1998

HOUSE APPROPRIATIONS – TRANSPORTATION

MINUTES

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE APPROPRIATIONS
SUBCOMMITTEE ON TRANSPORTATION

SHORT SESSION
5-11-98 ---- 10-29-98

Representative Joanne W. Bowie, Co-Chair
Representative Jerry Dockham, Co-Chair
Representative Ed McMahan, Co-Chair

FISCAL RESEARCH STAFF

Evan Rodewald
Bob Weiss
Tony Goldman

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Kenneth Levenbook

COMMITTEE CLERKS

Sharon Cram, House Clerk
Sharon Gaudette, House Clerk
Gloria Haywood, Senate Clerk

HOUSE MEMBERS
APPROPRIATIONS SUBCOMMITTEE ON TRANSPORTATION
1998

MEMBER (COMMITTEE CLERK)	TELEPHONE	OFFICE
Rep. Joanne Bowie, Co-Chair Sharon Gaudette	733-5853	1206
Rep. Jerry Dockham, Co-Chair Joanna Mills	733-5822	1106
Rep. Ed McMahan, Co-Chair Sharon Cram	733-5732	2213
Rep. Bobby Barbee Rosa Murray	733-5908	1025
Rep. Dan Blue Lin Threatt	715-2528	1227
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Rep. Thomas Hardaway Rita Harris	733-5775	1323
Rep. Bill Hiatt Edna Pierce	733-5862	1008
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Rep. Richard T. Morgan Dixie Epps	715-3028	404
Rep. Drew P. Saunders Ruth Fish	733-5530	1017
Rep. Ronnie Sutton Juanita Coley	733-5782	1317
Rep. James Crawford, Appropriations Liasion Linda Winstead	733-5824	1301
Rep. N. Leo Daughtry, Ex-Officio Member Bernice Bullard	715-0850	2301
Rep. Julia Craven Howard, Ex-Officio Member Gail Stewart	733-5904	1021
Rep. Stephen Wood, Ex-Officio Member Sylvia Perkins	733-5807	
Fiscal Research Staff/ Tony Goldman Evan Rodewald Bob Weiss	733-4910	619
Staff Attorney Ken Levenbook/Giles Perry	733-6660	401
Committee Clerks		
Sharon Gaudette, House	733-5853	
Sharon Cram	733-5732	

ATTENDANCE

HOUSE APPROPRIATIONS/Subcommittee on Transportation

1998 (Name of Committee)

DATES	6/24	6/30	7/1	7/6	7/8	7/9	7/14	7/16	8/11	9/30					
Rep. Joni Bowie, Co-Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Rep. Jerry Dockham, Co-Chair	✓	✓	✓	✓	✓	✓	—	—	✓	✓					
Rep. Ed McMahan, Co-Chair	✓	✓	A	✓	✓	✓	✓	—	—						
Rep. Bobby Barbee	✓	✓	✓	—	✓	✓	—	—	—	✓					
Rep. Dan Blue	✓	✓	A	—	—	✓	✓	✓	—						
Rep. Thomas Hardaway	✓	A	A	✓	✓	—	—	—	—						
Rep. Bill Hiatt	✓	✓	✓	✓	✓	✓	✓	✓	✓						
Rep. Jim Gulley	✓	✓	✓	✓	✓	✓	✓	✓	✓						
Rep. Mary McAllister	A	A	A	—	—	—	—	—	—						
Rep. Mickey Michaux	—	—	—	—	—	—	—	—	—						
Rep. Jane Mosley	—	—	—	—	—	—	—	—	—						
Rep. Richard Morgan	A	A	A	—	—	—	—	—	—						
Rep. Drew Saunders	✓	✓	✓	✓	—	✓	✓	✓	✓	✓					
Rep. Ronnie Sutton	✓	✓	A	✓	✓	✓	✓	✓	✓	✓					
Ex. Officio Members:															
Rep. Jim Crawford, Liasion				✓						✓					
Rep. Leo Daughtry															
Rep. Steve Wood															
Rep. Julia Howard															
Rep. Creech	✓														

JOINT MEETINGS

APPROPRIATIONS SUBCOMMITTEE

ON TRANSPORTATION

1998

May 12, 1998

May 13, 1998

May 14, 1998

May 19, 1998

May 20, 1998

June 3, 1998

June 4, 1998

A record of these meetings can be found in the Joint Appropriations Subcommittee on Transportation 1998 Session Notebook filed in the Legislative Library.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1997-98 Regular Session — HOUSE: APPROPRIATIONS--TRANSPORTATION — Valid Through 13-OCT-1998

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 250	MCMAHAN	CHANGE TAG AGENT COMPENSATION	H -ASSIGNED TO APP-TRAN	06-22-98	Rule 36
H 502	ELLIS	AMEND MOTOR VEHICLE DEFINITION	*HF-FAILED 2ND READING	05-15-97	07-09-97
H 973	**REYNOLDS**	**ON-LINE VEHICLE REGISTRATION PILOT**	***H -ASSIGNED TO APP-TRAN**	**06-22-98**	Rule 36
H1081	ALLRED	CONDEMNATION AWARDS	*H -REPTD TO APPROP	07-03-97	09-30-98
H1229	CULPEPPER	DARKER VEHICLE WINDOW FOR LUPUS	*H -RE-REF COM ON FINANCE	06-22-98	08-12-98
H1304	**BOWIE**	**RESTRUCTURE DOT BOARD**	***R -CH. SL 98-0169**	**06-18-98**	**07-02-98**
H1304	**BOWIE**	**RESTRUCTURE DOT BOARD**	***R -CH. SL 98-0169**	**07-06-98**	**07-07-98**
H1709=	**INSKO**	**DOT REQUIRED TO COMPOST**	**H -ASSIGNED TO APP-TRAN**	**06-22-98**	Rule 36

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.

MEMORANDUM

TO: Rep. Ed McMahan

FROM: Rep. Bowie, Dockham, McMahan

DATE: August 20, 1998

SUBJECT: House Bill 250 - CHANGE TAG AGENT COMPENSATION

House Rule 36 speaks to reporting bills out of standing committees or permanent subcommittees by the last adjournment of the 1997-98 legislative session. -- "All House bills and resolutions **shall be reported from** the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair of the standing committee or permanent subcommittee that the bill not be considered.**" If it is your intent that the bill listed above not be considered by committee this legislative session, please **sign** and **date** the form and **return** it to the Committee Clerk, **Sharon Gaudette**, for the Committee on **APPROPRIATIONS/Subcommittee On Transportation** in **Room 1206** by **August 28, 1998.**

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Mr. Chairman:

I request that the above-mentioned House Bill # 250, CHANGE TAG AGENT COMPENSATION for which I am the principal introducer, not be considered by your committee for the 1997-98 legislative session.

(Sign)
Representative

8/20/98 (Date)

PLEASE DO NOT DETACH THE FORM FROM THE MEMORANDUM

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 250

Short Title: Change Tag Agent Compensation. (Public)

Sponsors: Representatives McMahan, Bowie, Barbee, Crawford, Holmes, Miner; and Starnes.

Referred to: Transportation, if favorable, Judiciary II.

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO INCLUDE THE COLLECTION OF AN EMISSIONS PENALTY IN THE LIST OF ITEMS FOR WHICH BRANCH AGENTS OF THE DIVISION OF MOTOR VEHICLES ARE COMPENSATED.

The General Assembly of North Carolina enacts:

Section 1. Section 155 of the 1993 Session Laws, as amended by Section 20.1 of Chapter 769 of the 1993 Session Laws and by Section 18.18 of Chapter 507 of the 1995 Session Laws (Reg. Sess., 1996), reads as rewritten:

"Sec. 155. The Division of Motor Vehicles of the Department of Transportation shall compensate a contractor with whom it has a contract under G.S. 20-63(h) at the rate of one dollar and twenty cents ($1.20) for each transaction performed in accordance with the requirements set by the Division. A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(7a) Receipt of the civil penalty imposed by G.S. 20-183.8A for an emissions inspection violation.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(9) Collection of the highway use tax.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through (8) of this section is a single transaction. Performance of the item listed in subdivision (9) of this section in combination with any other items listed in this section is a separate transaction."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 4

HOUSE BILL 502
Committee Substitute Favorable 4/28/97
Committee Substitute #2 Favorable 7/9/97
Committee Substitute #3 Favorable 8/11/97

Short Title: Definition of MV Dealer. (Public)

Sponsors:

Referred to:

March 12, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DEFINITION OF MOTOR VEHICLE IN THE DEALERS AND MANUFACTURERS LICENSING LAW TO INCLUDE PERSONAL WATERCRAFT AND ALL TERRAIN VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-286(10) reads as rewritten:

"(10) Motor vehicle. -- Any motor propelled vehicle, trailer or semitrailer, required to be registered under the laws of this ~~State.~~ State, or any personal watercraft as defined in G.S. 75A-13.2 or all terrain vehicle.

a. 'New motor vehicle' means a motor vehicle which has never been the subject of a sale other than between new motor vehicle dealers, or between manufacturer and dealer of the same franchise.

b. 'Used motor vehicle' means a motor vehicle other than described in paragraph (10)a above."

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

MEMORANDUM

TO: Rep. Dennis Reynolds

FROM: Rep. Bowie, Dockham, McMahan

DATE: August 20, 1998

SUBJECT: House Bill 973 - ON-LINE VEHICLE REGISTRATION PILOT

House Rule 36 speaks to reporting bills out of standing committees or permanent subcommittees by the last adjournment of the 1997-98 legislative session. -- "All House bills and resolutions **shall be reported from** the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair of the standing committee or permanent subcommittee that the bill not be considered.**" If it is your intent that the bill listed above not be considered by committee this legislative session, please **sign** and **date** the form and **return** it to the Committee Clerk, **Sharon Gaudette**, for the Committee on **APPROPRIATIONS/Subcommittee On Transportation** in **Room 1206** by **August 28, 1998.**

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Mr. Chairman:

I request that the above-mentioned House Bill # 973, ON-LINE VEHICLE REGISTRATION PILOT for which I am the principal introducer, not be considered by your committee for the 1997-98 legislative session.

Dennis Reynolds (Sign)
Representative

8-20-98 (Date)

PLEASE DO NOT DETACH THE FORM FROM THE MEMORANDUM

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 973
Committee Substitute Favorable 5/12/97

Short Title: On-Line Vehicle Registration Pilot. (Public)

Sponsors:

Referred to: APP

April 16, 1997

A BILL TO BE ENTITLED

AN ACT DIRECTING THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A PILOT PROGRAM THAT ALLOWS NEW MOTOR VEHICLE DEALERS TO ISSUE REGISTRATION PLATES AND TITLES FOR NEW MOTOR VEHICLES SOLD BY THEM.

The General Assembly of North Carolina enacts:

Section 1. Program Established. -- The Division of Motor Vehicles of the Department of Transportation shall implement a pilot program that allows new motor vehicle dealers to issue certificates of title, registration plates, or both for new motor vehicles sold by them. The program shall begin January 1, 1998, and continue until January 1, 1999, or a later date set by the Division.

Section 2. Selection of Dealers. -- The Division shall determine the requirements a new motor vehicle dealer must meet to participate in the program. The Division shall select dealers to participate in the program on the basis of these requirements and on the ability of the dealers selected to provide a thorough test of the program. In selecting automobile dealers to participate, the Division shall consider the recommendations of the North Carolina Automobile Dealers Association.

The Division shall determine the number of dealers to be included in the program and shall include as many as is feasible. The Division may implement the program in phases so that the number of participating dealers is increased as the

Division gains experience with the program and resolves any problems that arise with the program.

Section 3. Implementation. -- The Division shall implement the program by allowing the participating dealers to submit an application for a certificate of title, a vehicle registration, or both to the Division electronically and to receive authorization electronically to issue a title or registration plate. The electronic submission of an application may be made by the dealer directly to the Division or indirectly through a third-party vendor that submits the application directly to the Division.

Notwithstanding G.S. 20-63(h), the Division shall provide participating dealers with registration plates to issue under the program and may allow participating dealers to issue certificates of title under the program. A dealer may not issue a personalized or other special registration plate under the program.

The Division may enter into contracts to implement this program. If the Division implements the program by using a third-party vendor, any charges by the vendor for its services shall be billed to and paid by the participating dealers through per-transaction charges to the dealers or another method.

Section 4. Progress Report. -- The Division shall submit a written report to the Joint Legislative Transportation Oversight Committee by December 1, 1997, on its plan to implement the pilot program required by this act. The report shall describe the program and the Division's goals for the program.

Section 5. Final Report. -- The Division shall submit a written report to the Joint Legislative Transportation Oversight Committee by December 1, 1998. The report shall include an evaluation by the Division of the success or failure of the program and a recommendation on whether the program should end on January 1, 1999, or should continue beyond that date. The report shall include data on the number of dealers participating in the program, the number of vehicle titles and registration plates issued by month by participating dealers under the program, the effect of the program on the workload of the Division, and any effect the program has had on contract tag agents of the Division.

Section 6. There is appropriated from the Highway Fund to the Division of Motor Vehicles of the Department of Transportation the sum of twenty-five thousand dollars ($25,000) for the 1997-98 fiscal year and the same amount for the 1998-99 fiscal year to implement the pilot program authorized by this act.

Section 7. Section 6 of this act becomes effective July 1, 1997. The remaining sections of this act are effective when they become law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 1081
Committee Substitute Favorable 6/26/97

Short Title: Condemnation Awards. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND LAWS GOVERNING CONDEMNATION TO AUTHORIZE AWARD OF ATTORNEYS' FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-8 is amended by adding a new subsection to read:

"(d) In addition to the other costs allowed under this Chapter, in any action brought under Article 2 or Article 3 of this Chapter in which the judgment, including a consent judgment, awarded to the owner exceeds the amount of the commissioners' report under G.S. 40A-27 or the deposit under G.S. 40A-41 by at least seven hundred dollars ($700.00) and at least twenty percent (20%), the court with jurisdiction over the action may, after making appropriate findings of fact, award each owner of the condemned property a sum that, in the opinion of the court based upon its findings of fact, will reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorneys', appraisal, and engineering fees, in such amounts as the court shall in its discretion determine and allow."

Section 2. G.S. 136-119 reads as rewritten:

"**§ 136-119. Costs and appeal.**

(a) The Department of Transportation shall pay all court costs taxed by the court. Either party shall have a right of appeal to the Supreme Court for errors of law committed in any proceedings provided for in this Article in the same manner as in any other civil actions and it shall not be necessary that an appeal bond be posted.

The court having jurisdiction of the condemnation action instituted by the Department of Transportation to acquire real property by condemnation shall award

the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable cost, disbursements, and expenses, including reasonable attorney fees, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if (i) the final judgment is that the Department of Transportation cannot acquire real property by condemnation; or (ii) the proceeding is abandoned by the Department of Transportation.

The judge rendering a judgment for the plaintiff in a proceeding brought under G.S. 136-111 awarding compensation for the taking of property, shall determine and award or allow to such plaintiff, as a part of such judgment, such sum as will in the opinion of the judge reimburse such plaintiff for his reasonable cost, disbursements and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

(b) In addition to the other costs allowed under this Article, in any action brought under this Article in which the judgment, including a consent judgment, awarded to the owner exceeds the amount of the deposit under G.S. 136-103 by at least seven hundred dollars ($700.00) and at least twenty percent (20%), the court with jurisdiction over the action may, after making appropriate findings of fact, award each owner of the condemned property a sum that, in the opinion of the court based upon its findings of fact, will reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorneys', appraisal, and engineering fees, in such amounts as the court shall in its discretion determine and allow."

Section 3. This act becomes effective October 1, 1997, and applies to actions commenced on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 4

HOUSE BILL 1229
Committee Substitute Favorable 6/4/97
Committee Substitute #2 Favorable 6/25/97
Committee Substitute #3 Favorable 8/12/98

Short Title: Visible Light--Window Darkening. (Public)

Sponsors:

Referred to:

May 15, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PERSON WHO SUFFERS FROM A MEDICAL CONDITION THAT CAUSES THE PERSON TO BE PHOTOSENSITIVE TO VISIBLE LIGHT TO HAVE A DARKER VEHICLE WINDOW THAN IS ALLOWED UNDER THE WINDOW TINTING LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-127 reads as rewritten:

"**§ 20-127. Windows and windshield wipers.**

(a) Windshield Wipers. -- A vehicle that is operated on a highway and has a windshield ~~must~~ shall have a windshield wiper to clear rain or other substances from the windshield in front of the driver of the vehicle and the windshield wiper ~~must~~ shall be in good working order. If a vehicle has more than one windshield wiper to clear substances from the windshield, all the windshield wipers ~~must~~ shall be in good working order.

(b) Window Tinting Restrictions. -- A window of a vehicle that is operated on a highway or a public vehicular area ~~must~~ shall comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film, which does not obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle may be applied to the

windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

(1) The total light transmission of the tinted window ~~must~~ shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.

(2) The light reflectance of the tinted window ~~must~~ shall be twenty percent (20%) or less.

(3) Tinted film or another material used to tint the window ~~must~~ shall be nonreflective and ~~must~~ shall not be ~~a color other than~~ red, yellow, or amber.

(c) Tinting Exceptions. -- The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

(1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.

(2) A window of a for-hire passenger vehicle, as defined in G.S. 20-4.01(27)b.

(3) A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.

(4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.

(5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.

