subsection, the
35 telephonic seller shall post a bond with the Secretary for the market value or the
36 represented value, whichever is greater, of all gifts or prizes represented as available
37 under the promotion. The bond must be issued by a surety company authorized to
38 do business in this State. The bond shall be in favor of the State of North Carolina
39 for the benefit of any person entitled to receive a gift or prize under the promotion
40 who did not receive it within 30 days of the specified date of award. The amount
41 recoverable by any person under the bond shall not exceed the market value, the
42 represented value of the gift or prize, or the amount of any consideration or
43 contribution paid by that person in response to the telephone solicitation, whichever
44 is greatest.

1 (b) Within 45 days after the specified date of the award of the gift or prize, the
2 seller shall provide, in writing, to the Secretary, proof that the gifts or prizes were
3 awarded. The writing shall include the name, address, and telephone number of all
4 persons receiving awards or prizes. The bond shall be maintained until the Secretary
5 receives reliable proof that the gifts or prizes have been delivered to the intended
6 recipients.

7 (c) The Attorney General, on behalf of any injured purchaser, or any purchaser
8 who is injured by the bankruptcy of the telephonic seller or its breach of any
9 agreement entered into in its capacity as a telephonic seller, may initiate a civil action
10 to recover against the bond.

11 **"§ 66-264. Calls made to minors.**

12 A telephonic seller must inquire as to whether the prospective purchaser it is
13 contacting is under 18 years of age. If the prospective purchaser purports to be under
14 18 years of age, the telephonic seller must discontinue the call immediately.

15 **"§ 66-265. Offers of gifts or prizes.**

16 (a) It shall be unlawful for any telephonic seller to make a telephone solicitation or
17 attempted telephone solicitation involving any gift or prize when the solicitation or
18 attempted solicitation:

19 (1) Requests or directs the consumer to further the transaction by
20 calling a 900 number or a pay-per-call number.

21 (2) Requests or directs the consumer to send any payment or make a
22 donation in order to collect the gift or prize.

23 (3) Does not comply fully with G.S. 75-30, 75-32, 75-33, or 75-34.

24 (b) Notwithstanding subsection (a) of this section, a telephonic seller may offer a
25 gift or prize in connection with the bona fide sale of a product or service.

26 **"§ 66-266. Penalties.**

27 (a) Any violation of this Article shall constitute an unfair and deceptive trade
28 practice in violation of G.S. 75-1.1.

29 (b) In an action by the Attorney General against a telephonic seller for violation
30 of this Article, or for any other act or practice by a telephonic seller constituting a
31 violation of G.S. 75-1.1, the court may impose civil penalties of up to twenty-five
32 thousand dollars (\$25,000) for each violation involving North Carolina purchasers or
33 prospective purchasers who are 65 years of age or older.

34 (c) The remedies and penalties available under this section shall be supplemental
35 to others available under the law, both civil and criminal.

36 (d) Compliance with this Article does not satisfy or substitute for any other
37 requirements for license, registration, or conduct imposed by law.

38 (e) In any civil proceeding alleging a violation of this Article, the burden of
39 proving an exemption or an exception from a definition is upon the person claiming
40 it, and in any criminal proceeding alleging a violation of this Article, the burden of
41 producing evidence to support a defense based upon an exemption or an exception
42 from a definition is upon the person claiming it."

43 Section 2. Article 52 of Chapter 14 of the General Statutes is amended
44 by adding a new section to read:

1 "§ 14-401.15. Telephone sales recovery services.

2 (a) Except as provided in subsection (c) of this section, it shall be unlawful for any
3 person or firm to solicit or require payment of money or other consideration in
4 exchange for recovering or attempting to recover:

5 (1) Money or other valuable consideration previously tendered to a
6 telephonic seller, as defined in G.S. 66-260; or

7 (2) Prizes, awards, or other things of value that the telephonic seller
8 represented would be delivered.

9 (b) A violation of this section shall be punishable as a Class 1 misdemeanor. Any
10 violation involving actual collection of money or other consideration from a customer
11 shall be punishable as a Class H felony.

12 (c) This section does not apply to attorneys licensed to practice law in this State,
13 to persons licensed by the North Carolina Private Protective Services Board, or to
14 any collection agent properly holding a permit issued by the Department of Insurance
15 to do business in this State."

16 Section 3. Section 2 of this act becomes effective January 1, 1998, and
17 applies to offenses committed on or after that date. The remaining sections of this
18 act become effective October 1, 1997, and apply to violations occurring on or after
19 that date.



**North Carolina General Assembly
Legislative Services Office**

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July 2, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel

RE: **SENATE BILL 253 - Telephone Consumer Protection.**

Senate Bill 253 requires telephonic sellers to register with the Secretary of State. A telephonic seller is a person who solicits persons by telephone to purchase goods or services, enter contests or contribute to charities, but does not include nonprofit charities, licensed charitable solicitors, insurance agents, banks, Realtors, securities sellers, utilities, airlines, and certain other enumerated persons, nor does it include certain types of transactions, such as isolated commercial solicitations and solicitations of persons who have previously initiated purchases from the solicitor (see G.S. 66-251(11)). The registration process includes the filing of required information and payment of a \$100 fee. Registration may be renewed annually upon payment of a \$100 fee.

In addition to registering, a telephonic seller engaged in a promotion involving gifts or prizes of \$500 or more must notify the Secretary of State of the details of the promotion and file a bond covering the value of the gifts and prizes offered. All gifts and prizes offered must be awarded. It is unlawful to request or demand payment or to require the calling of a pay-per-call number as a condition of claiming a gift. In addition, it is unlawful to solicit anyone under 18 years of age. A person who is entitled to a gift or prize and does not receive it within 30 days may file a claim under the posted bond for the market or represented value of the gift or prize or the amount of consideration paid, whichever is greatest.

A violation is an unfair and deceptive trade practice under the Unfair and Deceptive Trade Practices Law. If the violation involves a victim aged 65 or older, the court, may impose a civil penalty of up to \$25,000.

Section 2 of the bill prohibits telephone sales recovery services. These are services provided by persons who, for a fee or other consideration, offer to recover money paid to a telephonic seller or prizes or gifts offered by the telephonic seller. Attorneys, persons licensed by the Private Protective Services Board, and licensed collection agents are exempt from this prohibition. A violation of this law is a Class H felony if a fee or other consideration is collected for the services; otherwise, the violation is a Class 1 misdemeanor.

Section 2 of the act becomes effective January 1, 1998 and applies to offenses committed on or after that date. The remainder of the act becomes effective October 1, 1997, and applies to violations occurring on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

S. B. No. 253

COMMITTEE SUBSTITUTE _____

DATE July 2, 1997

Amendment No. 1

(to be filled in by
Principal Clerk)

Rep.) Calpepper
Sen.)

1 moves to amend the bill on page 8, line 14

2 () WHICH CHANGES THE TITLE

3 by deleting the phrase "purchaser is under"
4 and substituting the phrase
5 "purchaser ^{pur parts} ~~parts~~ being under"

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SIGNED Bald Calpepper

ADOPTED X FAILED _____ TABLED _____

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miner** for the Committee on **Commerce**.

- Committee Substitute for
S.B. 562 A BILL TO BE ENTITLED AN ACT TO INCREASE THE AMOUNT OF THE
PROCESSING FEE CHARGED FOR RETURNED CHECKS.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
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- Without prejudice.
- With an indefinite postponement report.
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4/24/97

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- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance .
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance .
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

2

SENATE BILL 562
Second Edition Engrossed 4/15/97

Short Title: Increase Fees for Returned Checks.

(Public)

Sponsors: Senators Warren, Cooper; and Martin of Pitt.

Referred to: Commerce.

April 1, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE AMOUNT OF THE PROCESSING FEE
3 CHARGED FOR RETURNED CHECKS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 25-3-506 reads as rewritten:

6 "**§ 25-3-506. Collection of processing fee for returned checks.**

7 A person who accepts a check in payment for goods or services may charge and
8 collect a processing fee, not to exceed ~~twenty dollars (\$20.00)~~, twenty-five dollars
9 (\$25.00), for a check on which payment has been refused by the payor bank because
10 of insufficient funds or because the drawer did not have an account at that bank if at
11 the time the consumer presented the check to the person, a sign:

- 12 (1) Was conspicuously posted on or in the immediate vicinity of the
13 cash register or other place where the check is received;
14 (2) Was in plain view of anyone paying for goods or services by check;
15 (3) Was no smaller than 8 by 11 inches; and
16 (4) Stated the amount of the fee that would be charged for returned
17 checks.

18 When the drawer sends a check by mail for payment of a debt and the check is
19 dishonored and returned, the processing fee may be collected if the drawer was given
20 prior written notice that a fee would be charged for returned checks. Any document
21 that clearly and conspicuously states the amount of the fee that will be charged for
22 returned checks and is delivered to the drawer or his agent, or is mailed first-class

1 mail to the drawer at his last known address as part of any document requesting
2 payment of a debt satisfies this notice requirement for that payment only.

3 If a collection agency collects or seeks to collect on behalf of its principal a
4 processing fee as specified in this section in addition to the sum payable of a check,
5 the amount of such processing fee must be separately stated on the collection notice.
6 The collection agency shall not collect or seek to collect from the drawer any sum
7 other than the actual amount of the returned check and the specified processing fee."

8 Section 2. This act becomes effective October 1, 1997, and applies to
9 checks written on or after that date.



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June 25, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: **Senate Bill 562 - Increase Fees for Returned Checks.
(Second Edition)**

Senate Bill 562 amends the Uniform Commercial Code to increase the fee that can be charged for checks on which payment is refused because there are insufficient funds or for which there is no account at the time the consumer presented the check. This bill increases the fee from \$20 to \$25. The fee can be charged by anyone who accepts a check in payment for goods or services, so long as certain notice requirements are met. The fee was last raised from \$15 to \$20 on October 1, 1991.

This act would become effective October 1, 1997, and apply to checks written on or after that date.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner** for the Committee on **Commerce**.

Committee Substitute for

S.B. 699 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE PLACE OF BUSINESS OF A MOTOR VEHICLE DEALER WHO SELLS ONLY TRAILERS OR SEMITRAILERS DOES NOT HAVE TO MEET THE REQUIREMENTS SET FOR AN ESTABLISHED OFFICE OR SALESROOM OF A MOTOR VEHICLE DEALER.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance
- With a favorable report as to House committee substitute bill, unfavorable as to original bill and recommendation that the committee substitute bill be re-referred to the Committee on Judiciary I.
- With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

S

2

SENATE BILL 699
Finance Committee Substitute Adopted 4/29/97

Short Title: Modify Vehicle Dealer Requirements.

(Public)

Sponsors:

Referred to:

April 7, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT THE PLACE OF BUSINESS OF A MOTOR
3 VEHICLE DEALER WHO SELLS ONLY TRAILERS OR SEMITRAILERS
4 DOES NOT HAVE TO MEET THE REQUIREMENTS SET FOR AN
5 ESTABLISHED OFFICE OR SALESROOM OF A MOTOR VEHICLE
6 DEALER.

7 The General Assembly of North Carolina enacts:

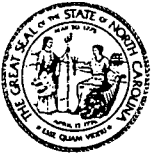
8 Section 1. G.S. 20-288(d) reads as rewritten:

9 "(d) To obtain a license as a wholesaler, ~~the~~ an applicant who intends to sell or
10 distribute self-propelled vehicles must have an established office in this ~~State.~~ State,
11 and an applicant who intends to sell or distribute only trailers or semitrailers must
12 have a place of business in this State where the records required under this Article
13 are kept.

14 To obtain a license as a motor vehicle dealer, an applicant who intends to deal in
15 self-propelled vehicles must have an established salesroom in this ~~State.~~ State, and an
16 applicant who intends to deal in only trailers or semitrailers must have a place of
17 business in this State where the records required under this Article are kept.

18 An applicant for a license as a manufacturer, a factory branch, a distributor, a
19 distributor branch, a wholesaler, or a motor vehicle dealer must have a separate
20 license for each established office, established salesroom, or other place of business in
21 this State. An application for any of these licenses shall include a list of the
22 applicant's places of business in this State."

23 Section 2. This act is effective when it becomes law.



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July 2, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel

RE: **Senate Bill 699 - Modify Vehicle Dealer Requirements.
Second Edition**

Senate Bill 699 amends the Motor Vehicle Dealers and Manufacturers Licensing Law to provide that motor vehicle wholesalers and dealers who sell only trailers or semitrailers need only maintain a place of business in this State where the records required by the Article are kept. Under current law, in order to obtain a license, a wholesaler or dealer must have an established office or salesroom, which must contain at least 96 square feet of floor space in a permanent enclosed building and where the records and files are kept. This bill changes the requirement for wholesalers and dealers of trailers and semitrailers by requiring that they only need to maintain a place of business where the records are kept.

This act becomes effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

S. B. No. 699

COMMITTEE SUBSTITUTE _____

DATE July 2,
~~JUNE 19,~~ 1997

Amendment No. _____

(to be filled in by
Principal Clerk)

Rep.) ~~SENATOR HAMILTON HORTON~~
) _____
Sen.) _____

1 moves to amend the bill on page 1, line 11

2 () WHICH CHANGES THE TITLE

3 by inserting after the word "semi-trailers" the phrase,

4 "of less than 2500 pounds unloaded weight" and on line 16,

5 by inserting after the word "semi-trailer" the phrase

6 "of less than 2500 pounds unloaded weight."

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED William S. Hatt

ADOPTED X FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

COMMERCE

JULY 2, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
R. Lynn Williams	NCHRA
John Palumbo	Lawrence Brady & Assoc.
Mr. Don Stedley	DEHNR
John W. May	NECWA
David Andrew	PFFWC
Richard O'Brien	PFFWC
David Clegg	ESC
Rob Schmidt	NWCA C
Dick Hatch	AARP
Bills Dahlman	AARP
Frank Dahlman	AARP
Oscar Smith	AARP
Olene Oates	AARP
David Robinson	NC Atty Gen.
Jane Feather	NC Atty Gen.
Jane P. Bray	DOJ
McNeil Chestnut	AG's Office
Byron Nelson	Winston-Salem
Nick J. Benzick	Raleigh
Bobby Bryan	RRC
JACK NICHOLS	Allen E. Pinnix P.A.
Barbara Hines	St. Bd of Refugation & Immigration
Thomas O'Neuber	St. Bd of Refugation & Immigration
Jim Skelley	AARP
PAUL STOCK	NC BANKERS ASSN.
A.W. Turner Jr	Public Staff - Utilities Comm'n
Frank Jones	Secretary of State

VISITOR REGISTRATION SHEET

COMMERCE

JULY 2, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
David S. Massey	Sec. of State
Jim [unclear]	NC Assoc of Realtors
Alan Miles	Barley & Dixon LLP
Jim Loft	NCAFI
KEITH HUNDUS	WELCH HANUSOD
AMICE [unclear]	Morris Van Alie
Cam Arlew	BPMHL
Gary Harris	NC Petroleum Marketers Assoc.
Doug Hawley	"
Joan McKelley	Morris Van Alie
Paul [unclear]	"
Brenda Dougherty	Sprint
Karen [unclear]	PCS
Kim [unclear]	Capital Strategies
Tom C. Harris	SHGRG
Nancy Bradlo	NCCBD
Ethelene Davis	Electric Cities of NC
Bernard Allen	SOS
Don McCrequodale	NCRMA
Frau Preston	"
Kim Smith	NCLM
Ann Henderson	Aunton & Williams
Pearl Morgan	NFIB

MINUTES

HOUSE COMMITTEE ON COMMERCE

JULY 9, 1997

2:40 PM

DAVID MINER, CHAIRMAN

MEMBERS PRESENT

William Hiatt, Co-Chair, Martha Alexander, Donald Bonner, Robert Brawley, Bill Culpepper, Andrew Dedmon, Dub Dickson, Bobby Hall, Sandy Hardy, George Holmes, John Hurley, Bill Ives, Larry Justus, Danny McComas, Ed McMahan, Richard Morgan, Mia Morris, Mia Morris Charles Neeley, John Nichols, Jean Preston, Liston Ramsey, John Rayfield, David Redwine, Ronald Smith, Michael Wilkins, Gene Wilson, Thomas Wright, Larry Womble.