(6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).

(7) A window of a limousine.

(8) A window of a law enforcement vehicle.

(9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.

(10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.

(11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

(d) Violations. -- A person who does any of the following commits a misdemeanor of the class set in G.S. 20-176:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section.

(e) Defense. -- It is a defense to a charge of driving a vehicle with an unlawfully tinted window that the tinting was removed within 15 days after the charge and the window now meets the window tinting restrictions. To assert this defense, the person charged ~~must~~ shall produce in court, or submit to the prosecuting attorney before trial, a certificate from the Division of Motor Vehicles or the Highway Patrol showing that the window complies with the restrictions.

(f) Medical Exception. -- A person who suffers from a medical condition that causes the person to be photosensitive to visible light may obtain a medical exception permit. To obtain a permit, an applicant shall apply in writing to the Drivers Medical Evaluation Program, have his or her doctor complete the required medical evaluation form provided by the Division, and pay the application fee. The application fee is five dollars ($5.00). The permit shall be valid for five years from the date of issue, unless a shorter time is directed by the Drivers Medical Evaluation Program. The renewal shall require a medical recertification that the person continues to suffer from a medical condition requiring tinting.

A person may receive no more than two medical exception permits that are valid at any one time. A permit issued under this subsection shall specify the vehicle to which it applies, the windows that may be tinted and the permitted levels of tinting. The permit shall be carried in the vehicle to which it applies when the vehicle is driven on a highway. The Division shall give a person who receives a medical exception permit a sticker to place on the lower left hand corner of the rear window of the vehicle to which it applies."

Section 2. The Medical Review Branch of the Division of Motor Vehicles shall issue rules and create forms and permits necessary for this program. Until funds for this program are appropriated by the General Assembly, the Medical Review Branch shall manually issue all medical exception permits and shall manually maintain the records related specifically to these permits.

The Division of Motor Vehicles shall add the medical exemption described in Section 1 of this act to the STARS program, to allow the computerized issuance of medical exception permits and to allow computerized maintenance of the records related specifically to these permits when it is modifying that computer program for some other purpose.

The Division of Motor Vehicles shall report to the Joint Legislative Transportation Oversight Committee six months after the first medical exemption permit is issued on the number of permits issued and the projected additional costs, if any, of operating the program.

Section 3. This act becomes effective October 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 1304
Committee Substitute Favorable 6/17/98

Short Title: Restructure DOT Board. (Public)

Sponsors:

Referred to:

May 18, 1998

A BILL TO BE ENTITLED

AN ACT TO RESTRUCTURE THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Effective January 15, 2001, Part 2 of Article 8 of Chapter 143B of the General Statutes, as amended by Sections 2 and 3 of this act, reads as rewritten:

"Part 2. Board of ~~Transportation -- Secondary Roads Council.~~ Transportation.

"**§ 143B-350. Board of Transportation -- organization; powers and duties, etc.**

(a) There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The Board may, from time to time, provide that one or more of its members or representatives shall hear any person or persons concerning transportation.

~~(b) The Board of Transportation shall have two ex officio members. The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the chairman of the Board of Transportation. The chairman of the North Carolina Rail Council shall be an ex officio member of the Board of Transportation.~~

~~(c) The Board of Transportation shall have 20 members appointed by the Governor. One member shall be appointed from each of the 14 transportation engineering divisions and six members shall be appointed from the State at large. One at-large member shall be a registered voter of a political party other than the political party of the Governor. At least one at-large member shall possess a broad~~

~~knowledge of public transportation matters. No more than two members provided for in this subsection shall reside in the same engineering division while serving in office. The initial members shall serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1981, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.~~

~~(d) The Board of Transportation shall have four members appointed by the General Assembly. Two of these members shall be appointed upon the recommendation of the Speaker of the House of Representatives, and two shall be appointed upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.~~

(b) Composition of the Board. --

(1) Number; nomination; confirmation. -- The Board of Transportation shall have 19 members nominated by the Governor and subject to confirmation by a majority vote of each house of the General Assembly. If the nomination is made while the General Assembly is in regular session, the General Assembly must act upon the nomination within 30 legislative days following the nomination, or before adjournment of that session, whichever occurs first. If the nomination is made when the General Assembly is not in session, the General Assembly must act on the nomination within the first 30 legislative days of the next regular session, or before the adjournment of that session, whichever occurs first. If the General Assembly fails to act upon a nomination within the time periods provided by this subdivision, the Board nominee shall be deemed confirmed.

(2) Division members. -- One member shall be nominated from each of the 14 highway divisions. Each division member shall be a resident of the division he or she is nominated to represent. The Governor shall consider nominating division representatives who are residents of counties that have been historically underrepresented on the Board.

(3) At-large members; qualifications. -- Five members shall be nominated from the State at large. No more than one at-large member shall reside in a highway division. Each at-large member shall be nominated from a county that does not have a resident division board member. The at-large members shall possess the following qualifications:

a. One at-large member shall be a professional engineer;

b. One at-large member shall be a land-use planner;

c. One at-large member shall be a scientist familiar with environmental issues affecting water, air, and soil;

d. One at-large member shall have experience in and knowledge of public transportation, or a combination of experience in and knowledge of public transportation and passenger rail service; and

f. One at-large member shall be a certified public accountant with background in governmental accounting.

(4) Partisan representation. -- Six members of the Board shall be registered voters of a political party other than the political party of the Governor.

(c) Staggered Terms. -- The terms of all members serving on the Board prior to January 15, 2001, shall expire on that date. The terms of seven of the division members and three of the at-large members specified in this section shall initially be for four years beginning January 15, 2001, and for four years thereafter. The terms of the other seven division members and the other two at-large members specified in this section shall initially be for two years beginning January 15, 2001, and for four years thereafter.

(d) Holdover Term. -- Members shall continue to serve until their successors are nominated and confirmed.

(e) Limit on Terms. -- No member of the Board shall serve more than two terms, plus an interim term of two years or less, or any holdover term pending selection of a successor.

(e1) Vacancies. -- The Governor may fill a vacancy on the Board by appointing an interim member of the Board to complete the unexpired term of a member. If the interim appointment is made at a time when the General Assembly is not in regular session, the appointment must be confirmed by the General Assembly within 30 calendar days of the convening of the next regular session, or the term of the interim member shall expire on that date. If the interim appointment is made when the General Assembly is in regular session, the appointment must be confirmed prior to the adjournment of the regular session, or the term of the interim member shall expire upon adjournment.

(e2) Removal. -- The Governor may remove any member of the Board for any cause the Governor finds sufficient.

(e3) Organization and Meetings of the Board. -- Within 60 days after January 15, 2001, and thereafter within 60 days following the beginning of the regular term of the Governor, the Governor or his designee shall call the Board into session. The Board shall then select a chair and vice-chair from among its membership. The Board of Transportation shall meet once in each 60 days at such regular meeting times as the Board may by rule provide and at any place in the State as the Board may provide. The Board may hold special meetings at any time at the call of the chairman or any three members. The Board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The Board shall keep

minutes of its meetings, which shall at all times be open to public inspection. The majority of the Board shall constitute a quorum for the transaction of business. Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) The Board of Transportation shall have duties and powers:

(1) To formulate policies and priorities for all modes of transportation under the Department of Transportation;

(2) To advise the Secretary on matters to achieve the maximum public benefit in the performance of the functions assigned to the Department;

(3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of transportation taking into consideration the social, economic and environmental impacts of the various alternatives.

(4) To approve a schedule of all major transportation improvement projects and their anticipated cost for a period of seven years into the future. This schedule is designated the Transportation Improvement Program; it must be published and copies must be available for distribution. The document that contains the Transportation Improvement Program, or a separate document that is published at the same time as the Transportation Improvement Program, must include the anticipated funding sources for the improvement projects included in the Program, a list of any changes made from the previous year's Program, and the reasons for the changes;

(5) To consider and advise the Secretary of Transportation upon any other transportation matter that the Secretary may refer to it;

(6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the Department;

(7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available;

(8) To approve all highway construction programs;

(9) To approve all highway construction projects and construction plans for the construction of projects;

(10) To review all statewide maintenance functions;

(11) To award all highway construction contracts;

(12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain;

(13) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction and control of the Board and shall serve at the pleasure of the Board.

(15) To hire as Secretary of Transportation a person with excellent management and leadership skills and knowledge of and experience in the transportation field. The Board shall retain the Secretary, subject to a renewable employment contract for a period of four years or until the next general election for Governor, whichever occurs first. The Board may employ an interim Secretary for a period of up to six months during the pendency of its search for a permanent Secretary.

(f1) The ability of a municipality to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

(g) The Board of Transportation may, in its discretion, delegate to the Secretary of Transportation the authority:

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers.

(h) Each member of the Board of Transportation who is appointed to represent a transportation engineering division or who resides in a division shall be consulted before the Board makes a decision affecting that division.

(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year.

(j) Limitations on Political Contributions; Disclosure. --

(1) Board members. -- No person shall be eligible for appointment to the Board of Transportation if the nominee, or any of the nominee's immediate family members, made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the appointing Governor in the two years preceding the date of nomination. Any person nominated for a seat on the Board of Transportation shall publicly disclose in writing under

oath all real estate holdings and any transportation related business interests prior to confirmation and appointment to the Board. Disclosure forms shall be filed with the Board of Ethics. Board nominees and members of the Board of Transportation are prohibited from making any contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the General Assembly, during the pendency of their nomination and during the time they serve on the Board.

(2) Secretary of Transportation. -- No person shall be eligible for employment as Secretary of Transportation if the person or an immediate family member of the person made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor in the two years preceding the person's employment as Secretary. The Secretary of Transportation shall publicly disclose in writing under oath all real estate holdings and any transportation related business interests prior to beginning his or her employment as Secretary. Disclosure forms shall be filed with the Board of Ethics. The Secretary of Transportation is prohibited from making a political contribution exceeding five hundred dollars ($500.00) per year to the political campaigns of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the General Assembly while serving as Secretary."

Section 2. G.S. 143B-350(f) is amended by adding a new subdivision to read:

"(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board."

Section 3. G.S. 143B-350 is amended by adding a new subsection to read:

"(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year."

Section 4. G.S. 143B-9 reads as rewritten:

"**§ 143B-9. Appointment of officers and employees.**

The head of each principal State department, except those departments headed by popularly elected officers, and except the Secretary of Transportation, as provided in G.S. 143B-350, shall be appointed by the Governor and serve at his pleasure.

The salary of the head of each of the principal State departments and of elected officials shall be as provided by law.

The head of a principal State department shall appoint a chief deputy or chief assistant, and such chief deputy or chief assistant shall not be subject to the State Personnel Act. The salary of such chief deputy or chief assistant shall, upon the recommendation of the Governor, be set by the General Assembly. Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the provisions of the Personnel Act, the head of each principal State department shall designate the administrative head of each transferred agency and all employees of each division, section, or other unit of the principal State department."

Section 5. G.S. 136-13 reads as rewritten:

"**§ 136-13. Malfeasance of officers and employees of Department of Transportation, members of Board of Transportation, contractors, and others.**

(a) It is unlawful for any person, firm, or corporation to directly or indirectly corruptly give, offer, or promise anything of value to any officer or employee of the Department of Transportation or member of the Board of Transportation, or to promise any officer or employee of the Department of Transportation or any member of the Board of Transportation to give anything of value to any other person with intent:

(1) To influence any official act of any officer or employee of the Department of Transportation or member of the Board of Transportation;

(2) To influence such member of the Board of Transportation, or any officer or employee of the Department of Transportation to commit or aid in committing, or collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) To induce a member of the Board of Transportation, or any officer or employee of the Department of Transportation to do or omit to do any act in violation of his lawful duty.

(b) It shall be unlawful for any member of the Board of Transportation, or any officer or employee of the Department of Transportation, directly or indirectly, to corruptly ask, demand, exact, solicit, accept, receive, or agree to receive anything of value for himself or any other person or entity in return for:

(1) Being influenced in his performance of any official act;

(2) Being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) Being induced to do or omit to do any act in violation of his official duty.

(b1) If a member of the Board of Transportation would benefit from a proposed project of the Department of Transportation, and such benefit is greater than that which would be realized by other persons living in the area where the project is located, then not only shall that member abstain from voting on that issue, but once the conflict of interest is apparent, the member shall not discuss the project with any other Board member or other officer or employee of the Department except to state that a conflict of interest exists. This subsection also applies where the benefit is to be realized by an immediate family member or a business in which the member is a partner, officer, or director or owns more than ten percent (10%) of any class of stock.

(c) The violation of any of the provisions of this section shall be cause for forfeiture of public office and shall be a Class H felony which may include a fine of not more than twenty thousand dollars ($20,000) or three times the monetary equivalent of the thing of value whichever is greater."

Section 6. There is appropriated from the Highway Fund to the Department of Transportation the sum of five hundred thousand dollars ($500,000) for fiscal year 1998-99 for use by the Board of Transportation to hire five staff members to assist the Board in carrying out its statutory duties. The Board shall hire a staff director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this section shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board.

Section 7. Sections 1 and 4 of this act become effective January 15, 2001. Sections 2, 3, 6, and 7 become effective July 1, 1998. Section 5 becomes effective December 1, 1998, and applies to offenses occurring on or after that date.

MEMORANDUM

TO: Rep. Verla Insko

FROM: Rep. Bowie, Dockham, McMahan

DATE: August 20, 1998

SUBJECT: HB 1709 - DOT REQUIRED TO COMPOST

House Rule 36 speaks to reporting bills out of standing committees or permanent subcommittees by the last adjournment of the 1997-98 legislative session. -- "All House bills and resolutions **shall be reported from** the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair of the standing committee or permanent subcommittee that the bill not be considered.**" If it is your intent that the bill listed above not be considered by committee this legislative session, please **sign** and **date** the form and **return** it to the Committee Clerk, **Sharon Gaudette**, for the Committee on **APPROPRIATIONS/Subcommittee On Transportation** in **Room 1206** by **August 28, 1998.**

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Mr. Chairman:

I request that the above-mentioned House Bill # 1709, DOT REQUIRED TO COMPOST, for which I am the principal introducer, not be considered by your committee for the 1997-98 legislative session.

Verla Insko (Sign)
Representative

8-18-98 (Date)

PLEASE DO NOT DETACH THE FORM FROM THE MEMORANDUM

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1709

Short Title: DOT Required to Compost. (Public)

Sponsors: Representatives Insko and Hackney.

Referred to: Appropriations.

June 1, 1998

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO RECYCLE YARD TRASH AND OTHER ORGANIC SOLID WASTE IN HIGHWAY CONSTRUCTION AND MAINTENANCE PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-309.14(f) is amended by adding a new subdivision to read:

"(3) The Department of Transportation shall, in highway construction and maintenance projects, recycle yard trash and other organic solid waste into compost available for agricultural and other acceptable uses. The Department of Transportation may satisfy this subdivision by source separating the yard trash and other organic solid waste and transporting it to a solid waste area that provides and maintains separate yard trash composting facilities."

Section 2. There is appropriated from the General Fund to the Department of Transportation the sum of one hundred thousand dollars ($100,000) for the 1998-99 fiscal year for the costs of implementing this act.

Section 3. This act becomes effective July 1, 1998, and applies to contracts entered into on or after that date by the Department of Transportation for the construction and maintenance of highways.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **HOUSE APPROPRIATIONS Subcommittee on Transportation** will meet as follows:

DAY & DATE: **Wednesday, June 24, 1998**

TIME: **9:00 AM**

LOCATION: **Rm 1228/1337**

To Discuss: **House Bill 1304 - RESTRUCTURE DOT BOARD**

Respectfully,

Representatives Bowie, Dockham, McMahan
Co-Chairs

I hereby certify this notice was filed by Sharon Gaudette, Committee Clerk, at the following offices at 11:00 am on June 22, 1998.

___Principal Clerk
___Reading Clerk - House Chamber

Sharon Gaudette
Sharon Cram (Committee Clerks)

REFERRAL FORM

NORTH CAROLINA HOUSE OF REPRESENTATIVES
ASSIGNMENT OF BILLS TO SUBCOMMITTEE

COMMITTEE: **APPROPRIATIONS**

CHAIRMAN: **Representative Holmes**

DATE: **June 18, 1998**

Bill Number (Indicate **H** or **S**): HCS 1304

Short Title: Restructure DOT Board

Assigned to Subcommittee on: **Transportation**

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:

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Re-Assigned to Subcommittee on:

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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:

AGENDA

House Appropriations Subcommittee
on
Transportation

June 24, 1998
Room 1228
9:00 A.M.

Chair: Representative Ed McMahan

House Bill 1304, Restructure DOT Board - Representative Joni Bowie

MINUTES

HOUSE APPROPRIATIONS
Subcommittee on Transportation

June 24, 1998
9:00 am

The HOUSE APPROPRIATIONS Subcommittee on Transportation met in Room 1228/1327 of the Legislative Building on Wednesday, June 24, 1998, at 9:00 am. **Representative Ed McMahan presided.** Visitor's Sheet attached.

Members present: Representatives Bowie, McMahan, Dockham, Barbee, Blue, Gulley and Saunders, Hiatt, Hardaway and Sutton.

Representative McMahan opened the meeting welcoming committee members and introducing the House pages.