The House Committee on Commerce met at 2:40 pm on Wednesday, July 9, 1997, in room 643 of the Legislative Office Building with Chairman David Miner presiding. The meeting was delayed due to a joint meeting of the House Rules and Education Committee for the confirmation of State Education Board members.

Chairman Miner called the meeting to order and the following bills were discussed:

Senate Bill 333, entitled AN ACT TO AMEND THE LAW GOVERNING THE PROCEDURE FOR ENTRY OF ORDERS IN THE COMMODITIES ACT. Sen. Walter Dalton, the bill sponsor, introduced and explained the bill. Rep. Danny McComas moved for a favorable report. The committee voted on the motion and it passed. Senate Bill 333 received a favorable report.

Senate Bill 382, entitled AN ACT REDEFINING THE BASE PERIOD FOR UNEMPLOYMENT BENEFITS AND ELIMINATING THE ONE AND ONE-HALF TIMES TEST. Sen. Leslie Winner, the bill sponsor, introduced and explained the bill. Rep. Richard Morgan moved for a favorable report. The committee voted on the motion and it passed. Senate Bill 382 received a favorable report.

Senate Bill 425, entitled AN ACT TO AMEND THE ARTICLE ON REFRIGERATION CONTRACTORS. Sen. Brad Miller, the bill sponsor, introduced and explained the bill. Rep. Richard Morgan moved for a favorable report and to have the bill re-referred to the House Finance Committee. The committee held a voice vote and the motion passed. Senate Bill 425 received a favorable report and was re-referred to the House Finance Committee.

Senate Bill 531, entitled AN ACT TO REQUIRE STATE GOVERNMENT AGENCIES TO REDUCE THE NUMBER OF MENUS ON AUTOMATED PHONE

SYSTEMS THAT CALLERS MUST GO THROUGH BEFORE CONNECTING TO A PERSON AND TO ALLOW ACCESS TO AN ATTENDANT OR OPERATOR ON THE FIRST MENU. Sen. Charles Albertson, the bill sponsor, introduced and explained the bill. Rep. John Hurley offers an amendment. The committee held a voice vote and the amendment was accepted. The amended bill was rolled into a committee substitute. Rep. John Nichols moved for a favorable report to the committee substitute, unfavorable to the original bill. The committee held a voice vote and the motion passed. The committee substitute for Senate Bill 531 received a favorable report and unfavorable to the original bill.

Senate Bill 730, entitled AN ACT TO AMEND THE LAW RELATING TO THE ISSUANCE OF BONDS BY INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITIES. Sen. Frank Ballance, the bill sponsor, introduced and explained the bill. Rep. Larry Womble moved for a favorable report and to have the bill re-referred to the House Finance Committee. The committee held a voice vote and the motion passed. Senate Bill 730 received a favorable report and was re-referred to the House Finance Committee.

House Bill 257, entitled AN ACT TO PROVIDE A TAX CREDIT FOR RAILROADS PROVIDING INCREASED SERVICE TO THE NORTH CAROLINA STATE PORTS. Rep. Danny McComas, the bill sponsor, introduced a proposed committee substitute, which changed the title of the bill. Rep. Danny McComas offered the committee substitute. There was no objection by the committee, so the committee substitute was before the committee. Rep. Danny McComas moved for a favorable report for the committee substitute, unfavorable to the original bill and to have it re-referred to the Committee on Rules, Calendar and the Operations of the House. The committee held a voice vote and the motion passed. The committee substitute for House Bill 257 received a favorable report, unfavorable to the original bill and was re-referred to Committee on Rules, Calendar and the Operations of the House.

The committee adjourned at 3:00 p.m.



David Miner, Chairman



Stephanie Mansur, Committee Clerk

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
Commerce.

- Committee Substitute for
S.B. 333 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW GOVERNING
THE PROCEDURE FOR ENTRY OF ORDERS IN THE COMMODITIES ACT.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

S

2

SENATE BILL 333
Commerce Committee Substitute Adopted 3/19/97

Short Title: Commodities Act Amendment/AB.

(Public)

Sponsors:

Referred to:

March 10, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW GOVERNING THE PROCEDURE FOR ENTRY
3 OF ORDERS IN THE COMMODITIES ACT.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 78D-30(d) reads as rewritten:
6 "(d) If no ~~hearing is requested~~ request for a hearing, other responsive pleading, or
7 submission is received by the Administrator within 30 business days of receipt of
8 service of notice of summary order under subsection (b) of this section and none no
9 hearing is ordered by the Administrator, the summary order will automatically
10 become a final order after 30 business ~~days:~~ days from the date service of the notice
11 of summary order was received."
12 Section 2. This act becomes effective October 1, 1997, and applies to
13 administrative proceedings commenced on or after that date.



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June 25, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel

RE: **SENATE BILL 333 - COMMODITIES ACT AMENDMENTS - Senator Dalton**

Senate Bill 333 clarifies the effective date of a summary order issued by the Secretary of State for an alleged violation of the Commodities Act. This bill is a recommendation of the Secretary of State's office.

The bill clarifies that if no request for a hearing, other responsive pleading, or any other submission is received by the Secretary of State in response to a summary order issued by the Secretary within 30 days after receipt of the service of the notice of the summary order, the order becomes effective 30 business days after the date the service of notice of the summary order was received. The present law is not clear as to the time limit for requesting a hearing nor when the order becomes effective.

Actions by the Secretary of State under this section are civil administrative proceedings, normally seeking to stop actions in violation of the law. While certain violations of the Commodities Act are punished as Class I felonies, the administrative actions, primarily as cease and desist orders, are often used in situations where violations are initiated out of state and where obtaining criminal jurisdiction would be more difficult.

This bill would become effective October 1, 1997, and would apply to administrative proceedings commenced by the Secretary of State on or after that date.

S333-SMRU-001

§ 78D-30. Procedure for entry of an order.

(a) The Administrator shall commence an administrative proceeding under this Chapter, by entering either a notice of intent to do a contemplated act or a summary order. The notice of intent or summary order may be entered without notice, without opportunity for hearing, and need not be supported by findings of fact or conclusions of law, but must be in writing.

(b) Upon entry of a notice of intent or summary order, the Administrator shall promptly notify all interested parties that the notice or summary order has been entered and the reasons therefor. If the proceeding is pursuant to a notice of intent, the Administrator shall inform all interested parties of the dates, time, and place set for the hearing on the notice. If the proceeding is pursuant to a summary order, the Administrator shall inform all interested parties that they have 30 business days from the entry of the order to file a written request for a hearing on the matter with the Administrator and that the hearing will be scheduled to commence with 30 business days after the receipt of the written request.

(c) If the proceeding is pursuant to a summary order, the Administrator, whether or not a written request for a hearing is received from any interested party, may set the matter down for hearing on the Administrator's own motion.

(d) If no hearing is requested and none is ordered by the Administrator, the summary order will automatically become a final order after 30 business days.

(e) If a hearing is requested or ordered, the Administrator, after notice of, and opportunity for, hearing to all interested persons, may modify or vacate the order or extend it until final determination.

(f) No final order or order after hearing may be returned without:

- (1) Appropriate notice to all interested persons;
- (2) Opportunity for hearing by all interested persons; and
- (3) Entry of written findings of fact and conclusions of law.

Every hearing in an administrative proceeding under this Chapter shall be public unless the Administrator grants a request joined in by all the respondents that the hearing be conducted privately.

(1989, c. 634, s. 1.)

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, and Tallent** for the Committee on
COMMERCE.

- Committee Substitute for
S.B. 382 A BILL TO BE ENTITLED AN ACT REDEFINING THE BASE PERIOD FOR
UNEMPLOYMENT BENEFITS AND ELIMINATING THE ONE AND ONE-HALF
TIMES TEST.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

Neely

S

2

SENATE BILL 382
Commerce Committee Substitute Adopted 4/22/97

Short Title: Redefine Unemp. Ins. Base Period.

(Public)

Sponsors:

Referred to:

March 12, 1997

1 A BILL TO BE ENTITLED
2 AN ACT REDEFINING THE BASE PERIOD FOR UNEMPLOYMENT BENEFITS
3 AND ELIMINATING THE ONE AND ONE-HALF TIMES TEST.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 96-8(17) reads as rewritten:
6 "(17) a. Repealed by Session Laws 1977, c. 727, s. 33.
7 b. Repealed by Session Laws 1977, c. 727, s. 33.
8 c. As to claims filed on or after October 1, 1974, for claimants
9 who do not have a benefit year in progress, 'benefit year'
10 shall mean the one-year period beginning with the first day
11 of a week with respect to which an individual first registers
12 for work and files a valid claim for benefits. A valid claim
13 shall be deemed to have been filed only if such individual,
14 at the time the claim is filed, is unemployed, and has been
15 paid wages in his base period totaling at least five hundred
16 sixty-five dollars and fifty cents (\$565.50), and equal to at
17 least one and one-half times his high-quarter wages, which
18 high-quarter wages must equal at least one hundred and fifty
19 dollars (\$150.00). As to claims filed on or after August 1,
20 1981, for claimants who do not have a benefit year in
21 progress, 'benefit year' shall mean the 52 week period
22 beginning with the first day of a week with respect to which
23 an individual first registers for work and files a valid claim

1 for benefits. Provided, however, if the first day of a week
2 with respect to which an individual first registers for work
3 and files a valid claim for benefits is either (i) the first day
4 of a calendar quarter, or (ii) the second day of a calendar
5 quarter followed by a February 29 within one year thereof,
6 'benefit year' shall mean the one-year period beginning with
7 that first day of the week with respect to which the
8 individual first registers for work and files a valid claim for
9 benefits. A valid claim shall be deemed to have been filed
10 only if such individual, at the time the claim is filed, is
11 unemployed, and has been paid wages in his base period
12 totaling at least six times the average weekly insured wage,
13 obtained in accordance with ~~G.S. 96-8(22)~~ and equal to at
14 least one and one-half times his high quarter wages, which
15 ~~high quarter wages must equal at least one and one-half~~
16 ~~times the average weekly insured wage, obtained in~~
17 ~~accordance with G.S. 96-8(22).~~ G.S. 96-8(22), and has been
18 paid wages in at least two quarters of the individual's base
19 period.

20 d. Repealed by Session Laws, 1981, c. 160, s. 11."

21 Section 2. G.S. 96-8(18) reads as rewritten:

22 "(18) 'Base period' means the first four of the last five completed
23 calendar quarters immediately preceding the first day of an
24 individual's benefit year as defined in subdivision (17) of this
25 section. If an individual lacks sufficient base period wages in order
26 to establish a benefit year in the manner set forth above, the
27 claimant shall have an alternative base period substituted for the
28 current base period so as not to prevent establishment of a valid
29 claim. For the purposes of this subdivision, 'alternative base
30 period' means the last four completed calendar quarters."

31 Section 3. This act is effective when it becomes law and applies to new
32 initial claims filed on or after September 1, 1997. The Employment Security
33 Commission shall report to the General Assembly by January 1, 2001, on the effect of
34 this act on unemployment compensation claims. This act expires September 1, 2001.



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July 9, 1997

TO: Rep. David Miner, Chair, House Commerce Committee.

FROM: William R. Gilkeson, Staff Attorney.

RE: Senate Bill 382 – Redefine UE Base Period.

Senate Bill 382, introduced by Senator Winner, would redefine the "base period" that a person must have worked before being eligible for unemployment benefits. It would also eliminate one of the other tests ("the one and one-half times test") to determine eligibility.

The bill was recommended by the Employment Security Commission.

1. **Flexible Base Period.** -- Currently, a person's base period is the first four of the last five completed calendar quarters prior to the filing of the claim for unemployment benefits. To be eligible for unemployment benefits, a claimant must have earned wages during that base period at least six times greater than the average weekly insured wage. Senate Bill 382 would provide that if the claimant did not earn enough wages during the first four of the last five quarters to qualify for unemployment benefits, the last four calendar quarters would be used as a base period instead. The claimant would **not** have the option of choosing which base period would result in the highest benefits; if the claimant qualified under the first four quarters, then that's the base period that would be used.

(The base period North Carolina currently uses is quite common among the states, but is the subject of a major dispute in the federal courts and in Congress. The first-four-of-five-quarters base period has been challenged in Illinois and California as being in conflict with federal law. This April, the 7th Circuit U.S. Court of Appeals (in *Pennington v. Doherty*, 110 F.3d 502) agreed with the challenge and held that Illinois's law denied a claimant her right under the U.S. Social Security Act to be given benefits "when due." The State of Illinois is now seeking to appeal that decision to the U.S. Supreme Court. Meanwhile, Congress is considering as part of its budget negotiations a provision that would overrule *Pennington* and leave to the states the discretion to determine the base period. That provision passed the House but was removed from the Senate bill by floor amendment. The budget conferees are considering that provision, along with the rest of the budget, this summer. Because the *Pennington* decision was based on interpretation of a statute and not a constitutional principle, Congress's changing the statute would overrule the case.)

2. **"One-and-a-Half-Times" Test.** -- Current law also requires that the person's base period wages must be at least one and one-half times his/her high quarter wages and that these high quarter wages must be at least one and one-half times the average weekly insured wage. Senate Bill 382 would eliminate this requirement. Instead, it simply says that claimant must have been paid *some* wages in two quarters. The "six times" test referred to above would not be eliminated.

This bill would take effect upon becoming law and applies to new initial claims filed on or after September 1, 1997. As the Senate passed the bill, its provisions would sunset September 1, 2001.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
Commerce.

- Committee Substitute for
S.B. 425 A BILL TO BE ENTITLED AN ACT TO AMEND THE ARTICLE ON
REFRIGERATION CONTRACTORS.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

SENATE BILL 425

*law-report
needs to go
to Finance*

1

Short Title: Refrigeration Contractors.

(Public)

Sponsors: Senator Miller.

Referred to: Commerce.