Representative Joni Bowie, sponsor of ***House Bill 1304, AN ACT TO RESTRUCTURE THE BOARD OF TRANSPORTATION*** gave a brief summary of the content of the bill to the Committee *(see attachment I and attachment II).*

Discussion took place. **Representative Saunders** expressed his concern regarding limitations on political contributions *(see attachment I. pg. 5).* He is concerned that candidates would not be eligible for appointment to the Board if they or any of they immediate family members have contributed five hundred dollars or more per year to the political campaign of the appointing Governor in the two years preceding the date of the nomination. Representative Saunders felt this could eliminate good people with leadership skills, knowledge and experience in the transportation area.

Representative Gulley voiced his objection that nominations to the Board of Transportation are made only by the Governor.

Representative Blue expressed his concern in regard to the role of the Secretary of Transportation. He noted that the Governor is ultimately responsible for the Board of Transportation and, therefore, the Secretary should report to him. Representative Blue

had concern that if the Board appoints the Secretary and the Board has a staff of its own a natural conflict would occur between the Staff, the Secretary and the Governor. The Secretary would be partially responsible to the Board, as they elect him, and partially responsible to the Governor, as he would serve on the Governor's cabinet. Representative Blue indicated he feels that creating this type of structure would promote a conflict having no resolution. Discussion took place.

Representative Sutton asked for clarification on the following sections of the bill: (see *attachment I).*

- Pg. 3, line 10 - "Six members of the Board shall be registered voters of a political party other than the political party of the Governor." Why limit the number?
- Pg. 3, line 2 - "One at large member shall be a scientist." This issue needs to be clarified.
- Pg. 3, line 22 - "No member should serve more than two terms." What is the intent?
- Pg. 8, line 9 & 10 - "benefit realized by an immediate family member or business in which the member is a partner, officer, or director or owns more than ten percent of any class of stock."

Committee discussion took place.

Meeting adjourned at 9:55 am.

Respectfully submitted:

Representative Ed McMahan
Presiding, Co-Chair

Sharon A. Gaudette
Committee Clerk

Representative Joanne Bowie, Co-Chair
Representative Jerry Dockham, Co-Chair

VISITOR REGISTRATION SHEET

HOUSE APPRO/SUBCOMMITTEE ON TRANSPORTATION - JUNE 24, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Milton Aefsal	OSBM
Katie Adams	CCNC
Joseph Hedgepeth	Office of the Gov.
Danny Rogers	NCDOT
Jim Brown	State Ports
Leigh Gibbs	State Auditor's Office
Kristin Mitchell	NJ Regional Papers
Ruth Sappre	NCDOT
Nancy Lord	City of Durham
Bill Wright	Town of Pleasant Garden
Carlos Johnson	Town of Pleasant Garden
Kim Smith	NCLM
FRED TAYLOR	WRAL-TV
Julie M Page	Town of Wilkesboro
Mike Isaacson	" " "
DENNIS PATTERSON	AP

H

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 1304
Committee Substitute Favorable 6/17/98

Short Title: Restructure DOT Board. (Public)

Sponsors:

Referred to:

May 18, 1998

A BILL TO BE ENTITLED

AN ACT TO RESTRUCTURE THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Effective January 15, 2001, Part 2 of Article 8 of Chapter 143B of the General Statutes, as amended by Sections 2 and 3 of this act, reads as rewritten:

"Part 2. Board of ~~Transportation -- Secondary Roads Council.~~ Transportation.

"§ 143B-350. Board of Transportation -- organization; powers and duties, etc.

(a) There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The Board may, from time to time, provide that one or more of its members or representatives shall hear any person or persons concerning transportation.

~~(b) The Board of Transportation shall have two ex officio members. The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the chairman of the Board of Transportation. The chairman of the North Carolina Rail Council shall be an ex officio member of the Board of Transportation.~~

~~(c) The Board of Transportation shall have 20 members appointed by the Governor. One member shall be appointed from each of the 14 transportation engineering divisions and six members shall be appointed from the State at large. One at-large member shall be a registered voter of a political party other than the political party of the Governor. At least one at-large member shall possess a broad~~

~~knowledge of public transportation matters. No more than two members provided for in this subsection shall reside in the same engineering division while serving in office. The initial members shall serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1981, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.~~

~~(d) The Board of Transportation shall have four members appointed by the General Assembly. Two of these members shall be appointed upon the recommendation of the Speaker of the House of Representatives, and two shall be appointed upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.~~

(b) Composition of the Board. --

(1) Number; nomination; confirmation. -- The Board of Transportation shall have 19 members nominated by the Governor and subject to confirmation by a majority vote of each house of the General Assembly. If the nomination is made while the General Assembly is in regular session, the General Assembly must act upon the nomination within 30 legislative days following the nomination, or before adjournment of that session, whichever occurs first. If the nomination is made when the General Assembly is not in session, the General Assembly must act on the nomination within the first 30 legislative days of the next regular session, or before the adjournment of that session, whichever occurs first. If the General Assembly fails to act upon a nomination within the time periods provided by this subdivision, the Board nominee shall be deemed confirmed.

(2) Division members. -- One member shall be nominated from each of the 14 highway divisions. Each division member shall be a resident of the division he or she is nominated to represent. The Governor shall consider nominating division representatives who are residents of counties that have been historically underrepresented on the Board.

(3) At-large members; qualifications. -- Five members shall be nominated from the State at large. No more than one at-large member shall reside in a highway division. Each at-large member shall be nominated from a county that does not have a resident division board member. The at-large members shall possess the following qualifications:

a. One at-large member shall be a professional engineer;

b. One at-large member shall be a land-use planner;
c. One at-large member shall be a scientist familiar with environmental issues affecting water, air, and soil;
d. One at-large member shall have experience in and knowledge of public transportation, or a combination of experience in and knowledge of public transportation and passenger rail service; and
f. One at-large member shall be a certified public accountant with background in governmental accounting.

(4) Partisan representation. -- Six members of the Board shall be registered voters of a political party other than the political party of the Governor.

(c) Staggered Terms. -- The terms of all members serving on the Board prior to January 15, 2001, shall expire on that date. The terms of seven of the division members and three of the at-large members specified in this section shall initially be for four years beginning January 15, 2001, and for four years thereafter. The terms of the other seven division members and the other two at-large members specified in this section shall initially be for two years beginning January 15, 2001, and for four years thereafter.

(d) Holdover Term. -- Members shall continue to serve until their successors are nominated and confirmed.

(e) Limit on Terms. -- No member of the Board shall serve more than two terms, plus an interim term of two years or less, or any holdover term pending selection of a successor.

(e1) Vacancies. -- The Governor may fill a vacancy on the Board by appointing an interim member of the Board to complete the unexpired term of a member. If the interim appointment is made at a time when the General Assembly is not in regular session, the appointment must be confirmed by the General Assembly within 30 calendar days of the convening of the next regular session, or the term of the interim member shall expire on that date. If the interim appointment is made when the General Assembly is in regular session, the appointment must be confirmed prior to the adjournment of the regular session, or the term of the interim member shall expire upon adjournment.

(e2) Removal. -- The Governor may remove any member of the Board for any cause the Governor finds sufficient.

(e3) Organization and Meetings of the Board. -- Within 60 days after January 15, 2001, and thereafter within 60 days following the beginning of the regular term of the Governor, the Governor or his designee shall call the Board into session. The Board shall then select a chair and vice-chair from among its membership. The Board of Transportation shall meet once in each 60 days at such regular meeting times as the Board may by rule provide and at any place in the State as the Board may provide. The Board may hold special meetings at any time at the call of the chairman or any three members. The Board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The Board shall keep

minutes of its meetings, which shall at all times be open to public inspection. The majority of the Board shall constitute a quorum for the transaction of business. Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) The Board of Transportation shall have duties and powers:

(1) To formulate policies and priorities for all modes of transportation under the Department of Transportation;

(2) To advise the Secretary on matters to achieve the maximum public benefit in the performance of the functions assigned to the Department;

(3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of transportation taking into consideration the social, economic and environmental impacts of the various alternatives.

(4) To approve a schedule of all major transportation improvement projects and their anticipated cost for a period of seven years into the future. This schedule is designated the Transportation Improvement Program; it must be published and copies must be available for distribution. The document that contains the Transportation Improvement Program, or a separate document that is published at the same time as the Transportation Improvement Program, must include the anticipated funding sources for the improvement projects included in the Program, a list of any changes made from the previous year's Program, and the reasons for the changes;

(5) To consider and advise the Secretary of Transportation upon any other transportation matter that the Secretary may refer to it;

(6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the Department;

(7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available;

(8) To approve all highway construction programs;

(9) To approve all highway construction projects and construction plans for the construction of projects;

(10) To review all statewide maintenance functions;

(11) To award all highway construction contracts;

(12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain;

(13) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction and control of the Board and shall serve at the pleasure of the Board.

(15) To hire as Secretary of Transportation a person with excellent management and leadership skills and knowledge of and experience in the transportation field. The Board shall retain the Secretary, subject to a renewable employment contract for a period of four years or until the next general election for Governor, whichever occurs first. The Board may employ an interim Secretary for a period of up to six months during the pendency of its search for a permanent Secretary.

(f1) The ability of a municipality to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

(g) The Board of Transportation may, in its discretion, delegate to the Secretary of Transportation the authority:

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers.

(h) Each member of the Board of Transportation who is appointed to represent a transportation engineering division or who resides in a division shall be consulted before the Board makes a decision affecting that division.

(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year.

(j) Limitations on Political Contributions; Disclosure. --

(1) Board members. -- No person shall be eligible for appointment to the Board of Transportation if the nominee, or any of the nominee's immediate family members, made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the appointing Governor in the two years preceding the date of nomination. Any person nominated for a seat on the Board of Transportation shall publicly disclose in writing under

oath all real estate holdings and any transportation related business interests prior to confirmation and appointment to the Board. Disclosure forms shall be filed with the Board of Ethics. Board nominees and members of the Board of Transportation are prohibited from making any contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the General Assembly, during the pendency of their nomination and during the time they serve on the Board.

(2) Secretary of Transportation. -- No person shall be eligible for employment as Secretary of Transportation if the person or an immediate family member of the person made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor in the two years preceding the person's employment as Secretary. The Secretary of Transportation shall publicly disclose in writing under oath all real estate holdings and any transportation related business interests prior to beginning his or her employment as Secretary. Disclosure forms shall be filed with the Board of Ethics. The Secretary of Transportation is prohibited from making a political contribution exceeding five hundred dollars ($500.00) per year to the political campaigns of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the General Assembly while serving as Secretary."

Section 2. G.S. 143B-350(f) is amended by adding a new subdivision to read:

"(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board."

Section 3. G.S. 143B-350 is amended by adding a new subsection to read:

"(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year."

Section 4. G.S. 143B-9 reads as rewritten:

"**§ 143B-9. Appointment of officers and employees.**

The head of each principal State department, except those departments headed by popularly elected officers, and except the Secretary of Transportation, as provided in G.S. 143B-350, shall be appointed by the Governor and serve at his pleasure.

The salary of the head of each of the principal State departments and of elected officials shall be as provided by law.

The head of a principal State department shall appoint a chief deputy or chief assistant, and such chief deputy or chief assistant shall not be subject to the State Personnel Act. The salary of such chief deputy or chief assistant shall, upon the recommendation of the Governor, be set by the General Assembly. Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the provisions of the Personnel Act, the head of each principal State department shall designate the administrative head of each transferred agency and all employees of each division, section, or other unit of the principal State department."

Section 5. G.S. 136-13 reads as rewritten:

"**§ 136-13. Malfeasance of officers and employees of Department of Transportation, members of Board of Transportation, contractors, and others.**

(a) It is unlawful for any person, firm, or corporation to directly or indirectly corruptly give, offer, or promise anything of value to any officer or employee of the Department of Transportation or member of the Board of Transportation, or to promise any officer or employee of the Department of Transportation or any member of the Board of Transportation to give anything of value to any other person with intent:

(1) To influence any official act of any officer or employee of the Department of Transportation or member of the Board of Transportation;

(2) To influence such member of the Board of Transportation, or any officer or employee of the Department of Transportation to commit or aid in committing, or collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) To induce a member of the Board of Transportation, or any officer or employee of the Department of Transportation to do or omit to do any act in violation of his lawful duty.

(b) It shall be unlawful for any member of the Board of Transportation, or any officer or employee of the Department of Transportation, directly or indirectly, to corruptly ask, demand, exact, solicit, accept, receive, or agree to receive anything of value for himself or any other person or entity in return for:

(1) Being influenced in his performance of any official act;

(2) Being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) Being induced to do or omit to do any act in violation of his official duty.

(b1) If a member of the Board of Transportation would benefit from a proposed project of the Department of Transportation, and such benefit is greater than that which would be realized by other persons living in the area where the project is located, then not only shall that member abstain from voting on that issue, but once the conflict of interest is apparent, the member shall not discuss the project with any other Board member or other officer or employee of the Department except to state that a conflict of interest exists. This subsection also applies where the benefit is to be realized by an immediate family member or a business in which the member is a partner, officer, or director or owns more than ten percent (10%) of any class of stock.

(c) The violation of any of the provisions of this section shall be cause for forfeiture of public office and shall be a Class H felony which may include a fine of not more than twenty thousand dollars ($20,000) or three times the monetary equivalent of the thing of value whichever is greater."

Section 6. There is appropriated from the Highway Fund to the Department of Transportation the sum of five hundred thousand dollars ($500,000) for fiscal year 1998-99 for use by the Board of Transportation to hire five staff members to assist the Board in carrying out its statutory duties. The Board shall hire a staff director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this section shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board.

Section 7. Sections 1 and 4 of this act become effective January 15, 2001. Sections 2, 3, 6, and 7 become effective July 1, 1998. Section 5 becomes effective December 1, 1998, and applies to offenses occurring on or after that date.

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June 24, 1998

To: Members of the House Transportation Committee

From: Giles S. Perry, Staff Attorney

Re: Summary of House Bill 1304 Restructure DOT Board
House Transportation Committee Substitute Favorable 6/17/98
Original bill introduced by Rep. Bowie and others

House Bill 1304 (House Transportation Committee Substitute Favorable 6/17/98) makes the following changes to the Board of Transportation:

1. Reduces Size of Board from 26 to 19 members.

2. Provides that all Board members will be nominated by the Governor, and confirmed by the General Assembly within 30 legislative days after nomination received.

3. Retains Fourteen Divisions members.

4. Provides for five at-large members with specific qualification, with no more that one at-large members in the same highway Division:
   - Professional engineer
   - Land-use planner
   - Scientist familiar with environmental issues
   - Public transit or public transit and passenger rail expert
   - CPA with Governmental accounting expertise

5. Provide for partisan balance--six of the 19 members of the Board would have to be of a party other than the Governor's.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

6. Provides staggered terms for Board members, with two term limit:
   All current Board members' terms would end January 15, 2001.
   New Board would be appointed beginning on that date.
   Seven Division members, and three at-large members would be appointed for four year terms Jan 2001-Jan 2005, then four years thereafter.
   Seven Division members and two a-large members would be appointed for two year initial terms Jan 2001-Jan 2003, then four years thereafter.

7. Provides that no person is eligible for appointment to the Board if the person or a member of his or her immediate family gave over $500 per year to the Governor's campaign in the two years prior to nomination.
   Also, the bill provides that contributions to the Governor or the General Assembly would be limited to $500 per year during the pendency of a nomination, or while a person served on the Board.

8. Provides that any person nominated to the Board must disclose under oath all real estate holdings and all transportation related business interests.

9. Provides same restrictions as in #7 and #8 for the person hired as Secretary: Restriction on contributions, and disclosure of real estate and transportation related business interests.

10. Requires the Board to hire a the Secretary, subject to a renewable employment contract of up to four years:

11. Provides that the Board shall adopt a comprehensive ethics policy, with regular ethics training:

12. Makes benefiting from a conflict of interest a felony.

13. Provides $500,000 for five member staff of the Board, hired by and answerable to the Board only.

14. Provides the following effective dates:
   January 15, 2001
      Changes to Board structure
      Prohibition on contributions greater than $500 per year to the Governor in prior two years if person is to be considered for the Board
   July 1, 1998
      Authority for Board to hire staff
      Appropriation for staff
      Requirement for ethics policy, training
   December 1, 1998
      Benefiting from conflict of interest becomes felony, for act committed on or after that date

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **HOUSE APPROPRIATIONS Subcommittee on Transportation** will meet as follows:

DAY & DATE: **Tuesday, June 30, 1998**

TIME: **9:00 AM**

LOCATION: **Rm 1228/1337**

To Discuss: **House Bill 1304 - RESTRUCTURE DOT BOARD**

Respectfully,

Representatives Bowie, Dockham, McMahan
Co-Chairs

I hereby certify this notice was filed by Sharon Gaudette, Committee Clerk, at the following offices at 1 p.m. on June 25, 1998.

___Principal Clerk
___Reading Clerk - House Chamber

Sharon Gaudette
Sharon Cram (Committee Clerks)

AGENDA

House Appropriations Subcommittee
On
Transportation

June 30, 1998
Room 1228
9:00 A.M.

Chair: Representative Ed McMahan

House Bill 1304: RESTRUCTURE DOT BOARD
Sponsor: Representative Joni Bowie

MINUTES

HOUSE APPROPRIATIONS
Subcommittee on Transportation

June 30, 1998
9:00 am

The HOUSE APPROPRIATIONS Subcommittee on Transportation met in Room 1228/1327 of the Legislative Building on Tuesday, June 30, 1998, at 9:00 am. **Representative Ed McMahan presided.** Visitor's Sheet attached.

Members present: Representatives Bowie, Dockham, McMahan, Barbee, Blue, Hiatt, Gulley, Saunders, and Sutton.

Representative Joanne Bowie continued reviewing *House Bill 1304, Restructure of the Board Of Transportation (see attachment I).* Amendments to House Bill 1304 were distributed to the Committee Members for review *(see attachment II. pgs. 1-6).*

Giles Perry, Staff Attorney, was on hand to present the amendments:

Amendment # 1 - requested by Representative Saunders. To clarify the $500 per year contribution restriction to any candidates for Governor, not only the appointing Governor but any candidate for Governor in the two years preceding the nomination *(see attachment II. Pg. 1).*

Motion by Representative McMahan for adoption of Amendment # 1. Motion Passed.

- **Amendment #2** - requested by Representative Blue. Provides that the Governor will appoint the Secretary. The appointed Secretary must meet requirements and qualifications as stated; a person with excellent management and leadership skills, and knowledge of and experience in the transportation field *(see attachment II. pg. 2).* Discussion took place.

Motion by Representative McMahan for adoption of Amendment # 2. Motion Passed.

- **Amendment #3** - requested by Representative Blue. Allows up to two Board members from a county *(see attachment II. pg. 3).*

Motion by Representative Dockham to adopt amendment #3. Motion Passed.

- **Amendment #4** - requested by Representative Sutton. To clarify that the Governor may appoint six or more board members of a political party other than the Governor's *(see attachment II. pg. 4).*

Motion by Representative Sutton for adoption of amendment #4. Motion Passed.

- **Amendment #5** - requested by Representative Sutton. The two term limit would apply only to consecutive terms, allowing a candidate to serve two terms and be eligible to serve again in the future *(see attachment II. pg. 5).*

Motion by Representative McMahan for adoption of amendment #5. Motion Passed.

- **Amendment #6** - requested by Representative Sutton. To clarify that conflict of interest restrictions would apply to benefits realized by businesses in which Board members own stock or have a greater than 10% interest *(see attachment II. pg. 6).*

Motion by Representative McMahan for adoption of amendment #6. Motion Passed.

Discussion took place.

Representative Sutton expressed that he thought House Bill 1304 was a "good bill" however, he feels very strongly that you cannot stop political contributions, people will find loopholes and will continue to make contributions.

Representative Bowie stated she realizes that House Bill 1304 is not a perfect bill, but is a start towards working to address some of the concerns that shadow the Board of Transportation.

Representative Bowie expressed her thanks to Committee members and Staff members for their work and support in drafting this bill.

Representative Hiatt voiced his concern that limiting contributions could keep qualified people off the Board.

Representative Bowie motioned that House Bill 1304 move forward with a favorable report as to the committee substitute, unfavorable to the original bill. Passed.

Meeting adjourned at 10 am.

Respectfully submitted:

Representative Ed McMahan
Presiding Co-Chair

Sharon A. Gaudette
Committee Clerk

Representative Joanne Bowie, Co-Chair
Representative Jerry Dockham, Co-Chair

VISITOR REGISTRATION SHEET

HOUSE APPRO/SUBCOMMITTEE ON TRANSPORTATION - JUNE 30, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ruth Sappie	DOT
Jim Brown	State Ports
Suzanne Gulley	Rep. Jim Gulley
BERRY JENKINS	CAROLINAS AGC
Molly Diggins	NC Sierra
Milton Apple	OSBM
Kristi Mitchell	Nythony
Heather Card	OSA
LeAnn Coffin	OSA
Jack Mills	Scenic NC
Jane B. Gray	DOJ
Roslyn Sawyer	Lobbyist
John Long	Martin Marietta

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 1304
Committee Substitute Favorable 6/17/98

Short Title: Restructure DOT Board. (Public)

Sponsors:

Referred to:

May 18, 1998

A BILL TO BE ENTITLED

AN ACT TO RESTRUCTURE THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Effective January 15, 2001, Part 2 of Article 8 of Chapter 143B of the General Statutes, as amended by Sections 2 and 3 of this act, reads as rewritten:

"Part 2. Board of ~~Transportation -- Secondary Roads Council.~~ Transportation.

"**§ 143B-350. Board of Transportation -- organization; powers and duties, etc.**

(a) There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The Board may, from time to time, provide that one or more of its members or representatives shall hear any person or persons concerning transportation.

~~(b) The Board of Transportation shall have two ex officio members. The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the chairman of the Board of Transportation. The chairman of the North Carolina Rail Council shall be an ex officio member of the Board of Transportation.~~

~~(c) The Board of Transportation shall have 20 members appointed by the Governor. One member shall be appointed from each of the 14 transportation engineering divisions and six members shall be appointed from the State at large. One at-large member shall be a registered voter of a political party other than the political party of the Governor. At least one at-large member shall possess a broad~~

~~knowledge of public transportation matters. No more than two members provided for in this subsection shall reside in the same engineering division while serving in office. The initial members shall serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1981, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.~~

~~(d) The Board of Transportation shall have four members appointed by the General Assembly. Two of these members shall be appointed upon the recommendation of the Speaker of the House of Representatives, and two shall be appointed upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.~~

(b) Composition of the Board. --

(1) Number; nomination; confirmation. -- The Board of Transportation shall have 19 members nominated by the Governor and subject to confirmation by a majority vote of each house of the General Assembly. If the nomination is made while the General Assembly is in regular session, the General Assembly must act upon the nomination within 30 legislative days following the nomination, or before adjournment of that session, whichever occurs first. If the nomination is made when the General Assembly is not in session, the General Assembly must act on the nomination within the first 30 legislative days of the next regular session, or before the adjournment of that session, whichever occurs first. If the General Assembly fails to act upon a nomination within the time periods provided by this subdivision, the Board nominee shall be deemed confirmed.

(2) Division members. -- One member shall be nominated from each of the 14 highway divisions. Each division member shall be a resident of the division he or she is nominated to represent. The Governor shall consider nominating division representatives who are residents of counties that have been historically underrepresented on the Board.

(3) At-large members; qualifications. -- Five members shall be nominated from the State at large. No more than one at-large member shall reside in a highway division. Each at-large member shall be nominated from a county that does not have a resident division board member. The at-large members shall possess the following qualifications:

a. One at-large member shall be a professional engineer;

b. One at-large member shall be a land-use planner;
c. One at-large member shall be a scientist familiar with environmental issues affecting water, air, and soil;
d. One at-large member shall have experience in and knowledge of public transportation, or a combination of experience in and knowledge of public transportation and passenger rail service; and
f. One at-large member shall be a certified public accountant with background in governmental accounting.

(4) Partisan representation. -- Six members of the Board shall be registered voters of a political party other than the political party of the Governor.

(c) Staggered Terms. -- The terms of all members serving on the Board prior to January 15, 2001, shall expire on that date. The terms of seven of the division members and three of the at-large members specified in this section shall initially be for four years beginning January 15, 2001, and for four years thereafter. The terms of the other seven division members and the other two at-large members specified in this section shall initially be for two years beginning January 15, 2001, and for four years thereafter.

(d) Holdover Term. -- Members shall continue to serve until their successors are nominated and confirmed.

(e) Limit on Terms. -- No member of the Board shall serve more than two terms, plus an interim term of two years or less, or any holdover term pending selection of a successor.

(e1) Vacancies. -- The Governor may fill a vacancy on the Board by appointing an interim member of the Board to complete the unexpired term of a member. If the interim appointment is made at a time when the General Assembly is not in regular session, the appointment must be confirmed by the General Assembly within 30 calendar days of the convening of the next regular session, or the term of the interim member shall expire on that date. If the interim appointment is made when the General Assembly is in regular session, the appointment must be confirmed prior to the adjournment of the regular session, or the term of the interim member shall expire upon adjournment.

(e2) Removal. -- The Governor may remove any member of the Board for any cause the Governor finds sufficient.

(e3) Organization and Meetings of the Board. -- Within 60 days after January 15, 2001, and thereafter within 60 days following the beginning of the regular term of the Governor, the Governor or his designee shall call the Board into session. The Board shall then select a chair and vice-chair from among its membership. The Board of Transportation shall meet once in each 60 days at such regular meeting times as the Board may by rule provide and at any place in the State as the Board may provide. The Board may hold special meetings at any time at the call of the chairman or any three members. The Board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The Board shall keep

minutes of its meetings, which shall at all times be open to public inspection. The majority of the Board shall constitute a quorum for the transaction of business. Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) The Board of Transportation shall have duties and powers:

(1) To formulate policies and priorities for all modes of transportation under the Department of Transportation;

(2) To advise the Secretary on matters to achieve the maximum public benefit in the performance of the functions assigned to the Department;

(3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of transportation taking into consideration the social, economic and environmental impacts of the various alternatives.

(4) To approve a schedule of all major transportation improvement projects and their anticipated cost for a period of seven years into the future. This schedule is designated the Transportation Improvement Program; it must be published and copies must be available for distribution. The document that contains the Transportation Improvement Program, or a separate document that is published at the same time as the Transportation Improvement Program, must include the anticipated funding sources for the improvement projects included in the Program, a list of any changes made from the previous year's Program, and the reasons for the changes;

(5) To consider and advise the Secretary of Transportation upon any other transportation matter that the Secretary may refer to it;

(6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the Department;

(7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available;

(8) To approve all highway construction programs;

(9) To approve all highway construction projects and construction plans for the construction of projects;

(10) To review all statewide maintenance functions;

(11) To award all highway construction contracts;

(12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain;

(13) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction and control of the Board and shall serve at the pleasure of the Board.

(15) To hire as Secretary of Transportation a person with excellent management and leadership skills and knowledge of and experience in the transportation field. The Board shall retain the Secretary, subject to a renewable employment contract for a period of four years or until the next general election for Governor, whichever occurs first. The Board may employ an interim Secretary for a period of up to six months during the pendency of its search for a permanent Secretary.

(f1) The ability of a municipality to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

(g) The Board of Transportation may, in its discretion, delegate to the Secretary of Transportation the authority:

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers.

(h) Each member of the Board of Transportation who is appointed to represent a transportation engineering division or who resides in a division shall be consulted before the Board makes a decision affecting that division.

(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year.

(j) Limitations on Political Contributions; Disclosure. --

(1) Board members. -- No person shall be eligible for appointment to the Board of Transportation if the nominee, or any of the nominee's immediate family members, made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the appointing Governor in the two years preceding the date of nomination. Any person nominated for a seat on the Board of Transportation shall publicly disclose in writing under

oath all real estate holdings and any transportation related business interests prior to confirmation and appointment to the Board. Disclosure forms shall be filed with the Board of Ethics. Board nominees and members of the Board of Transportation are prohibited from making any contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the General Assembly, during the pendency of their nomination and during the time they serve on the Board.

(2) Secretary of Transportation. -- No person shall be eligible for employment as Secretary of Transportation if the person or an immediate family member of the person made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor in the two years preceding the person's employment as Secretary. The Secretary of Transportation shall publicly disclose in writing under oath all real estate holdings and any transportation related business interests prior to beginning his or her employment as Secretary. Disclosure forms shall be filed with the Board of Ethics. The Secretary of Transportation is prohibited from making a political contribution exceeding five hundred dollars ($500.00) per year to the political campaigns of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the General Assembly while serving as Secretary."

Section 2. G.S. 143B-350(f) is amended by adding a new subdivision to read:

"(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board."

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"(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year."

Section 4. G.S. 143B-9 reads as rewritten:

"**§ 143B-9. Appointment of officers and employees.**

The head of each principal State department, except those departments headed by popularly elected officers, and except the Secretary of Transportation, as provided in G.S. 143B-350, shall be appointed by the Governor and serve at his pleasure.

The salary of the head of each of the principal State departments and of elected officials shall be as provided by law.

The head of a principal State department shall appoint a chief deputy or chief assistant, and such chief deputy or chief assistant shall not be subject to the State Personnel Act. The salary of such chief deputy or chief assistant shall, upon the recommendation of the Governor, be set by the General Assembly. Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the provisions of the Personnel Act, the head of each principal State department shall designate the administrative head of each transferred agency and all employees of each division, section, or other unit of the principal State department."

Section 5. G.S. 136-13 reads as rewritten:

"**§ 136-13. Malfeasance of officers and employees of Department of Transportation, members of Board of Transportation, contractors, and others.**

(a) It is unlawful for any person, firm, or corporation to directly or indirectly corruptly give, offer, or promise anything of value to any officer or employee of the Department of Transportation or member of the Board of Transportation, or to promise any officer or employee of the Department of Transportation or any member of the Board of Transportation to give anything of value to any other person with intent:

(1) To influence any official act of any officer or employee of the Department of Transportation or member of the Board of Transportation;

(2) To influence such member of the Board of Transportation, or any officer or employee of the Department of Transportation to commit or aid in committing, or collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) To induce a member of the Board of Transportation, or any officer or employee of the Department of Transportation to do or omit to do any act in violation of his lawful duty.

(b) It shall be unlawful for any member of the Board of Transportation, or any officer or employee of the Department of Transportation, directly or indirectly, to corruptly ask, demand, exact, solicit, accept, receive, or agree to receive anything of value for himself or any other person or entity in return for:

(1) Being influenced in his performance of any official act;

(2) Being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) Being induced to do or omit to do any act in violation of his official duty.

(b1) If a member of the Board of Transportation would benefit from a proposed project of the Department of Transportation, and such benefit is greater than that which would be realized by other persons living in the area where the project is located, then not only shall that member abstain from voting on that issue, but once the conflict of interest is apparent, the member shall not discuss the project with any other Board member or other officer or employee of the Department except to state that a conflict of interest exists. This subsection also applies where the benefit is to be realized by an immediate family member or a business in which the member is a partner, officer, or director or owns more than ten percent (10%) of any class of stock.

(c) The violation of any of the provisions of this section shall be cause for forfeiture of public office and shall be a Class H felony which may include a fine of not more than twenty thousand dollars ($20,000) or three times the monetary equivalent of the thing of value whichever is greater."

Section 6. There is appropriated from the Highway Fund to the Department of Transportation the sum of five hundred thousand dollars ($500,000) for fiscal year 1998-99 for use by the Board of Transportation to hire five staff members to assist the Board in carrying out its statutory duties. The Board shall hire a staff director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this section shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board.

Section 7. Sections 1 and 4 of this act become effective January 15, 2001. Sections 2, 3, 6, and 7 become effective July 1, 1998. Section 5 becomes effective December 1, 1998, and applies to offenses occurring on or after that date.

Amendment #1
Rep. Saunders
Extends $500 contribution restriction to any candidates for Governor

page 5, line 42, page by deleting "appointing Governor" and substituting "the Governor or any candidate for Governor"

page 6, line 15 by adding after the word "Governor" the phrase "or any candidate for Governor"

Amendment #2
Rep. Blue
Provides that Governor will appoint Secretary, with requirement that Secretary meet qualifications stated

Page 5, lines 9-16 by deleting those lines.

Page 6, line 42 through page 7, line 13 by deleting those lines, and substituting the following:

"Section 4. Chapter 143B of the General Statutes is amended by adding an new section to read:

`**143B-348.1 Qualifications of the Secretary of Transportation.**

The Secretary of Transportation shall be a person with excellent management and leadership skills and knowledge of and experience in the transportation field.' ".

Amendment #3
Rep. Blue
Allow up to two board members from a county

page 2, lines 39-40 by deleting the sentence beginning with the word "No"

Amendment #4
Rep. Sutton
Clarify that Governor may appoint six *or more* board member of a political party other than the Governor's

page 3, line 10 by deleting the word "Six" and substituting the phrase "At least six".

Amendment #5
Rep. Sutton
Two term limit would apply only to consecutive terms

page 3, line 22 by adding the word "consecutive" after the word "two".

Amendment #6
Rep. Sutton
Clarify that conflict of interest restriction applies to benefit realized by business in which Board member owns greater than a 10% interest.

Page 8, line 10 by rewriting that line to read:
"stock or more than a 10% interest.".

1998 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Bowie, Dockham, McMahan** for the Permanent Subcommittee on **Transportation** of the Standing Committee on **APPROPRIATIONS.**

☑ Committee Substitute for
H.B. 1304

☑ A BILL TO BE ENTITLED AN ACT
TO RESTRUCTURE THE BOARD OF TRANSPORTATION

REPORTED TO THE STANDING COMMITTEE ON **APPROPRIATIONS**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. Holmes for the Standing Committee on APPROPRIATIONS.

X s/ George N. Holmes

☐ With a favorable report.

☐ With a favorable report, as amended.

☑ With a favorable report as to committee substitute bill (# 2), ~~☐ which changes the title,~~ unfavorable as to original bill (Committee Substitute Bill # 1). ~~(and recommendation that the committee substitute bill (#) be referred to the Committee on .)~~

☐ And having received a unanimous vote in committee, be placed on the Consent Calendar. (PUBLIC BILLS ONLY)

3/25/98

PLEASE NOTE: TIME CHANGE

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **HOUSE APPROPRIATIONS Subcommittee on Transportation** will meet as follows:

DAY & DATE: **Wednesday, July 1, 1998**

TIME: **9:00 AM**

LOCATION: **Room 1228/1327**

To Discuss:

HB - 1229 - DARKER VEHICLE WINDOW FOR LUPUS

Respectfully,

Representatives Bowie, Dockham, McMahan
Co-Chairs

I hereby certify this notice was filed by Sharon Gaudette, Committee Clerk, at the following offices at 11:50 AM June 30, 1998.