March 19, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE ARTICLE ON REFRIGERATION CONTRACTORS.
3 The General Assembly of North Carolina enacts:
4 Section 1. G.S. 87-58(a) reads as rewritten:
5 "(a) As applied in this Article, "refrigeration trade or business" is defined to
6 include all persons, firms or corporations engaged in the installation, maintenance,
7 servicing and repairing of refrigerating machinery, equipment, devices and
8 components relating thereto and within limits as set forth in the codes, laws and
9 regulations governing refrigeration installation, maintenance, service and repairs
10 within the State of North Carolina or any of its political subdivisions, ~~provided~~
11 ~~however, that this subdivisions.~~ This Article shall not apply to the replacement of
12 lamps and fuses and to the installation and servicing of domestic household
13 refrigerators and freezers or domestic ice-making appliances connected by means of
14 attachment plug-in devices to suitable receptacles which have been permanently
15 ~~installed, and provided, further, that the~~ installed. The provisions of this Article shall
16 not repeal any wording, phrase, or paragraph as set forth in Article 2 of Chapter 87
17 of the General Statutes. ~~North Carolina General Statutes, Chapter 87, Article 2; and~~
18 ~~provided, further, that this~~ This Article shall not apply to employees of persons,
19 firms, or corporations or persons, firms or corporations, not engaged in refrigeration
20 contracting as herein defined, that install, maintain and service their own refrigerating
21 machinery, equipment and devices. The provisions of this Article shall not apply to
22 any person, firm or corporation engaged in the business of selling, repairing and
23 installing any ~~air-conditioning units,~~ comfort cooling devices or ~~systems~~ systems. ~~for~~

1 ~~the purpose of cooling offices, buildings, houses, works, manufacturing plants, or any~~
2 ~~machinery, manufactured article or processing of material."~~

3 Section 2. G.S. 87-58(d) reads as rewritten:

4 "(d) In order to protect the public health, comfort and safety, the Board shall
5 prescribe the standard of experience to be required of an applicant for license and
6 shall give an examination designed to ascertain the technical and practical knowledge
7 of the applicant concerning the analysis of plans and specifications, estimating cost,
8 fundamentals of installation and design as they pertain to refrigeration; and as a result
9 of the examination, the Board shall issue a certificate of license in refrigeration to
10 applicants who pass the required examination and a license shall be obtained in
11 accordance with the provisions of this Article, before any person, firm or corporation
12 shall engage in, or offer to engage in the business of refrigeration contracting. The
13 Board shall prescribe standards for and issue licenses for refrigeration contracting and
14 for transport refrigeration contracting. A transport refrigeration contractor license is a
15 specialty license that authorizes the licensee to engage only in transport refrigeration
16 contracting. A refrigeration contractor licensee is authorized to engage in transport
17 refrigeration and all other aspects of refrigeration contracting.

18 Each application for examination shall be accompanied by a check, post-office
19 money order or cash in the amount of the annual license fee required by this Article.
20 Regular examinations shall be given in the months of April and October of each year
21 and additional examinations may be given at times the Board deems wise and
22 necessary. Any person may demand in writing a special examination and upon
23 payment by the applicant of the cost of holding the examination and the deposit of
24 the amount of the annual license fee, the Board in its discretion will fix a time and
25 place for the examination. ~~A person who fails to pass any examination shall not be~~
26 ~~reexamined until the next regular examination."~~

27 Section 3. G.S. 87-60 reads as rewritten:

28 "**§ 87-60. Reissuance of revoked licenses; replacing lost or destroyed licenses.**

29 The Board may in its discretion reissue license to any person, firm or corporation
30 whose license ~~may have been revoked. Provided, three or more members was~~
31 revoked if a majority of the Board ~~vote votes~~ in favor of such reissuance for reasons
32 deemed sufficient by the Board. A new certificate of registration to replace any
33 license which may be lost or destroyed may be issued subject to the rules and
34 regulations of the Board."

35 Section 4. G.S. 87-62 reads as rewritten:

36 "**§ 87-62. Only one person in partnership or corporation need have license.**

37 (a) A corporation or partnership may engage in the business of refrigeration
38 contracting ~~provided if~~ one or more persons connected with ~~such~~ the corporation or
39 partnership is registered and licensed as herein ~~required, and provided such required,~~
40 and the licensed person ~~shall execute~~ executes all contracts, ~~exercise~~ exercises general
41 supervision over the work done thereunder and ~~be is~~ responsible for compliance with
42 all the provisions of this Article. The Board may determine the number of businesses
43 and the proximity of the businesses one to another over which the licensed person
44 may be responsible.

1 (b) For purposes of this section, the licensee's connection to the corporation or
2 partnership shall be in the form of a written contract that is executed prior to the
3 corporation or partnership engaging in refrigeration contracting.

4 (c) Nothing in this Article shall prohibit any employee from becoming licensed
5 pursuant to the provisions thereof."

6 Section 5. G.S. 87-64 reads as rewritten:

7 "**§ 87-64. Examination and license fees; annual renewal.**

8 Each applicant for a license by examination shall pay to the Board of Refrigeration
9 Examiners a nonrefundable examination fee in an amount not to exceed the sum of
10 forty dollars (\$40.00). In the event the applicant successfully passes ~~said~~ the
11 examination, the examination fee ~~so paid~~ shall be applied to the license fee required
12 of licensees for the current year in which the examination was taken and passed.

13 The license of every person licensed under the provisions of this statute shall be
14 annually renewed. On or before November 1 of each year the Board shall cause to be
15 mailed an application for renewal of license to every person who has received from
16 the Board a license to engage in the refrigeration business, as heretofore defined. On
17 or before January 1 of each year every licensed person who desires to continue in the
18 refrigeration business shall forward to the Board a renewal fee in an amount not to
19 exceed forty dollars (\$40.00) together with the application for renewal. Upon receipt
20 of the application and renewal fee the Board shall issue a renewal certificate for the
21 current year. Failure to renew the license annually shall automatically result in a
22 forfeiture of the right to engage in the refrigeration business. Any licensee who allows
23 ~~his~~ the license to lapse may be reinstated by the Board upon payment of a fee not to
24 exceed ~~forty-five dollars (\$45.00); provided any~~ seventy-five dollars (\$75.00). Any
25 person who fails to renew ~~his~~ a license for two consecutive years shall be required to
26 take and pass the examination prescribed by the Board for new applicants before
27 being licensed to engage further in the refrigeration business."

28 Section 6. This act is effective when it becomes law.



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June 25, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: O. Walker Reagan, Committee Co-Counsel and Linwood Jones, Senate Commerce Committee Co-Counsel

RE: SENATE BILL 425 - REFRIGERATION CONTRACTORS - Senator Miller.

Senate Bill 425 amends the laws governing refrigeration contractors.

Section 1 makes several grammatical changes and redefines the exemption for persons installing air conditioning units, devices, and systems in homes, businesses, plants, etc., as persons installing "comfort cooling devices or systems."

Section 2 repeals a provision that prevents a person who fails the licensing exam from retaking the exam any earlier than the next regular scheduled examination. This will allow that person to request a special exam as first-time takers can do.

Section 3 revises the language concerning reissuance of a license to a person whose license was revoked. Current law requires three or more members to vote in favor of the reissuance in order for a person to obtain a reissued license. The bill will require a majority of the Board (4 members of the 7-member board).

Section 4 of the bill adds a provision that makes clear that the Board can determine how many businesses the licensed person can supervise and their proximity to one another. In addition, the licensed person's connection to the business entity must be spelled out in a written contract in advance. Current law allows a corporation or partnership to engage in the business of refrigeration contracting as long as a licensed contractor is in charge and exercises general supervision over all work.

Section 5 increases the maximum fee for reinstatement of a lapsed license from \$45 to \$75.

Section 6 makes this act effective when it becomes law.

S425-SMRU-001

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
Commerce.

Committee Substitute for

S.B. 531 A BILL TO BE ENTITLED AN ACT TO REQUIRE STATE GOVERNMENT AGENCIES TO REDUCE THE NUMBER OF MENUS ON AUTOMATED PHONE SYSTEMS THAT CALLERS MUST GO THROUGH BEFORE CONNECTING TO A PERSON AND TO ALLOW ACCESS TO AN ATTENDANT OR OPERATOR ON THE FIRST MENU.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance

With a favorable report as to House committee substitute bill , unfavorable as to original bill.

With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(a), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The (committee substitute) bill/resolution (, as amended,) is placed on the Consent Calendar of _____. The original bill/resolution is placed on the Unfavorable Calendar.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(a), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered _____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in _____ House amendment (s).
____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 531
Second Edition Engrossed 4/21/97
Proposed Committee Substitute S531-PCS4629

Short Title: State Phone Systems.

(Public)

Sponsors:

Referred to:

March 27, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE STATE GOVERNMENT AGENCIES TO REDUCE THE
3 NUMBER OF MENUS ON AUTOMATED PHONE SYSTEMS THAT
4 CALLERS MUST GO THROUGH BEFORE CONNECTING TO A PERSON
5 AND TO ALLOW ACCESS TO AN ATTENDANT OR OPERATOR ON THE
6 FIRST MENU.