___Principal Clerk
___Reading Clerk - House Chamber

Sharon Gaudette
Sharon Cram (Committee Clerks)

AGENDA

House Appropriations Subcommittee
on
Transportation

July 1, 1998
Room 1228
9:00 A.M.

Chair: Representative Joni Bowie

House Bill 1229, Darker Vehicle Window For Lupus

THE HOUSE LEGISLATIVE APPROPRIATIONS TRANSPORTATION COMMITTEE

July 1, 1998
9:00 a.m.
Room 1327

The House Committee on Appropriations/Sub-Transportation Committee met in Room 1327 at 9:00 a.m. on Wednesday, July 1, 1998. Representative Joanne Bowie, Co-Chairman called the meeting to order. Visitor's Sheet attached.

Members Present:

Rep. Joanne Bowie, Co-Chair
Rep. Jerry Dockham, Co-Chair
Rep. Bobby Barbee
Rep. Bill Hiatt
Rep. Jim Gulley
Rep. Drew Saunders

Chairman Bowie introduced **Anthony Henson** and **Sean Wiggs** as Pages to the Committee. She then recognized **Representative Bill Culpepper**, Bill Sponsor, to explain House Bill 1229, entitled "Darker Vehicle Window for Lupus" (*see Attachment I).*

Representative Culpepper explained to the Committee that there are currently ten exceptions to the window tinting laws, and this bill would provide an eleventh exception for persons suffering from a medical condition that causes a person to be photosensitive. He said that this bill would provide these individuals the opportunity, upon certification of a doctor, to apply for a permit. This permit would cost five dollars and would have to be renewed annually. A sticker would be displayed on the left rear corner of the car window. Questions were taken from the Committee.

Representative Saunders indicated that he supported the Bill, and asked if a fee was currently charged for handicapped individuals.

Representative Culpepper replied that the State charges a five dollar fee for the handicap permit.

Representative Gulley asked Representative Culpepper to explain the two exception permits.

Representative Culpepper explained that an individual would be allowed to have two cars with a permit.

Representative Hiatt asked if the tinting applied to all windows.

Representative Culpepper replied that it applied to all windows with the exception of the windshield.

Representative Bowie recognized **Ms. Ruth Sappie**, Department of Transportation, to address the Committee on the Bill. Ms. Sappie said that the Department of Transportation agreed with the concept of the Bill, but had concerns over the implementation. Some of the concerns were:

- The regulation of the darkness in the tint.
- The number of people eligible for this permit.
- The definition of *medical conditions*.
- Legislative language needed for collection of fee by Tag Agents.
- Appropriation to start program.

Officer Barry Cross, DMV Enforcement, informed the Committee that all tinted vehicles must have a total light transmission of at least 35%, and this is checked at safety stations.

Representative Bowie suggested to the Committee that a three member subcommittee be appointed to work out the questions raised in Committee. She specifically asked the subcommittee to address the amount of tint allowed under this Bill. The following members were appointed to the subcommittee; Representative Bill Hiatt, Chairman, Representative Jim Gulley, and Representative Drew Saunders.

The meeting was adjourned at 9:30 a.m.

Representative Joanne Bowie
Co-Chair

Sharon Cram
Committee Clerk

VISITOR REGISTRATION SHEET

HOUSE ~~JOINT~~ APPRO/SUBCOMMITTEE ON TRANSPORTATION 2-1-98, 1998

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Milton Alford	OSBM
LT. B.M. GROSS	NCDMV ENF.
Ruth Sappie	NCDOT
Sarah Howard	DMV
Dale McKee	SCENIC NC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 3

HOUSE BILL 1229
Committee Substitute Favorable 6/4/97
Committee Substitute #2 Favorable 6/25/97

Short Title: Darker Vehicle Window for Lupus. (Public)

Sponsors:

Referred to:

May 15, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PERSON WHO SUFFERS FROM A MEDICAL CONDITION THAT CAUSES THE PERSON TO BE PHOTOSENSITIVE TO HAVE A DARKER VEHICLE WINDOW THAN IS ALLOWED UNDER THE WINDOW TINTING LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-127 reads as rewritten:

"**§ 20-127. Windows and windshield wipers.**

(a) Windshield Wipers. -- A vehicle that is operated on a highway and has a windshield must have a windshield wiper to clear rain or other substances from the windshield in front of the driver of the vehicle and the windshield wiper must be in good working order. If a vehicle has more than one windshield wiper to clear substances from the windshield, all the windshield wipers must be in good working order.

(b) Window Tinting Restrictions. -- A window of a vehicle that is operated on a highway or a public vehicular area must comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Any other window of the vehicle may be tinted in accordance with the following restrictions:

(1) The total light transmission of the tinted window must be at least thirty-five percent (35%). A vehicle window that, by use of a light

meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.

(2) The light reflectance of the tinted window must be twenty percent (20%) or less.

(3) Tinted film or another material used to tint the window must be nonreflective and must be a color other than red, yellow, or amber.

(c) Tinting Exceptions. -- The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

(1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.

(2) A window of a for-hire passenger vehicle, as defined in G.S. 20-4.01(27)b.

(3) A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.

(4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.

(5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.

(6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).

(7) A window of a limousine.

(8) A window of a law enforcement vehicle.

(9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.

(10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.

(11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

(d) Violations. -- A person who does any of the following commits a misdemeanor of the class set in G.S. 20-176:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section.

(e) Defense. -- It is a defense to a charge of driving a vehicle with an unlawfully tinted window that the tinting was removed within 15 days after the charge and the window now meets the window tinting restrictions. To assert this defense, the person

charged must produce in court, or submit to the prosecuting attorney before trial, a certificate from the Division of Motor Vehicles or the Highway Patrol showing that the window complies with the restrictions.

(f) Medical Exception. -- A person who suffers from a medical condition that causes the person to be photosensitive may obtain a medical exception permit. To obtain a permit, an applicant must complete an application form provided by the Division, pay the application fee, and give the Division a statement of the applicant's medical condition that is signed by a physician. The application fee is five dollars ($5.00). The permit must be renewed annually at the same time that the registration of the vehicle to which it applies is renewed. The renewal shall require a medical recertification that the person suffers from a medical condition requiring tinting. The renewal fee is five dollars ($5.00).

A person may receive no more than two medical exception permits. A permit issued under this subsection must specify the vehicle to which it applies, and the permit must be carried in the vehicle to which it applies when the vehicle is driven on a highway. The Division must give a person who receives a medical exception permit a sticker to place on the lower left hand corner of the rear window of the vehicle to which it applies between the tinting and the glass."

Section 2. This act becomes effective January 1, 1998.

HOUSE APPROPRIATIONS

SUBCOMMITTEE ON TRANSPORTATION

JULY 6, 1998

MONDAY EVENING

MEMBERS PRESENT: Representatives Bowie, Dockham, McMahan, Crawford, Hiatt, Gulley, Hardaway, Saunders, and Sutton.

Representative Joanne Bowie, Co-Chair called meeting to order at her desk in the House Chamber, Monday evening, July 6, 1998, to discuss a correction to a drafting error in the context of House Bill 1304, Restructure of the DOT Board, proposed committee substitute 7/2/98 version *(see attachment II).*

Giles Perry, Staff Attorney explained that a sentence was removed in the Bill Drafting Department by mistake. The Committee substitute simply corrects the drafting error, by deleting the first sentence from the bill and restoring the second *(see Memorandum from Giles Perry, Staff Attorney, attachment I).*

Representative Ed McMahan motioned to give the corrected Committee Substitute a favorable report (see attachment III). Motion passed.

Meeting adjourned.

Representative Joanne W. Bowie
Co-Chair

Sharon A. Gaudette
Committee Clerk

I.

North Carolina General Assembly
Legislative Services Office

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

Elaine W. Robinson, Director
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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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Raleigh, NC 27603-5925
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July 6, 1998

MEMORANDUM

To: Members of the House Transportation Appropriations Subcommittee

From: Giles S. Perry, Staff Attorney

Re: House Bill 1304 Restructure DOT Board
Proposed Committee Substitute
CORRECTION TO DRAFTING ERROR IN 7/2/98 VERSION

At the House Transportation Appropriations Subcommittee meeting on July 2, Rep. Blue proposed an amendment to **allow up to two DOT Board members from a county**. This concept was discussed and **approved** by the Subcommittee.

To accomplish this change , the **following sentence should have been removed** from the bill: "*Each at-large member shall be nominated from a county that does not have a resident division Board member.*"

Due to a **drafting error on my part**, the following sentence was **removed by mistake**: "*No more than one-at-large member shall reside in a highway division.*"

The **committee substitute simply corrects this drafting error**, by deleting the first sentence from the bill, and restoring the second.

Please accept my apologies for this error, and for any inconvenience it has caused the Committee.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H ~~#2~~ D

HOUSE BILL 1304
Committee Substitute Favorable 6/17/98
Committee Substitute #2 Favorable 7/2/98
Proposed Committee Substitute H1304-PCS1587-RW004

Short Title: Restructure DOT Board. (Public)

Sponsors:

Referred to:

May 18, 1998

A BILL TO BE ENTITLED

AN ACT TO RESTRUCTURE THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Effective January 15, 2001, Part 2 of Article 8 of Chapter 143B of the General Statutes, as amended by Sections 2 and 3 of this act, reads as rewritten:

"Part 2. Board of ~~Transportation -- Secondary Roads Council.~~ Transportation.

"**§ 143B-350. Board of Transportation -- organization; powers and duties, etc.**

(a) There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The Board may, from time to time, provide that one or more of its members or representatives shall hear any person or persons concerning transportation.

~~(b) The Board of Transportation shall have two ex officio members. The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the chairman of the Board of Transportation. The chairman of the North Carolina Rail Council shall be an ex officio member of the Board of Transportation.~~

~~(c) The Board of Transportation shall have 20 members appointed by the Governor. One member shall be appointed from each of the 14 transportation engineering divisions and six members shall be appointed from the State at large.~~

~~One at-large member shall be a registered voter of a political party other than the political party of the Governor. At least one at-large member shall possess a broad knowledge of public transportation matters. No more than two members provided for in this subsection shall reside in the same engineering division while serving in office. The initial members shall serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1981, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.~~

~~(d) The Board of Transportation shall have four members appointed by the General Assembly. Two of these members shall be appointed upon the recommendation of the Speaker of the House of Representatives, and two shall be appointed upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.~~

(b) Composition of the Board. --

(1) Number; nomination; confirmation. -- The Board of Transportation shall have 19 members nominated by the Governor and subject to confirmation by a majority vote of each house of the General Assembly. If the nomination is made while the General Assembly is in regular session, the General Assembly must act upon the nomination within 30 legislative days following the nomination, or before adjournment of that session, whichever occurs first. If the nomination is made when the General Assembly is not in session, the General Assembly must act on the nomination within the first 30 legislative days of the next regular session, or before the adjournment of that session, whichever occurs first. If the General Assembly fails to act upon a nomination within the time periods provided by this subdivision, the Board nominee shall be deemed confirmed.

(2) Division members. -- One member shall be nominated from each of the 14 highway divisions. Each division member shall be a resident of the division he or she is nominated to represent. The Governor shall consider nominating division representatives who are residents of counties that have been historically underrepresented on the Board.

(3) At-large members; qualifications. -- Five members shall be nominated from the State at large. No more than one at-large member shall reside in a highway division. The at-large members shall possess the following qualifications:

a. One at-large member shall be a professional engineer;

b. One at-large member shall be a land-use planner;
c. One at-large member shall be a scientist familiar with environmental issues affecting water, air, and soil;
d. One at-large member shall have experience in and knowledge of public transportation, or a combination of experience in and knowledge of public transportation and passenger rail service; and
e. One at-large member shall be a certified public accountant with background in governmental accounting.

(4) Partisan representation. -- At least six members of the Board shall be registered voters of a political party other than the political party of the Governor.

(c) Staggered Terms. -- The terms of all members serving on the Board prior to January 14, 2001, shall expire on that date. The terms of seven of the division members and three of the at-large members specified in this section shall initially be for four years beginning January 15, 2001, and for four years thereafter. The terms of the other seven division members and the other two at-large members specified in this section shall initially be for two years beginning January 15, 2001, and for four years thereafter.

(d) Holdover Term. -- Members shall continue to serve until their successors are nominated and confirmed.

(e) Limit on Terms. -- No member of the Board shall serve more than two consecutive terms, plus an interim term of two years or less, or any holdover term pending selection of a successor.

(e1) Vacancies. -- The Governor may fill a vacancy on the Board by appointing an interim member of the Board to complete the unexpired term of a member. If the interim appointment is made at a time when the General Assembly is not in regular session, the appointment must be confirmed by the General Assembly within 30 calendar days of the convening of the next regular session, or the term of the interim member shall expire on that date. If the interim appointment is made when the General Assembly is in regular session, the appointment must be confirmed prior to the adjournment of the regular session, or the term of the interim member shall expire upon adjournment.

(e2) Removal. -- The Governor may remove any member of the Board for any cause the Governor finds sufficient.

(e3) Organization and Meetings of the Board. -- Within 60 days after January 15, 2001, and thereafter within 60 days following the beginning of the regular term of the Governor, the Governor or his designee shall call the Board into session. The Board shall then select a chair and vice-chair from among its membership. The Board of Transportation shall meet once in each 60 days at such regular meeting times as the Board may by rule provide and at any place in the State as the Board may provide. The Board may hold special meetings at any time at the call of the chairman or any three members. The Board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The Board shall keep

minutes of its meetings, which shall at all times be open to public inspection. The majority of the Board shall constitute a quorum for the transaction of business. Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) The Board of Transportation shall have duties and powers:

(1) To formulate policies and priorities for all modes of transportation under the Department of Transportation;

(2) To advise the Secretary on matters to achieve the maximum public benefit in the performance of the functions assigned to the Department;

(3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of transportation taking into consideration the social, economic and environmental impacts of the various alternatives.

(4) To approve a schedule of all major transportation improvement projects and their anticipated cost for a period of seven years into the future. This schedule is designated the Transportation Improvement Program; it must be published and copies must be available for distribution. The document that contains the Transportation Improvement Program, or a separate document that is published at the same time as the Transportation Improvement Program, must include the anticipated funding sources for the improvement projects included in the Program, a list of any changes made from the previous year's Program, and the reasons for the changes;

(5) To consider and advise the Secretary of Transportation upon any other transportation matter that the Secretary may refer to it;

(6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the Department;

(7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available;

(8) To approve all highway construction programs;

(9) To approve all highway construction projects and construction plans for the construction of projects;

(10) To review all statewide maintenance functions;

(11) To award all highway construction contracts;

(12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain;

(13) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction and control of the Board and shall serve at the pleasure of the Board.

(f1) The ability of a municipality to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

(g) The Board of Transportation may, in its discretion, delegate to the Secretary of Transportation the authority:

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers.

(h) Each member of the Board of Transportation who is appointed to represent a transportation engineering division or who resides in a division shall be consulted before the Board makes a decision affecting that division.

(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year.

(j) Limitations on Political Contributions; Disclosure. --

(1) Board members. -- No person shall be eligible for appointment to the Board of Transportation if the nominee, or any of the nominee's immediate family members, made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor or any candidate for Governor in the two years preceding the date of nomination. Any person nominated for a seat on the Board of Transportation shall publicly disclose in writing under oath all real estate holdings and any transportation related business interests prior to confirmation and appointment to the Board. Disclosure forms shall be filed with the Board of Ethics. Board nominees and members of the Board of Transportation are prohibited from making any contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the

General Assembly, during the pendency of their nomination and during the time they serve on the Board.

(2) Secretary of Transportation. -- No person shall be eligible for employment as Secretary of Transportation if the person or an immediate family member of the person made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor or any candidate for Governor in the two years preceding the person's employment as Secretary. The Secretary of Transportation shall publicly disclose in writing under oath all real estate holdings and any transportation related business interests prior to beginning his or her employment as Secretary. Disclosure forms shall be filed with the Board of Ethics. The Secretary of Transportation is prohibited from making a political contribution exceeding five hundred dollars ($500.00) per year to the political campaigns of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the General Assembly while serving as Secretary."

Section 2. G.S. 143B-350(f) is amended by adding a new subdivision to read:

"(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board."

Section 3. G.S. 143B-350 is amended by adding a new subsection to read:

"(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year."

Section 4. Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-348.1. Qualifications of the Secretary of Transportation.**

The Secretary of Transportation shall be a person with excellent management and leadership skills and knowledge of and experience in the transportation field."

Section 5. G.S. 136-13 reads as rewritten:

"**§ 136-13. Malfeasance of officers and employees of Department of Transportation, members of Board of Transportation, contractors, and others.**

(a) It is unlawful for any person, firm, or corporation to directly or indirectly corruptly give, offer, or promise anything of value to any officer or employee of the Department of Transportation or member of the Board of Transportation, or to

promise any officer or employee of the Department of Transportation or any member of the Board of Transportation to give anything of value to any other person with intent:

(1) To influence any official act of any officer or employee of the Department of Transportation or member of the Board of Transportation;

(2) To influence such member of the Board of Transportation, or any officer or employee of the Department of Transportation to commit or aid in committing, or collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) To induce a member of the Board of Transportation, or any officer or employee of the Department of Transportation to do or omit to do any act in violation of his lawful duty.