7 The General Assembly of North Carolina enacts:

8 Section 1. The General Assembly finds that:

- 9 (1) Some telephone systems operated by State government agencies
10 require callers to proceed through several menus to finally reach
11 an individual extension, an arrangement that can be intimidating to
12 the caller;
- 13 (2) Many State telephone systems also make it difficult to reach an
14 attendant or operator at the agency; and
- 15 (3) While automated telephone systems and voice mail are intended to
16 improve the efficiency of government, the first duty of government
17 is to serve the people, and efficiency should not impede the
18 average citizen in attempting to contact a State agency for service
19 or information.

20 Section 2. State agency telephone systems routing calls to multiple
21 extensions shall be reprogrammed by September 1, 1997, to minimize the number of
22 menus that a caller must go through to reach the desired extension, and to allow the

1 caller to reach an attendant or operator from the first menu when calling during
2 normal business hours.

3 This act shall be implemented by State agencies with existing personnel at
4 no additional cost to the State.

5 Section 3. This act is effective when it becomes law.



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July 7, 1997

MEMORANDUM

TO: House Committee on Commerce

FROM:  Steven Rose, Committee Counsel for Public Utilities

RE: Senate Bill 531; State phone systems

Senate Bill 531 provides that automated telephone systems operated by State government agencies must minimize the number of menus a caller must go through to reach the desired extension, and must allow the caller to reach an operator from the first menu when calling during regular business hours. The necessary reprogramming must be done by July 1, 1997 and must be implemented with no additional cost to the State.

The act is effective when it becomes law. The implementation date should be changed since July 1 has passed.

S531-SMRL-001



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 531

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)
Page 1 of 1

S531-ARL-001

Date 7-9-97, 1997

Comm. Sub.
Amends Title
Second Edition

1 moves to amend the bill on page 2, line 4,
2 by deleting the date "July 1, 1997," and substituting the date
3 "September 1, 1997,".
4

SIGNED B. Phelan
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
Commerce.

- Committee Substitute for
S.B. 730 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW RELATING TO
THE ISSUANCE OF BONDS BY INDUSTRIAL FACILITIES AND POLLUTION
CONTROL FINANCING AUTHORITIES.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

S

2

SENATE BILL 730
Finance Committee Substitute Adopted 6/10/97

*law report
to Finance*

Short Title: Industrial Revenue Bond Changes.

(Public)

Sponsors:

Referred to:

April 7, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW RELATING TO THE ISSUANCE OF BONDS
3 BY INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING
4 AUTHORITIES.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 159C-6, as amended by S.L. 1997-111, reads as rewritten:
7 "§ 159C-6. Bonds.
8 Each authority is authorized to provide for the issuance, at one time or from time
9 to time, of bonds of the authority for the purpose of paying all or any part of the cost
10 of any project. The principal of, the interest on and any premium payable upon the
11 redemption of such bonds shall be payable solely from the funds herein authorized
12 for such payment. The bonds of each issue shall bear interest as may be determined
13 by the Local Government Commission of North Carolina with the approval of the
14 authority and the obligor irrespective of the limitations of G.S. 24-1.1, as amended,
15 and successor provisions. The bonds of each issue shall be dated, shall mature at such
16 time or times not exceeding ~~30 years from~~ 35 years after the date of their issuance,
17 and may be made redeemable before maturity at such price or prices and under such
18 terms and conditions, as may be fixed by the authority prior to the issuance of the
19 bonds. The authority shall determine the form and the manner of execution of the
20 bonds, including any interest coupons to be attached thereto, and shall fix the
21 denomination or denominations of the bonds and the place or places of payment of
22 principal and interest. In case any officer whose signature or a facsimile of whose
23 signature ~~shall appear~~ appears on any bonds or coupons ~~shall cease~~ ceases to be an

1 that officer before the delivery of the bonds, the signature or the facsimile shall
2 nevertheless be valid and sufficient for all purposes the same as if the person had
3 remained in office until such delivery. The authority may also provide for the
4 authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in
5 coupon or in fully registered form, or both, as the authority may determine, and
6 provision may be made for the registration of any coupon bonds as to principal alone
7 and also as to both principal and interest, and for the reconversion into coupon
8 bonds of any bonds registered as to both principal and interest, and for the
9 interchange of registered and coupon bonds.

10 The proceeds of the bonds of each issue shall be used solely for the payment of the
11 cost of the project or projects, or a portion thereof, for which the bonds were issued,
12 and shall be disbursed in such manner and under such restrictions, if any, as the
13 authority may provide in the financing agreement and the security document. If the
14 proceeds of the bonds of any issue, by reason of increased construction costs or error
15 in estimates or otherwise, ~~shall be~~ are less than such cost, additional bonds may in
16 like manner be issued to provide the amount of the deficiency.

17 The proceeds of bonds shall not be used to refinance the cost of a project. For the
18 purposes of this section, a cost of a project is considered refinanced if both of the
19 following conditions are met:

20 (1) The cost is initially paid from sources other than bond proceeds,
21 and the original expenditure is to be reimbursed from bond
22 proceeds.

23 (2) The original expenditure was paid more than 60 days before the
24 authority took some action indicating its intent that the
25 expenditure would be financed or reimbursed from bond proceeds.

26 However, preliminary expenditures that are incurred prior to the commencement of
27 the acquisition, construction, or rehabilitation of a project, such as architectural costs,
28 engineering costs, surveying costs, soil testing costs, bond issuance costs, and other
29 similar costs, may be reimbursed from bond proceeds even if these costs are incurred
30 or paid more than 60 days prior to the authority's action. This exception that allows
31 preliminary expenditures to be reimbursed from bond proceeds, regardless of whether
32 or not they are incurred or paid within 60 days of the authority's action, does not
33 include costs that are incurred incident to the commencement of the construction of a
34 project, such as expenditures for land acquisition and site preparation. In any event,
35 an expenditure originally paid before the authority took some action indicating its
36 intent that the expenditures would be financed or reimbursed from bond proceeds
37 may only be reimbursed from bond proceeds if the authority finds that reimbursing
38 those costs from bond proceeds will promote the purposes of this Chapter.

39 The authority may issue interim receipts or temporary bonds, with or without
40 coupons, exchangeable for definitive bonds when such bonds have been executed and
41 are available for delivery. The authority may also provide for the replacement of any
42 bonds ~~which shall~~ that become mutilated or ~~shall be~~ are destroyed or lost.

43 Bonds may be issued under the provisions of this Chapter without obtaining,
44 except as otherwise expressly provided in this Chapter, the consent of the State or of

1 any political subdivision or of any agency of ~~either thereof, either,~~ and without any
2 other proceedings or the happening of any conditions or things other than those
3 proceedings, conditions or things which are specifically required by this Chapter and
4 the provisions of the financing agreement and security document authorizing the
5 issuance of such bonds and securing the same."

6 Section 2. G.S. 159C-7 reads as rewritten:

7 "**§ 159C-7. Approval of ~~project.~~ project by Secretary of Commerce.**

8 (a) Approval Required. -- No bonds may be issued by an authority unless the
9 project for which ~~the issuance thereof~~ their issuance is proposed is first approved by
10 the Secretary of Commerce. The authority shall file an application for approval of its
11 proposed project with the Secretary of Commerce, and shall notify the Local
12 Government Commission of such filing.