(b) It shall be unlawful for any member of the Board of Transportation, or any officer or employee of the Department of Transportation, directly or indirectly, to corruptly ask, demand, exact, solicit, accept, receive, or agree to receive anything of value for himself or any other person or entity in return for:

(1) Being influenced in his performance of any official act;

(2) Being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) Being induced to do or omit to do any act in violation of his official duty.

(b1) If a member of the Board of Transportation would benefit from a proposed project of the Department of Transportation, and such benefit is greater than that which would be realized by other persons living in the area where the project is located, then not only shall that member abstain from voting on that issue, but once the conflict of interest is apparent, the member shall not discuss the project with any other Board member or other officer or employee of the Department except to state that a conflict of interest exists. This subsection also applies where the benefit is to be realized by an immediate family member or a business in which the member is a partner, officer, or director or owns more than ten percent (10%) of any class of stock or more than a ten percent (10%) interest.

(c) The violation of any of the provisions of this section shall be cause for forfeiture of public office and shall be a Class H felony which may include a fine of not more than twenty thousand dollars ($20,000) or three times the monetary equivalent of the thing of value whichever is greater."

Section 6. There is appropriated from the Highway Fund to the Department of Transportation the sum of five hundred thousand dollars ($500,000) for fiscal year 1998-99 for use by the Board of Transportation to hire five staff members to assist the Board in carrying out its statutory duties. The Board shall hire a staff director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning,

environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this section shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board.

Section 7. Sections 1 and 4 of this act become effective January 15, 2001. Sections 2, 3, 6, and 7 become effective July 1, 1998. Section 5 becomes effective December 1, 1998, and applies to offenses occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 3

HOUSE BILL 1304
Committee Substitute Favorable 6/17/98
Committee Substitute #2 Favorable 7/2/98

H. 3

Short Title: Restructure DOT Board. (Public)

Sponsors:

Referred to:

May 18, 1998

A BILL TO BE ENTITLED

AN ACT TO RESTRUCTURE THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Effective January 15, 2001, Part 2 of Article 8 of Chapter 143B of the General Statutes, as amended by Sections 2 and 3 of this act, reads as rewritten:

"Part 2. Board of ~~Transportation -- Secondary Roads Council.~~ Transportation.

"§ 143B-350. Board of Transportation -- organization; powers and duties, etc.

(a) There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The Board may, from time to time, provide that one or more of its members or representatives shall hear any person or persons concerning transportation.

~~(b) The Board of Transportation shall have two ex officio members. The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the chairman of the Board of Transportation. The chairman of the North Carolina Rail Council shall be an ex officio member of the Board of Transportation.~~

~~(c) The Board of Transportation shall have 20 members appointed by the Governor. One member shall be appointed from each of the 14 transportation engineering divisions and six members shall be appointed from the State at large. One at-large member shall be a registered voter of a political party other than the~~

~~political party of the Governor. At least one at-large member shall possess a broad knowledge of public transportation matters. No more than two members provided for in this subsection shall reside in the same engineering division while serving in office. The initial members shall serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1981, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.~~

~~(d) The Board of Transportation shall have four members appointed by the General Assembly. Two of these members shall be appointed upon the recommendation of the Speaker of the House of Representatives, and two shall be appointed upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.~~

(b) Composition of the Board. --

(1) Number; nomination; confirmation. -- The Board of Transportation shall have 19 members nominated by the Governor and subject to confirmation by a majority vote of each house of the General Assembly. If the nomination is made while the General Assembly is in regular session, the General Assembly must act upon the nomination within 30 legislative days following the nomination, or before adjournment of that session, whichever occurs first. If the nomination is made when the General Assembly is not in session, the General Assembly must act on the nomination within the first 30 legislative days of the next regular session, or before the adjournment of that session, whichever occurs first. If the General Assembly fails to act upon a nomination within the time periods provided by this subdivision, the Board nominee shall be deemed confirmed.

(2) Division members. -- One member shall be nominated from each of the 14 highway divisions. Each division member shall be a resident of the division he or she is nominated to represent. The Governor shall consider nominating division representatives who are residents of counties that have been historically underrepresented on the Board.

(3) At-large members; qualifications. -- Five members shall be nominated from the State at large. Each at-large member shall be nominated from a county that does not have a resident division board member. The at-large members shall possess the following qualifications:

a. One at-large member shall be a professional engineer;

b. One at-large member shall be a land-use planner;
c. One at-large member shall be a scientist familiar with environmental issues affecting water, air, and soil;
d. One at-large member shall have experience in and knowledge of public transportation, or a combination of experience in and knowledge of public transportation and passenger rail service; and
f. One at-large member shall be a certified public accountant with background in governmental accounting.

(4) Partisan representation. -- At least six members of the Board shall be registered voters of a political party other than the political party of the Governor.

(c) Staggered Terms. -- The terms of all members serving on the Board prior to January 15, 2001, shall expire on that date. The terms of seven of the division members and three of the at-large members specified in this section shall initially be for four years beginning January 15, 2001, and for four years thereafter. The terms of the other seven division members and the other two at-large members specified in this section shall initially be for two years beginning January 15, 2001, and for four years thereafter.

(d) Holdover Term. -- Members shall continue to serve until their successors are nominated and confirmed.

(e) Limit on Terms. -- No member of the Board shall serve more than two consecutive terms, plus an interim term of two years or less, or any holdover term pending selection of a successor.

(e1) Vacancies. -- The Governor may fill a vacancy on the Board by appointing an interim member of the Board to complete the unexpired term of a member. If the interim appointment is made at a time when the General Assembly is not in regular session, the appointment must be confirmed by the General Assembly within 30 calendar days of the convening of the next regular session, or the term of the interim member shall expire on that date. If the interim appointment is made when the General Assembly is in regular session, the appointment must be confirmed prior to the adjournment of the regular session, or the term of the interim member shall expire upon adjournment.

(e2) Removal. -- The Governor may remove any member of the Board for any cause the Governor finds sufficient.

(e3) Organization and Meetings of the Board. -- Within 60 days after January 15, 2001, and thereafter within 60 days following the beginning of the regular term of the Governor, the Governor or his designee shall call the Board into session. The Board shall then select a chair and vice-chair from among its membership. The Board of Transportation shall meet once in each 60 days at such regular meeting times as the Board may by rule provide and at any place in the State as the Board may provide. The Board may hold special meetings at any time at the call of the chairman or any three members. The Board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The Board shall keep

minutes of its meetings, which shall at all times be open to public inspection. The majority of the Board shall constitute a quorum for the transaction of business. Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) The Board of Transportation shall have duties and powers:

(1) To formulate policies and priorities for all modes of transportation under the Department of Transportation;

(2) To advise the Secretary on matters to achieve the maximum public benefit in the performance of the functions assigned to the Department;

(3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of transportation taking into consideration the social, economic and environmental impacts of the various alternatives.

(4) To approve a schedule of all major transportation improvement projects and their anticipated cost for a period of seven years into the future. This schedule is designated the Transportation Improvement Program; it must be published and copies must be available for distribution. The document that contains the Transportation Improvement Program, or a separate document that is published at the same time as the Transportation Improvement Program, must include the anticipated funding sources for the improvement projects included in the Program, a list of any changes made from the previous year's Program, and the reasons for the changes;

(5) To consider and advise the Secretary of Transportation upon any other transportation matter that the Secretary may refer to it;

(6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the Department;

(7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available;

(8) To approve all highway construction programs;

(9) To approve all highway construction projects and construction plans for the construction of projects;

(10) To review all statewide maintenance functions;

(11) To award all highway construction contracts;

(12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain;

(13) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction and control of the Board and shall serve at the pleasure of the Board.

(f1) The ability of a municipality to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

(g) The Board of Transportation may, in its discretion, delegate to the Secretary of Transportation the authority:

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers.

(h) Each member of the Board of Transportation who is appointed to represent a transportation engineering division or who resides in a division shall be consulted before the Board makes a decision affecting that division.

(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year.

(j) Limitations on Political Contributions; Disclosure. --

(1) Board members. -- No person shall be eligible for appointment to the Board of Transportation if the nominee, or any of the nominee's immediate family members, made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the the Governor or any candidate for Governor in the two years preceding the date of nomination. Any person nominated for a seat on the Board of Transportation shall publicly disclose in writing under oath all real estate holdings and any transportation related business interests prior to confirmation and appointment to the Board. Disclosure forms shall be filed with the Board of Ethics. Board nominees and members of the Board of Transportation are prohibited from making any contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the

General Assembly, during the pendency of their nomination and during the time they serve on the Board.

(2) Secretary of Transportation. -- No person shall be eligible for employment as Secretary of Transportation if the person or an immediate family member of the person made a contribution exceeding five hundred dollars ($500.00) per year to the political campaign of the Governor or any candidate for Governor in the two years preceding the person's employment as Secretary. The Secretary of Transportation shall publicly disclose in writing under oath all real estate holdings and any transportation related business interests prior to beginning his or her employment as Secretary. Disclosure forms shall be filed with the Board of Ethics. The Secretary of Transportation is prohibited from making a political contribution exceeding five hundred dollars ($500.00) per year to the political campaigns of the Governor, any candidate for Governor, any member of the General Assembly, or any candidate for the General Assembly while serving as Secretary."

Section 2. G.S. 143B-350(f) is amended by adding a new subdivision to read:

"(14) To hire a Transportation Board staff executive director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning, environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this subdivision shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board."

Section 3. G.S. 143B-350 is amended by adding a new subsection to read:

"(i) Board Ethics Policy. -- The Board shall adopt a comprehensive ethics policy governing actions by Board members. The Board Chair shall ensure that Board members receive training on the ethics policy and related State laws and policies at least once a year."

Section 4. Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-348.1. Qualifications of the Secretary of Transportation.**

The Secretary of Transportation shall be a person with excellent management and leadership skills and knowledge of and experience in the transportation field."

Section 5. G.S. 136-13 reads as rewritten:

"**§ 136-13. Malfeasance of officers and employees of Department of Transportation, members of Board of Transportation, contractors, and others.**

(a) It is unlawful for any person, firm, or corporation to directly or indirectly corruptly give, offer, or promise anything of value to any officer or employee of the Department of Transportation or member of the Board of Transportation, or to

promise any officer or employee of the Department of Transportation or any member of the Board of Transportation to give anything of value to any other person with intent:

(1) To influence any official act of any officer or employee of the Department of Transportation or member of the Board of Transportation;

(2) To influence such member of the Board of Transportation, or any officer or employee of the Department of Transportation to commit or aid in committing, or collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) To induce a member of the Board of Transportation, or any officer or employee of the Department of Transportation to do or omit to do any act in violation of his lawful duty.

(b) It shall be unlawful for any member of the Board of Transportation, or any officer or employee of the Department of Transportation, directly or indirectly, to corruptly ask, demand, exact, solicit, accept, receive, or agree to receive anything of value for himself or any other person or entity in return for:

(1) Being influenced in his performance of any official act;

(2) Being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or to make opportunity for the commission of any fraud on the State of North Carolina; and

(3) Being induced to do or omit to do any act in violation of his official duty.

(b1) If a member of the Board of Transportation would benefit from a proposed project of the Department of Transportation, and such benefit is greater than that which would be realized by other persons living in the area where the project is located, then not only shall that member abstain from voting on that issue, but once the conflict of interest is apparent, the member shall not discuss the project with any other Board member or other officer or employee of the Department except to state that a conflict of interest exists. This subsection also applies where the benefit is to be realized by an immediate family member or a business in which the member is a partner, officer, or director or owns more than ten percent (10%) of any class of stock or more than a ten percent (10%) interest.

(c) The violation of any of the provisions of this section shall be cause for forfeiture of public office and shall be a Class H felony which may include a fine of not more than twenty thousand dollars ($20,000) or three times the monetary equivalent of the thing of value whichever is greater."

Section 6. There is appropriated from the Highway Fund to the Department of Transportation the sum of five hundred thousand dollars ($500,000) for fiscal year 1998-99 for use by the Board of Transportation to hire five staff members to assist the Board in carrying out its statutory duties. The Board shall hire a staff director, an administrative assistant, and three other professional staff members with expertise in one or more of the following areas: engineering, land-use planning,

environmental issues, public transportation and passenger rail, and governmental accounting. Staff authorized under this section shall be subject to the supervision, direction, and control of the Board and shall serve at the pleasure of the Board.

Section 7. Sections 1 and 4 of this act become effective January 15, 2001. Sections 2, 3, 6, and 7 become effective July 1, 1998. Section 5 becomes effective December 1, 1998, and applies to offenses occurring on or after that date.

1998 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Bowie, Dockham, McMahan** for the Permanent Subcommittee on **Transportation** of the Standing Committee on **APPROPRIATIONS.**

☑ Committee Substitute for
H.B. 1304 ~~=~~ 3

☑ A BILL TO BE ENTITLED AN ACT
TO RESTRUCTURE THE BOARD OF TRANSPORTATION

REPORTED TO THE STANDING COMMITTEE ON **APPROPRIATIONS**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:
Rep. Holmes for the Standing Committee on APPROPRIATIONS.

X s/ George M. Holmes

☐ With a favorable report.
☐ With a favorable report, as amended.
☑ With a favorable report as to committee substitute bill (# 3), ~~☐ which changes the title;~~ unfavorable as to ~~original bill~~ (Committee Substitute Bill # 2). ~~(and recommendation that the committee substitute bill (# _____) be referred to the Committee on _____.)~~
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar. (PUBLIC BILLS ONLY)

3/25/98

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **HOUSE APPROPRIATIONS Subcommittee on Transportation** will meet as follows:

DAY & DATE: **Wednesday, July 8, 1998**

TIME: **8:30 AM**

LOCATION: **Room 1228/1327**

TO BEGIN OUR REVIEW OF THE BUDGET

Respectfully,

Representatives Bowie, Dockham, McMahan
Co-Chairs

I hereby certify this notice was filed by Sharon Gaudette, Committee Clerk, at the following offices at 12:30 pm on July 7, 1998.

___Principal Clerk
___Reading Clerk - House Chamber

Sharon Gaudette
Sharon Cram (Committee Clerks)

AGENDA

House Appropriations Subcommittee
on
Transportation

July 8, 1998
Room 1228
8:30 A.M.

Chair: Representative Jerry Dockham

Overview of Senate Expansion Budget

Evan Rodewald
Fiscal Research Division

THE HOUSE LEGISLATIVE
APPROPRIATIONS
TRANSPORTATION COMMITTEE

July 8, 1998
8:30 a.m.
Room 1327

The House Committee on Appropriations/Sub-Transportation Committee met in Room 1327 at 8:30 a.m. on Wednesday, July 8, 1998. Representative Jerry Dockham, Co-Chairman called the meeting to order. Visitor's sheet attached.

Members Present:

Rep. Joanne Bowie, Co-Chair
Rep. Jerry Dockham, Co-Chair
Rep. Ed McMahan, Co-Chair
Rep. Bobby Barbee
Rep. Jim Gulley
Rep. Thomas Hardaway
Rep. William Hiatt
Rep. Ronnie Sutton

Representative Dockham introduced **Brian Thompson** and **Mark Williams** as the Pages to the Committee. He then recognized **Evan Rodewald**, Staff Counsel, to present to the Committee the Overview of the Senate Expansion Budget *(see Attachment I, entitled 1998-99 Expansion Budget - Highway Fund).*

Mr. Rodewald gave the Committee a general overview of the budget, and explained the differences between the Governor's Budget and the Senate Budget. Questions were taken from the Committee.

Representative Bowie referenced *Line 17 - Retirement Contribution - Actuarial Gain,* and asked whether the employee would actually see a reduction. **Mr. Rodewald** said no and explained that the earnings in the retirement system are at such a rate that there is more money in the system than is needed to fulfill the State's obligation.

Representative Dockham asked Staff to clarify that the Committee's main concern would be to respond to the Senate Budget. **Mr. Rodewald** confirmed that the Senate Budget would be the most critical, and the Governor's recommendations are given mainly as a frame of reference.

Representative McMahan referenced the salary increase on *page 2, line 6, Highway Fund Salary Increase,* which had been stated as a 2% increase and 1% performance bonus. He asked if a portion of the increase was based on performance, would that mean some of the money would not be funded. **Mr. Rodewald** said that it was his understanding that the 1% would be fully funded even though some employees may not

get an increase, and others may get more than 1%. Representative McMahan also asked for an explanation of the effective date December 1st. **Mr. Joe Stewart,** Crime Control, was recognized to answer the question. **Mr. Stewart** said they had agreed to the December 1st date, but would prefer October 1st.

Representative Sutton asked for an explanation on the appropriation for the *Helicopter Pad, line 25, page 2.* **Mr. Rodewald** answered that it was basically for the purchase of land for parking and paving for the pad. **Mr. Stewart** confirmed that purpose.

Representative McMahan expressed his concern over the $ 1 million reduction in *Public Transportation Funding, page 2, line 7.* **Mr. Rodewald** asked the Committee to reference the Senate Appropriations Committee Report on the Continuation, Expansion and Capital Budget (*see Attachment II, page F3, Line 15).* He explained that the Senate Budget would fund the amount going to Public Transit for $6,700,000, but reduce the amount going to Rail to $5,700,000. **Ms. Ruth Sappie,** Department of Transportation, was recognized to address the Committee on this issue. She said that mass transit should be a priority item, and asked that the $1 million be restored. **Mr. Pat Simmons,** Rail Division, was recognized to address the Committee. **Mr. Simmons** said that without the additional funds, there would have to be a reduction in the program. He stated that a possibility would be the expansion to Western North Carolina.

Representative Hardaway referenced State Aid to Municipalities, *(see Attachment I, page 1, line 10).* He asked if that was a result of a reduced consumption or reduction in the cost of gasoline. Mr. Rodewald said that this was a result of the reduction in the forecast of the amount of gallons of gasoline sold, and this is a reduction of the increase. **Representative Hardaway** asked for an explanation of the backlog in local governments. **Mr. C. A. Gardner**, Deputy Chief Engineer, Department of Transportation , was recognized to answer the question. **Mr. Gardner** said that several municipalities are assisting the level of service in their areas, and some have asked for reimbursement. He said that a cost survey is being done, and a report will be made to the Transportation Oversight Committee by November 1st.

Representative Hardaway next referenced *page 1, line 16, Transfer to Highway Trust Fund,* and asked for an explanation. **Mr. Rodewald** explained that the item was a statutory transfer to the Highway Trust Fund that was set up in 1989. He referenced the *Federal Aid Match, page 1, line 18,* which is a reduction of $33,153.153. He pointed out that item would be eliminated in the Highway Fund, and reminded the Committee that there is more Federal aid to be matched. Mr. Rodewald said that the end result would be that more funds would have to come from the Highway Trust Fund. He added that this could delay projects in the TIP.

Representative Gulley asked if the top ten projects in the TIP would be shifted. **Ms. Sappie** said that the Department is in the process of studying the recommendations from

the Auditor at this time. **Representative Bowie** asked if the priority list would stay the same except for some delays. **Ms. Sappie** said that was correct.

Representative McMahan offered an overview with reference to the $38 million from the Highway Trust Fund. He pointed out that $38 million was put into *Contract Resurfacing, page 2, line 5*, which overall would provide more maintenance and less construction funds. Representative McMahan also expressed that he felt the Governor's recommendation on the sales tax recurring transfer from the General Fund of $13.4 million should be implemented.

Mr. Rodewald gave the Committee a handout entitled, Example of Transfer from Highway Trust Fund to Highway Fund (*see Attachment III*). He explained to the Committee that the trigger to any transfer from the Highway Trust Fund to the Highway Fund is federal aid.

Mr. Joe Stewart was asked to give an overview of the increase in salary grades from first sergeants to lieutenant. Mr. Stewart referenced a handout entitled, State Highway Patrol Reclassification (*see Attachment IV).* He said basically this reestablishes a differential of 10% between first sergeant and lieutenant, and the ripple effect up through the ranks necessitates the additional increases in pay. He pointed out that an inequity has been in place for 10 or 15 years, and this is basically a morale issue.

The meeting was adjourned at 9:25 a.m.

Representative Jerry Dockham
Co-Chair

Sharon Cram
Committee Clerk

VISITOR REGISTRATION SHEET

APPROP/SUBCOMMITTEE ON TRANSPORTATION 3 June **, 1998**

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Milton Alford	OSBM
Ruth Salsbie	NCDOT
Jack McKinney	SCENIC NC
Carol Simms	DOT
Sanford T. Crow	NCDOT
C. A. GARDNER	NCDOT
Joe Stewart	CAPS
Wayne Beal	NCDOT
Tim Lyle	LGX Corp
Mark McGuire	St. Louis

I.

1998-99 Expansion Budget - Highway Fund

		Governor's Recommendations			Senate Budget		
		Recurring	Non-recurring	Total	Recurring	Non-recurring	Total
	Availability						
1	State Highway Revenue	1,145,850,000	-	1,145,850,000	1,145,850,000	-	1,145,850,000
2	Surplus from 1997-98	468,248	11,531,752	12,000,000	468,248	11,531,752	12,000,000
3	Less Funds Transferred to Year 2000 Reserve (SB 1193)					(6,840,630)	(6,840,630)
4	Funds Available	1,146,318,248	11,531,752	1,157,850,000	1,146,318,248	4,691,122	1,151,009,370
5	Certified Continuation Budget	1,134,103,250	10,522,487	1,144,625,737	1,134,103,250	10,522,487	1,144,625,737
6							
7	**Net Funds Available**	**12,214,998**	**1,009,265**	**13,224,263**	**12,214,998**	**(5,831,365)**	**6,383,633**
8							
9	**Continuation Budget Technical Adjustments:**						
10	State Aid to Municipalities	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)
11	Secondary Roads	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)
12	LUST Cleanup Fund	(189,000)		(189,000)	(189,000)		(189,000)
13							
14	**Budget Reductions**						
15	Transfer to General Fund in Lieu of Sales Tax	(13,400,000)		(13,400,000)		(13,400,000)	(13,400,000)
16	Transfer to Highway Trust Fund	(38,000,000)		(38,000,000)		(38,000,000)	(38,000,000)
17	Retirement Contribution - Actuarial Gain			-		(3,612,248)	(3,612,248)
18	Federal Aid Match	(33,153,153)		(33,153,153)	(33,153,153)		(33,153,153)
19							
20	**Total Adjustments and Reductions**	**(88,842,153)**	**-**	**(88,842,153)**	**(37,442,153)**	**(55,012,248)**	**(92,454,401)**
21							
22	**Total Funds Available for Expansion**	**101,057,151**	**1,009,265**	**102,066,416**	**49,657,151**	**49,180,883**	**98,838,034**

H

1998-99 Expansion Budget - Highway Fund

		Governor's Recommendations			Senate Budget		
		Recurring	Non-recurring	Total	Recurring	Non-recurring	Total
1	**Total Funds Available for Expansion**	**101,057,151**	**1,009,265**	**102,066,416**	**49,657,151**	**49,180,883**	**98,838,034**
2							
3							
4	**Expansion Items**						
5	Contract Resurfacing	38,000,000		38,000,000		37,707,354	37,707,354
6	Highway Fund Salary Increase	16,000,000	4,000,000	20,000,000	12,000,000	4,000,000	16,000,000
7	Public Transportation Funding	13,400,000		13,400,000		12,400,000	12,400,000
8	SIPS Charges	6,000,000	4,000,000	10,000,000	6,000,000	4,000,000	10,000,000
9	Telephone Line Charges	1,300,000		1,300,000	800,000	500,000	1,300,000
10	MIS - Contracted Services	1,000,000		1,000,000	1,000,000		1,000,000
11	Liability Insurance Tracking and Enforcement System		500,000	500,000		500,000	500,000
12	Hardware and Software for MIS Division	500,000		500,000	500,000		500,000
13	DOT Facility Improvements		4,070,348	4,070,348		4,070,348	4,070,348
14	Increased Postage	710,785		710,785	710,785		710,785
15	Security Services	33,778		33,778	33,778		33,778
16	Contract Security for Raney Building	65,000		65,000	65,000		65,000
17	Maintenance for Raney Building	109,751		109,751	109,751		109,751
18	Stormwater Discharge Permit Compliance	500,000		500,000	500,000		500,000
19	Equity Pay for Enforcement Officers	1,000,000		1,000,000	3,390,708		3,390,708
20	License Plates and Stickers	227,044		227,044	227,044		227,044
21	Hardware and Software for Liability Insurance System	5,000	197,596	202,596	5,000	197,596	202,596
22	Equipment and Operating Expenses for Crash Reporting	66,500	385,000	451,500	66,500	385,000	451,500
23	Error in Highway Patrol Salary Increases	2,787,596		2,787,596	2,787,596		2,787,596
24	Criminal Justice Information Network		2,406,611	2,406,611		2,406,611	2,406,611
25	Helicopter Pad		-	-		75,000	75,000
26	Increase Salary Grade - Sgt. & 1st Lieutenant	-		-	162,956		162,956
27	Additional Highway Patrolmen	968,300	1,583,295	2,551,595	403,900	1,583,295	1,987,195
28	Mobile Data Computers for Highway Patrol		2,249,812	2,249,812		2,249,812	2,249,812
29				-			-
30							
31	**Total Expansion**	**82,673,754**	**19,392,662**	**102,066,416**	**28,763,018**	**70,075,016**	**98,838,034**
32							
33	**Surplus (Deficit)**	**18,383,397**	**(18,383,397)**	**-**	**20,894,133**	**(20,894,133)**	**-**

II

SENATE APPROPRIATIONS COMMITTEE

REPORT ON THE CONTINUATION, EXPANSION AND CAPITAL BUDGET

JUNE 30, 1998

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Senate Appropriations Committee Report Summary - Continuation and Expansion Budget 1998-99

Department	1998-99 Certified Budget	Transfers	Decreases	Increases	Net Changes	Positions	Revised Appropriation
Education:							
Public Education	$4,493,194,418		$59,725,172	$191,113,281	$ 131,388,109		$4,624,582,527
Universities	$1,455,260,484		$6,852,138	$90,852,607	$ 84,000,469		$1,539,260,953
Community Colleges	$504,200,909		$272,295	$45,048,668	$ 44,776,373		$548,977,282
Subtotal	**$6,452,655,811**		**$66,849,605**	**$327,014,556**	**$ 260,164,951**	**0.0**	**$6,712,820,762**
General Government:							
Administration	$57,814,012		$502,657	$1,491,298	$ 988,641	7.0	$58,802,653
Administrative Hearings	$2,357,389		$0	$277,641	$ 277,641	3.0	$2,635,030
Auditor	$10,016,613	$120,270	$0	$1,462,988	$ 1,583,258	10.0	$11,599,871
Board of Elections	$2,135,381		$0	$1,741,168	$ 1,741,168	9.0	$3,876,549
Cultural Resources	$56,053,016		$456,686	$23,110,500	$ 22,653,814	3.8	$78,706,830
General Assembly	$34,642,598		$0	$0	$0		$34,642,598
Governor's Office	$5,150,352		$77,255	$107,959	$ 30,704	1.0	$5,181,056
State Budget & Mgnt.	$10,930,838		$59,263	$1,060,000	$ 1,000,737		$11,931,575
State Planning	$1,815,850		$6,118	$1,300,000	$ 1,293,882		$3,109,732
Insurance	$24,086,190		$0	$2,518,893	$ 2,518,893	23.0	$26,605,083
Lt. Governor	$609,390		$0	$25,000	$ 25,000		$634,390
Revenue	$68,746,867		$326,098	$12,272,148	$ 11,946,050	4.0	$80,692,917
Rules Review Comm.	$273,441		$0	$0	$ -		$273,441
State Controller	$10,434,176		$85,012	$2,232,000	$ 2,146,988	(1.0)	$12,581,164
Secretary of State	$5,310,680	($202,770)	$0	$2,240,489	$ 2,037,719	41.0	$7,348,399
State Treasurer	$18,872,768		$0	$1,417,525	$ 1,417,525	12.0	$20,290,293
Subtotal	**$309,249,561**	**($82,500)**	**$1,513,089**	**$51,257,609**	**$ 49,662,020**	**112.8**	**$358,911,581**
Human Resources							
Administration and Support	$33,022,064		$226,024	$11,314,399	$ 11,088,375		$44,110,439
Aging	$23,610,127		$0	$4,000,000	$ 4,000,000		$27,610,127
Child Development	$171,638,076	($120,270)	$1,011,184	$56,734,743	$ 55,603,289		$227,241,365
Services for Deaf/HH	$27,797,823		$0	$185,000	$ 185,000		$27,982,823
Social Services	$184,413,623		$23,332,974	$6,961,048	$ (16,371,926)	1.0	$168,041,697
Health Services	$119,718,218		$2,060,000	$11,884,000	$ 9,824,000		$129,542,218
Medical Assistance	$1,403,156,335		$64,710,957	$0	$ (64,710,957)		$1,338,445,378
Blind Services	$15,335,955		$0	$300,000	$ 300,000		$15,635,955
Mental Health	$550,619,886		$0	$52,905,001	$ 52,905,001		$603,524,887
Facility Services	$8,981,543		$0	$300,000	$ 300,000		$9,281,543
Vocational Rehab.	$32,834,876		$0	$1,200,000	$ 1,200,000		$34,034,876
Youth Services	$89,415,373		$200,000	$0	$ (200,000)		$89,215,373
Subtotal	**$2,660,543,899**	**($120,270)**	**$91,541,139**	**$145,784,191**	**$ 54,122,782**	**1.0**	**$2,714,666,681**

Justice & Public Safety							
Correction	$867,817,472		$22,910,229	$5,567,132	$ (17,343,097)	(212.0)	$850,474,375
Crime Control	$33,720,830		$61,993	$2,639,219	$ 2,577,226	4.0	$36,298,056
Judicial	$327,102,308		$1,445,225	$8,188,754	$ 6,743,529	83.0	$333,845,837
Justice	$67,165,852		$34,000	$1,596,081	$ 1,562,081	35.0	$68,727,933
Subtotal	**$1,295,806,462**	**$0**	**$24,451,447**	**$17,991,186**	**$ (6,460,261)**	**(90)**	**$1,289,346,201**
Natural & Economic Resources							
Agriculture	$49,822,632		$210,600	$2,165,896	$ 1,955,296	14.0	$51,777,928
Commerce	$38,577,339	$202,770	$217,678	$17,900,000	$ 17,885,092	4.0	$56,462,431
Commerce - State Aid	$2,000,000		$0	$12,750,000	$ 12,750,000		$14,750,000
MCNC	$2,500,000		$2,500,000	$4,500,000	$ 2,000,000		$4,500,000
Biotechnology	$7,664,396		$25,483	$2,500,000	$ 2,474,517		$10,138,913
REDC	$3,920,000		$12,662	$4,025,000	$ 4,012,338		$7,932,338
ENR	$134,915,353		$1,757,098	$26,740,546	$ 24,983,448	62.5	$159,898,801
Housing Finance	$2,300,000		$0	$2,000,000	$ 2,000,000		$4,300,000
Labor	$15,828,463		$0	$190,000	$ 190,000		$16,018,463
SIPS	$271,530		$271,530	$6,143,160	$ 5,871,630	(4.0)	$6,143,160
Subtotal	**$257,799,713**	**$202,770**	**$4,995,051**	**$78,914,602**	**$ 74,122,321**	**76.5**	**$331,922,034**
Transportation							
Aeronautics	$11,246,445	$0	$0	$0	$0		$11,246,445
Reserves:							
Contingency & Emergency	$1,125,000		$0	$0	$0		$1,125,000
Compensation Increases	$343,409,871		$0	$341,871,828	$ 341,871,828		$685,281,699
Salary Adjustment Fund	$9,573,829		$0	$0	$0		$9,573,829
Nonrecurring Compensation Increase	$0		$0	$43,171,138	$ 43,171,138		$43,171,138
Retirement Adjustment	$0		$44,381,870	$0	$ (44,381,870)		($44,381,870)
Postage Reduction	($300,000)		$0	$0	$0		($300,000)
Debt Service	$205,373,699		$14,179,574	$0	$ (14,179,574)		$191,194,125
Debt Service - Federal	$1,155,948		$0	$0	$0		$1,155,948
Juvenile Justice Initiative			$0	$17,347,487	$ 17,347,487		$17,347,487
Travel Rate for State Employees			$0	$1,000,000	$ 1,000,000		$1,000,000
Global Trans Park			$0	$5,325,000	$ 5,325,000		$5,325,000
Subtotal	**$560,338,347**	**$0**	**$58,561,444**	**$408,715,453**	**$ 350,154,009**	**0**	**$910,492,356**
TOTAL OPERATING BUDGET	**$11,647,640,238**	**$0**	**$247,911,775**	**$1,029,677,597**	**$ 781,765,822**	**100**	**$12,329,406,060**
Capital	**$0**			**$133,348,000**	**$ 135,348,000**		**$135,348,000**
TOTALS	**$11,647,640,238**	**$0**	**$247,911,775**	**$1,163,025,597**	**$ 917,113,822**	**100**	**$12,464,754,060**

BUDGET REFORM STATEMENT

(1)Composition of the 1998-99 beginning availability:		
(a) Revenue collections unaddressed in 1997-98	$	121.5
(b) Revenue collections in 1997-98 in excess of authorized estimates	$	614.4
(c) Unexpended appropriations during 1997-98 (reversions)	$	100.0
(d) Adjustment for Emergency Appro./Yr. 2000 Conversion	$	(20.5)
Beginning Credit Balance	$	**815.4**
(2) Earmarked Transfers from Credit Balance:		
(a) Transfer to Savings Reserve	$	(21.6)
(b)Transfer for Reserve for Repairs & Renovations	$	(145.0)
(c)Transfer to Clean Water Management Reserve	$	(53.0)
(d)Transfer to Reserve for Bailey Case Refunds	$	(400.0)
Total Transfers	$	**(619.6)**
(3) Beginning Unrestricted Fund Balance	$	**195.8**
(4) Revenues Based on Existing Tax Structure:		
(a)Tax Revenues Originally Projected	$	11,547.7
Additional Projected Tax Revenue	$	152.5
Total Tax Revenues	$	**11,700.2**
(b)Tax Changes:		
(1) Repeal Food Tax Effective Nov. 1	$	(53.9)
(2) Repeal Income Tax on Retired Gov't. Emp. (Bailey Case)	$	(128.6)
(3) Continue Earmarked Refund for Federal Retirees	$	(35.5)
Total Tax Changes	$	**(218.0)**
(c)Non-Tax Revenues	$	**472.4**
Additional Non-Tax Revenue:		
Treasurer's Banking Division	$	1.1
Secretary of State Fees	$	0.5
DHHS-Certificate of Need Fees	$	1.5
Fed. Retiree Refund Program-Administration	$	0.7
Intangibles Tax Reserve Balance	$	7.4
Fed. Retiree Refund Reserve Balance	$	9.7
Transfer from Insurance Regulatory Fund	$	3.1
Total Non-Tax Revenues	$	**496.4**
(d) Disproportionate Share Receipts	$	85.0
1997-98 Reserved Disproportionate Share Receipts	$	35.4
Total Disproportionate Share Receipts	$	**120.4**
(e) Highway Trust Fund Transfer	$	170.0
TOTAL GENERAL FUND AVAILABILITY	$	**12,464.8**
TOTAL 1998-99 APPROPRIATIONS BY 1997 AND 1998 EXTRA SESSION	$	**11,547.6**
REMAINING GENERAL FUND AVAILABILITY	$	**917.2**

Administration

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$57,814,012**

Budget Changes

(1111) Office of the Secretary

1	**Reduce Salary Reserve** A quality leadership position was reduced in the Secretary's Office creating salary reserve which is reduced from the budget.	($12,736)	R

(1121) Fiscal Management

2	**Reduce Data Processing Services** Reduce data processing services and the printing of reports in Fiscal Management.	($1,563)	R

(1122) DOA Personnel

3	**Reduce Salary Reserve -- HR Management** A staff development position was reduced in the Human Resources Management Office creating salary reserve which is reduced from the budget.	($5,259)	R

(1225) Health Plan Purchasing Alliance

4	**Eliminate Public Relations Coordinator Position** Eliminate the Public Relations Coordinator Postion within the State Health Plan Purchasing Alliance Board, including salary and benefits.	($45,621) -1.00	R

(1412) State Property Office

5	**Reduce Salary Reserve -- State Property Office** A real property agent position was reduced in the State Property Office creating salary reserve which is reduced from the budget.	($9,478)	R
6	**State Property Office Positions** Funds six new positions in the State Property Office to address workload increases resulting from recent legislation involving Easements in State-Owned Submerged Lands, the Clean Water Trust Fund and Wetlands Restoration Program, and the Capital Improvement Planning Act.	$287,998 6.00	R

(1421) Facilities Management Division

7 Reduce line items – Facility Management ($428,000) R

Reduce Operating Budget lines

-532310 Repairs to Building	
AC Systems	($60,000)
Electrical Systems	($60,000)
Plumbing	($ 8,000)
-532210 Electrical	($300,000)

Breakdown of $300,000 in electrical savings

1. Historic Houses	($15,000)
2. Various Small Buildings	($ 5,000)
3. Garner Road Buildings #2, #4,12,16	($ 8,000)
4. Revenue Building AC System	($15,000)
5. History Museum	($10,000)
6. Parking Deck Lights	($10,000)
7. Electrical Cost Parking Deck Lights #17,#65	($62,000)
8. Chillers (Reduce Operation time)	($175,000)

(1731) Council for Women

8 Domestic Violence Prevention Funds $1,000,000 NR

Appropriates $1 million to the Department of Administration for the North Carolina Council for Women. The Council for Women shall provide grants from these funds to existing domestic violence programs, including the North Carolina Coalition Against Domestic Violence, Inc., and for the development of new domestic violence programs. The Department of Administration or the Council for Women shall not use any of the funds for operating expenses.

(1810) Ethics Board

9 North Carolina Ethics Board $203,300 R

The North Carolina Ethics Board was created by Executive Order to serve as the State entity to prevent conflicts of interest in the Executive Branch of State Government. Funds are recommended for staff and operations of the Board. 2.00

Budget Changes	**($11,359)**	R
	$1,000,000	NR
Total Position Changes	7.00	
Revised Total Budget	**$58,802,653**	

Auditor

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$10,016,613**	
Budget Changes		
(1210) Field Audit Division		
10 Audit Resources – Smart Start	$649,129	R
Fund staff positions to audit the statewide and local partnerships in accordance with legislative mandate.	$38,940	NR
	6.00	
11 Audit Positions and Contract Audit Funding	$748,959	R
Funds four additional audit positions to allow the Department to increase the scope of its performance and financial audits of government agencies and to address backlogs of allegations of fraud and abuse.	$25,960	NR
	4.00	
(1210) Field Audits Division		
12 Audit Resources - Smart Start	$120,270	R
Transfer from the Division of Childhood Development continuation funds to support audits of Early Childhood Development Initiatives Program.		
Budget Changes	**$1,518,358**	R
	$64,900	NR
Total Position Changes	10.00	
Revised Total Budget	**$11,599,871**	

Cultural Resources

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$56,053,016**	
Budget Changes		
(1110) Office of the Secretary		
13 Miscellaneous Contractual Services Reduce (532199) by eliminating funds for the North Carolina Awards.	($14,366)	R
14 Grants to Local Organizations Provide funds to local arts, cultural, and historical organizations; and local museums as grants-in-aid.	$8,000,000	NR
(1120) Administrative Services		
15 Computer Equipment Reduce funding in line item (534522).	($14,884)	R
16 Computer Operations Provide funding to replace the server and support maintenance agreement.	$2,700 $58,000	NR

(1210) Archives and History - Administration

17 Adjust Various Line Item Expenditures ($10,144) R

532199	Misc. Contractual Services	$ 360
532210	Energy Ser. Electrical	968
532230	Energy Ser. Water and Sewer	101
532390	Repairs - Other	226
532490	Maint Agreement - Other	240
532513	Rent/Lease - Other Facilities	65
532590	Rent/Lease - Other Property	62
532714	Transp. - Ground In-State	1,265
532715	Transp. - Ground Out of State	75
532721	Lodging - In-State	131
532722	Lodging - Out of State	131
532724	Meals - In-State	145
532725	Meals - Out of State	88
532727	Misc. - In-State	65
532728	Misc. - Out of State	65
532731	Board/Non-Employee Transp.	453
532732	Board/Non-Employee Subs.	231
532811	Telephone	2,322
532821	Computer/Data Process. Serv.	26
532840	Postage, Freight, Del.	417
532850	Print, Bind, Duplicate	262
532860	Advertising	10
532911	Property - Insurance	262
532919	Other Insurance	183
532942	Other Employee Educ. Exp.	13
533110	General Office Supplies	189
533350	Motor Vehicle Repl. Parts	17
533900	Other Materials/Supplies	408
534511	Office Furniture	98
534522	Equipment - Computers	627
534539	Other Equipment	69
534630	Library and Learning Res. Coll.	151
534710	Computer Software	203
535830	Membership Dues and Sub.	216

18 First Flight Centennial Commission $723,800 R

Increase funding to support personnel and operating expenses for prepartion of the commemmoration in 2003. $250,000 NR
5.00

19 Queen Anne's Revenge

Funding continues surveillance; conservation of recovered artifacts; monthly search operations; analysis and testing of retrieved artifacts; operation of technical equipment; transportation of the travelling artifact exhibit; travel, per diem, and motor vehicle costs; and operational support of the Maritime Heritage Trail. $250,000 NR

(1220) Historical Publications

20 Print, Binding, and Duplication ($10,110) R

Reduce funding allocated for publications (532850).

(1230) Archives and Records

21 Personal and Other Services ($42,414) R

Eliminate salary and related benefits of a Processing Assistant IV position (#2138); and reduce items in the operating budget: -1.00

531211 SPA - Reg. Salaries	$ 19,895
531511 Social Security	1,522
531521 Reg. Retirement Cont.	2,155
531561 Med. Insurance Cont.	1,736
532390 Repairs - Other	5,000
532850 Print, Binding, Duplication	12,106

22 Leased Space for Records Storage $255,000 NR

Appropriate funding to lease warehouse space to store a backlog of records and for shelving.

(1241) State Historic Sites

23 Reduce Various Line Item Expenditures ($104,277) R

532210 Energy Ser. - Electrical	$ 30,000
532220 Energy Ser. - Nat. Gas/Propane	3,000
532230 Energy Ser. - Water and Sewer	1,000
532241 Energy Ser. - Fuel Oil	1,000
532390 Repairs - Other	12,000
532714 Transp. - Ground In-State	1,000
532721 Lodging - In-State	1,000
532722 Lodging - Out of State	1,000
532724 Meals - In-State	277
532725 Meals - Out of State	1,000
533110 General Office Supplies	1,000
533350 Motor Vehicle Repl. Parts	3,000
533900 Other Materials and Supplies	10,000
534511 Office Furniture	2,000
534522 Equipment - Computers	10,000
534528 Equipment - Communications	1,000
534539 Other Equipment	10,000
534449 Other Motorized Vehicles	5,000
534610 Art and Artifacts	11,000

24 State Civil War Sites $1,000,000 NR

Continue funding for the preservation, improvement, and promotion of the State's Civil War era sites.

25 Old Salem Funds $2,000,000 NR

Provide funds for the restoration and development of the St. Philips Church and the construction of the North Carolina Heritage Education Center at Old Salem.

26 Sanford House Restoration $112,000 NR

Funding to restore the Betsy Sanford House which is owned by the Scotland County Literacy Council for use as an office and to provide tutorial services.

27 Roseboro Restoration

Appropriates funds to the town for renovation and restoration of buildings of historic character. — $50,000 NR

28 Salemburg Restoration

Appropriates funds to the town for renovation and restoration of buildings of historic character. — $50,000 NR

29 Local Historic Sites Funds

Appropriates funds for site improvement:Historic Hope for continued renovation; Historic Murfreesboro to renovate historic structures in the district; and Historic Woodville to continue work on restoration and relocation St. Francis Methodist Church. — $500,000 NR

30 Scotland Place

Appropriate funds for expansion of the meeting room facilities of the civic center/senior citizen center. — $75,000 NR

(1242) Tryon Palace Historic Sites & Gardens

31 Adjust Operating Expense — ($18,961) R

532512 Rent/Lease - Buildings/Office	$ 3,070
532840 Postage	10,491
532850 Printing	5,050
532912 Other Employee Edu. Exp.	350

32 Tryon Palace Historic Site Funds — $332,850 R

Funds appropriated to operate and maintain Barbour Boat Works until demolition and construction work at the site are completed, and for the environmental assessment and design of the overall History Education Center Project. — $1,000,000 NR

(1243) State Capitol/Visitor Services

33 Personal Services — ($6,921) R

Reduce temporary wages (531311) and social security (531511) due to change in schedule.

(1245) NC Maritime Museum

34 Building Repairs — ($12,606) R

Reduce funding in line item 532310.

(1250) State Historic Preservation Office

35 Personal Services and Other Costs ($20,768) R

Reduce salary and benefits of a Historic Preservation/Restoration Supervisor position (#2604) to 3/4 time, and adjust other items in the budget: -0.25

531211 SPA - Reg. Salaries	$ 15,907
531511 Social Security	1,217
531521 Retirement	1,723
532811 Telephone	961
532840 Postage	960

(1290) Western Office

36 Adjust Operating Budget ($5,429) R

532714 Transp. - Ground In-State	$ 1,048
532811 Telephone	500
532850 Printing	500
532942 Other Employee Edu. Exp.	150
533110 General Office Supplies	500
533900 Other Materials and Supplies	500
534511 Office Furniture	310
534522 Equipment - Computers	208
534539 Other Equipment	1,513
535830 Membership Dues/Subscription	200

(1320) Museum of Art

37 Personal Services and Operating Expense ($55,338) R

Reduce salary reserve and related benefits for Administrative Assistant I position (#3147), and adjust other line items:

531211 SPA - Reg. Salaries	$ 8,585
531511 Social Security	656
531521 Reg. Retirement	929
532199 Misc. Contractual Services	25,000
534610 Art and Artifacts	20,168

(1330) NC Arts Council

38 Grassroots Arts Program $335,750 NR

Provides one-time increase in continuation budget for grants awarded to local arts councils.

39 Shakespeare Festival $260,000 NR

Provide funds for the Educational Outreach Touring Program.

40 United Arts Council of Greensboro $68,200 NR

Funding for construction and renovation of facilities and for production costs associated with performing arts programs.

41 Durham Arts Council-African/Amer. Dance Ensemble — $100,000 NR

Funding appropriated to promote dance and artistic programs of the ensemble.

(1340) NC Symphony

42 Telephone Service — ($4,948) R

Reduce funding in line item 532811.

(1410) State Library Services

43 Personal and Other Services — ($63,200) R

531312 Temporary Salary	$ 2,562
531512 Social Security	196
534630 Library and Learning Res. Coll.	60,442

44 Continue Reading Services to Children — $103,500 R

Funding replaces lost federal resources to operate statewide reading programs for children.

45 Services to the Blind and Physically Handicapped — $43,700 R

Appropriate funds to continue production of Braille and taped materials, handbooks and newsletters, and volunteer programs due to lost federal resources.

(1480) Statewide Programs & Grants

46 6960 Aid to Counties — $2,000,000 NR

Provide additional funds to support grants to public libraries based upon the formula for State-Aid to libraries.

47 Aid to Small and Poor Libraries — $1,000,000 NR

Appropriate funding to support construction grants.

(1500) NC Museum of History

48 Reduce Various Operating Funds — ($72,320) R

532199 Misc. Contractual Services	$ 10,000
532714 Transp. - Ground In-State	2,320
533900 Other Materials and Supplies	10,000
534511 Office Furniture	20,000
534610 Art and Artifacts	20,000
534710 Computer Software	10,000

49 Charlotte Museum of History — $1,000,000 NR

Funds appropriated to the Hezekiah Alexander Foundation for capital expenses incurred in providing space for the Charlotte Museum of History.

50 Mint Museum of Art — $1,000,000 NR

Funds appropriated to establish a new branch of the museum in the City of Charlotte.

51	**Raleigh City Museum** Funds appropriated to move the museum to a new location and to refurbish the building that will house the museum.	$125,000	NR
52	**Exploris Children's Museum** Provides funding for exhibit, technology, and education program development.	$2,000,000	NR
53	**Museum of the New South** Appropriates funds for renovating the Museum building, including expansion of exhibition and classroom space and installation of major permanent 8,000 square foot core exhibit.	$300,000	NR
54	**Museum of the Cape Fear** Appropriate funds to renovate and refurbish the Poe House.	$115,000	NR

Budget Changes	**$749,864**	R
	$21,903,950	NR
Total Position Changes	3.75	
Revised Total Budget	**$78,706,830**	

General Assembly

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$34,642,598**	
Budget Changes		
55 No Expansion Budget Requests	**$0**	**R**
	$0	**NR**
	0.00	
Budget Changes	**$0**	**R**
	$0	**NR**
Total Position Changes	0.00	
Revised Total Budget	**$34,642,598**	

Governor

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$5,150,352**	
Budget Changes		
(1110) Administration		
56 Reduce Various Operating Line Items	($77,255)	R
Funds are reduced from the Office of the Governor in various line items including travel, communications, data processing and printing.		
57 Continue Deputy Chief of Staff Position		
Resources are requested to continue the Deputy Chief of Staff position for the Office of the Governor.	$107,959	NR
	1.00	
Budget Changes	**($77,255)**	R
	$107,959	NR
Total Position Changes	1.00	
Revised Total Budget	**$5,181,056**	

Insurance

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$24,086,190**	
Budget Changes		
(1200) Company Services		
58 Information Services Crisis	$597,134	R
Update electronic communications services for interagency and industry communication needs. Allows the Department to begin system up-dates every three years. Provides for two programmers for the integrated insurance regulatory client/server system and one systems manager position.	$18,500	NR
	3.00	
(1200) Company Services		
59 Field Audit & Regulatory Contractual Services	$300,000	R
The Department does not have the internal resources to perform certain supporting function that are essential to baseline solvency regulations. The Department has to depend on outside experts to provide actuarial evaluation of an entity's insurance loss reserves, appraisal of investment property valuations, and legal support in specialized areas such as bankruptcy law.	$0	NR
	0.00	
(1200, 1300, & 1400) Various		
60 HMO and Service Corporation Field Examinations	$1,391,659	R
Authorizes a transfer from the Insurance Regulatory Fund to the Department of Insurance for examinations and audits, in the event the General Assembly approves legislation that includes HMO and service organizations in the Insurance Regulatory Charge.	$211,600	NR
	20.00	

a. (1200) Actuarial Services/Audits $525,289
b. (1300) Examinations/Analysis/Review $780,117
c. (1400) Consumer Complaint Analysis/ Salary Reserve/Phone System $297,853
Total $1,603,259

Budget Changes	**$2,288,793**	R
	$230,100	NR
Total Position Changes	23.00	
Revised Total Budget	**$26,605,083**	

Lieutenant Governor

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$609,390**
Budget Changes	
(1110) General Administration	
61 Up-date Computer System	
Funds are recommended for the Office of the Lieutenant Governor to up-date the computer system; providing for a data server, hubs, and operating software.	$25,000 NR 0.00
Budget Changes	**$25,000 NR**
Total Position Changes	0.00
Revised Total Budget	**$634,390**

Office of Administrative Hearings

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$2,357,389**	
Budget Changes		
(1100) Administration and