13 (b) Findings. -- The Secretary shall not approve any proposed project unless ~~he~~
14 ~~shall make~~ the Secretary makes all of the following, applicable findings:

- 15 (1) In the case of a proposed industrial project,
16 a. That the operator of the proposed project pays, or has
17 agreed to pay thereafter, an average weekly manufacturing
18 wage that (i) ~~which~~ is above the average weekly
19 manufacturing wage paid in the county, or (ii) ~~which~~ is not
20 less than ten percent (10%) above the average weekly
21 manufacturing wage paid in the State, and
22 b. That the proposed project will not have a materially adverse
23 effect on the ~~environment;~~ environment.
- 24 (2) In the case of a proposed pollution control project, that such
25 project will have a materially favorable impact on the environment
26 or will prevent or diminish materially the impact of pollution
27 which would otherwise ~~occur;~~ and occur.
- 28 (2a) In the case of a hazardous waste facility or low-level radioactive
29 waste facility ~~which~~ that is used as a reduction, recovery or
30 recycling facility, that such project will further the waste
31 management goals of North Carolina and will not have an adverse
32 effect upon public health or a significant adverse effect on the
33 environment.
- 34 (3) In any case (whether the proposed project is an industrial or a
35 pollution control project), except a pollution control project for a
36 public utility,
37 a. That the jobs to be generated or saved, directly or indirectly,
38 by the proposed project will be large enough in number to
39 have a measurable impact on the area immediately
40 surrounding the proposed project and will be commensurate
41 with the size and cost of the proposed project,
42 b. That the proposed operator of the proposed project has
43 demonstrated or can demonstrate the capability to operate
44 such project, and

1 c. That the financing of such project by the authority will not
2 cause or result in the abandonment of an existing industrial
3 or manufacturing facility of the proposed operator or an
4 affiliate elsewhere within the State unless the facility is to be
5 abandoned because of obsolescence, lack of available labor
6 in the area, or site limitations.

7 If the initial proposed operator of a project is not expected to be the operator for
8 the term of the bonds proposed to be issued, the Secretary may make the findings
9 required pursuant to subdivisions (1)a. and (3)b. only with respect to the initial
10 operator. The initial operator shall be identified in the application for approval of the
11 proposed project. ~~In no case shall the Secretary of Commerce~~

12 (c) Public Hearing. -- The Secretary of Commerce shall not approve any proposed
13 project pursuant to this section unless the governing body of the county in which the
14 project is located has first conducted a public hearing and, at or after the public
15 hearing, approved in principle the issuance of bonds under this Chapter for the
16 purpose of paying all or part of the cost of the proposed project. Notice of the public
17 hearing shall be published at least once in at least one newspaper of general
18 circulation in the county not less than 14 days before the public hearing. The notice
19 shall describe generally the bonds proposed to be issued and the proposed project,
20 including its general location, and any other information the governing body
21 considers appropriate or the Secretary of Commerce prescribes for the purpose of
22 providing the Secretary with the views of the community. The notice shall also state
23 that following the public hearing the authority intends to file an application for
24 approval of the proposed project with the Secretary of Commerce.

25 (d) Certificate of Department of Environment, Health, and Natural Resources. --
26 The Secretary of Commerce shall not make the findings required by subdivisions (1)b
27 and (2) of this section unless he shall have the Secretary has first received a
28 certification from the Department of Environment, Health, and Natural Resources
29 that, in the case of a proposed industrial project, the proposed project will not have a
30 materially adverse effect on the environment and that, in the case of a proposed
31 pollution control project, the proposed project will have a materially favorable impact
32 on the environment or will prevent or diminish materially the impact of pollution
33 which would otherwise occur. In no case shall the The Secretary of Commerce shall
34 not make the findings required by subdivision (2a) unless he shall have the Secretary
35 has first received a certification from the Department of Environment, Health, and
36 Natural Resources that the proposed project is environmentally sound, will not have
37 an adverse effect on public health and will further the waste management goals of
38 North Carolina. The Secretary of Commerce shall deliver a copy of the application
39 to the Department of Environment, Health, and Natural Resources. The Department
40 of Environment, Health, and Natural Resources shall provide each certification to the
41 Secretary of Commerce within seven days after the applicant satisfactorily
42 demonstrates to it that all permits, including environmental permits, necessary for the
43 construction of the proposed project have been obtained, unless the authority
44 consents to a longer period of time. In any case where the Secretary shall make

1 (e) Waiver of Wage Requirement. -- If the Secretary of Commerce has made all of
2 the required findings respecting a proposed industrial project except that prescribed
3 in subparagraph (1)a of this section, the Secretary may, in ~~his~~ the Secretary's
4 discretion, approve the proposed project if ~~he shall have~~ the Secretary has received
5 (i) a resolution of the governing body of the county requesting that the proposed
6 project be approved notwithstanding that the operator will not pay an average weekly
7 manufacturing wage above the average weekly manufacturing wage in the county and
8 (ii) a letter from an appropriate State official, selected by the Secretary, to the effect
9 that unemployment in the county is especially severe.

10 (f) Rules. -- To facilitate ~~his~~ review of each proposed project, the Secretary may
11 require the authority to obtain and submit such data and information about such
12 project as the Secretary may prescribe. ~~In addition, the Secretary may, in his~~
13 ~~discretion, request the authority to hold a public hearing on the proposed project for~~
14 ~~the purpose of providing the Secretary directly with the views of the community to be~~
15 ~~affected.~~ The Secretary may also prescribe such forms and such rules ~~and regulations~~
16 ~~as he shall deem~~ as the Secretary considers reasonably necessary to implement the
17 provisions of this section.

18 (g) Certificate of Approval. -- If the Secretary approves the proposed project, ~~he~~
19 the Secretary shall prepare a certificate of approval evidencing such approval and
20 setting forth ~~his~~ the findings and shall cause ~~said~~ the certificate of approval to be
21 published in a newspaper of general circulation within the county. Any such approval
22 shall be reviewable as provided in Article 4 of Chapter 150B of the General Statutes
23 of North Carolina only by an action filed, within 30 days after notice of such findings
24 and approval shall have been so published, in the Superior Court of Wake County.
25 ~~Such~~ The superior court is hereby vested with jurisdiction to hear such action, but if
26 no such action is filed within the 30 days herein prescribed, the validity of such
27 approval shall be conclusively presumed, and no court shall have authority to inquire
28 into such approval. Copies of the certificate of approval of the proposed project will
29 be given to the authority, the governing body of the county and the Secretary of the
30 Local Government Commission.

31 ~~Such~~ The certificate of approval shall become effective immediately following the
32 expiration of ~~such~~ the 30-day period or the expiration of any appeal period after a
33 final determination by any court of any action timely filed pursuant to this section.
34 ~~Such~~ The certificate shall expire one year after its date unless extended by the
35 Secretary who shall not extend ~~such~~ the certificate unless ~~he shall again approve~~ the
36 Secretary again approves the proposed project as provided in this section. If bonds
37 are issued within that year pursuant to the authorization of this Chapter to pay all or
38 part of the costs of the project, however, the certificate shall expire three years after
39 the date of the first issuance of the bonds."

40 Section 3. G.S. 159C-10 reads as rewritten:

41 "**§ 159C-10. Location of projects.**

42 Except as provided in this section, any project or projects of an authority shall be
43 located within the boundaries of the county for which the authority was created. A
44 portion or portions of any project including, but not limited to, any real or personal

1 property or improvements necessary or convenient for the construction, maintenance,
2 and operation of the project, may be located in a county or counties other than the
3 county in which the principal part of the project is located so long as the additional
4 portion or portions constitute functionally appurtenant or incidental facilities and the
5 governing body of each other county in which the additional portion or portions of
6 the project is or are located approves the project. In addition, if a project or a group
7 of related projects is located in two or more adjacent counties, the authority created
8 for any one of the counties may issue bonds as provided in G.S. 159C-6 for the
9 purpose of paying all or any part of the cost of the project or group of related
10 projects if the following conditions are met:

- 11 (1) The board of commissioners of each county in which the project or
12 group of related projects is located has consented.
- 13 (2) The governing body of the authority created for each county in
14 which the project or group of related projects is located has
15 consented.
- 16 (3) The bonds are issued in compliance with all other provisions of
17 this Chapter."

18 Section 4. G.S. 159C-19(a) reads as rewritten:

19 "(a) Each authority is hereby authorized to provide by resolution for the issuance
20 of refunding bonds of the authority for the purpose of refunding any bonds then
21 outstanding ~~which shall~~ that have been issued under the provisions of this Chapter,
22 including the payment of any redemption premium thereon and any interest accrued
23 or to accrue to the date of redemption of such bonds, and, if deemed advisable by the
24 authority, for either or both of the following additional purposes:

- 25 (1) Constructing improvements, additions, extensions or enlargements
26 of the project or projects in connection with which the bonds to be
27 refunded ~~shall~~ have been issued, and
- 28 (2) Paying all or any part of the cost of any additional project or
29 projects.

30 The issuance of such bonds, the maturities and other details thereof, the rights of
31 the holders thereof, and the rights, duties and obligations of the authority in respect
32 to the same shall be governed by the provisions of this Chapter ~~which that~~ relate to
33 the issuance of bonds, insofar as such provisions may be appropriate ~~therefor.~~
34 therefor, including that any such bonds may have a single maturity within the limit
35 prescribed by G.S. 159C-6.

36 The approvals required by G.S. 159C-7 and 159C-8 shall be obtained prior to the
37 issuance of any refunding bonds; provided, however, that in the case where the
38 refunding bonds of all or a portion of an issue are to be issued solely for the purpose
39 of refunding outstanding bonds issued under this Chapter, the approval required by
40 G.S. 159C-7 shall not be required as to the project financed with the bonds to be
41 refunded."

42 Section 5. This act is effective when it becomes law.



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July 9, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane Brown, Committee Co-Counsel and
Martha H. Harris, Staff Attorney

RE: **Senate Bill 730 - Industrial Revenue Bond Changes.
(Second Edition)**

Senate Bill 730 amends Chapter 159C (the Industrial and Pollution Control Facilities Financing Act) which allows county authorities to issue industrial revenue bonds to finance qualifying industrial or pollution control projects for private manufacturing firms.

Section 1 of the bill amends the provision governing the issuance of bonds by an authority to increase the maximum term of the bonds from 30 to 35 years. Under the Act, a county authority may enter into a financing agreement with a company to provide revenue bond proceeds to the company to be used to finance capital expenditures, such as fixed assets, land, buildings, and equipment. The amounts payable by the company to the authority under the financing agreement must be sufficient to pay all of the principal and interest on the bonds.

Before bonds can be issued, the proposed project must be approved by the Secretary of Commerce and the bonds must be approved by the Local Government Commission. Bond proceeds cannot be used to refinance existing debt or as venture capital. Nor can they be used for a project that will result in the closing of another facility in North Carolina. The proposed project must generate a number of jobs that is commensurate with the cost of the project and will have a measurable impact on the local economy.

Section 2 of the bill provides that the Secretary of Commerce shall not approve a project unless the governing body of the county has first conducted a public hearing. Under current law, the Secretary has discretion to request the county authority to hold a public hearing. This section also imposes a seven day turn-around time on the Department of Environment, Health and Natural Resources to provide certification that the proposed industrial project will not have an adverse effect on the environment or that a proposed pollution control project will have a

favorable impact on the environment or will prevent or diminish pollution. This certification is necessary before the Secretary of Commerce can approve a proposed project. Finally, section 2 also provides that the Secretary of Commerce's certificate of approval, which is valid for one year, will remain valid for three years after bonds are first issued if bonds are issued during the initial one-year period of validity. Otherwise, the Secretary can only extend the certificate if the project is again approved in accordance with this section.

Section 3 of the bill amends the law to provide that if a proposed project is located in two or more counties, the county authority of any of those counties may issue the bonds if each affected county and county authority has consented and the bonds are issued in compliance with the Act.

Section 4 conforms the provision relating to refunding bonds to the change caused by section 1 of this bill, by tying the maturity of these bonds to the limits set in G.S. 159C-6. Under this bill, the maximum limit would be extended to 35 years.

This act is effective when it becomes law.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miner, Berry, Church, Hiatt, Tallent** for the Committee on
Commerce.

Committee Substitute for

H.B. 257 A BILL TO BE ENTITLED AN ACT TO PROVIDE A TAX CREDIT FOR
RAILROADS PROVIDING INCREASED SERVICE TO THE NORTH CAROLINA
STATE PORTS.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on
 Appropriations Finance

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance

With a favorable report as to House committee substitute bill, which changes the title,
unfavorable as to original bill and recommendation that the House committee substitute bill
be re-referred to the Committee on Rules, Calendar and Operations of the House.

With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.

And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(a), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The (committee substitute) bill/resolution (, as amended,) is placed on the Consent Calendar of _____. The original bill/resolution is placed on the Unfavorable Calendar.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(a), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ Rep. _____ offers Amendment No. ____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
____ House amendment (s).
____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 257
Proposed Committee Substitute H257-PCS7347

Short Title: RR Ports Use Incentive Study.

(Public)

Sponsors:

Referred to:

February 17, 1997

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE STUDY OF WAYS TO INCREASE RAIL
3 SERVICE TO THE STATE'S PORTS AND ADJOINING COMMUNITIES,
4 INCLUDING INCENTIVES FOR RAILROADS TO INCREASE SERVICE TO
5 THE STATE'S PORTS.
6 The General Assembly of North Carolina enacts:
7 Section 1. The Legislative Research Commission may study the issue of
8 ways to increase rail service to the State ports at Wilmington and Morehead City and
9 adjoining communities, including incentives to railroads to increase rail service to the
10 State ports. The Commission may look at issues addressed in House Bill 257, First
11 Edition, of the 1997 General Assembly. The study shall include at least the
12 following:
13 (1) Ways to entice railroads to provide increased rail service to the
14 State's ports at Morehead City and Wilmington, including
15 increased services from Charlotte, Winston-Salem, Greensboro,
16 Raleigh, Hamlet, and Wallace;
17 (2) The effect of incentives, including tax incentives, on rail service;
18 (3) Examination of what other states, including South Carolina,
19 Virginia, Georgia, and Florida, have done to encourage and effect
20 increased rail service to the ports and other state-owned economic
21 development and trade areas in those states;
22 (4) The costs and benefits of the State ports operating rail lines, or
23 transporting freight, to inland rail terminals and connections;

- 1 (5) Use of the North Carolina Railroad to increase rail service to the
- 2 ports;
- 3 (6) Incentives and preferences now being granted to Class I railroads
- 4 serving North Carolina, their parent, sister, subsidiary, or related
- 5 companies in North Carolina;
- 6 (7) A comparison of incentives and preferences as set forth in
- 7 subdivision (6) offered by other states, including the states set forth
- 8 in subdivision (3); and
- 9 (8) The cost and effect (economic and otherwise) of North Carolina
- 10 ports not having rail service commensurate to that of other states.
- 11 This analysis should include the effect on statewide economic
- 12 development, job creation, and tax revenues.
- 13 Section 2. The Legislative Research Commission may make an interim
- 14 report to the 1997 General Assembly, 1998 Regular Session, and shall make a final
- 15 report to the 1999 General Assembly.
- 16 Section 3. The act is effective when it becomes law.

VISITOR REGISTRATION SHEET

COMMERCE

JULY 9, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Etherine Davis	Electric Cities of NC.
Joseph P. ...	JP Assoc.
Amot Henderson	Tunton & Williams
Nancy Bradley	NCCBP
Brenda Dougherty	Sprint
WELTON POPPER	EDARA
Laura Hartsell	MCIC
James Handberg	NCPC
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Adam Seary	NCJDC
April W. ...	Sec. of State
Bernard Allen	Sec. of State
Paul ...	Allen + Pinnix
...	St. Be & Recreation
Thomas ...	St. Be. of Recreation Ex.
JAMES ANDREWS	NC State AFL-CIO
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SCOTT LASSITER	(CITY) TRANSFER & STG. CO.
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Pat ...	SCSL
Bunda ...	NC Equity
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Cecil ...	DOT
...	

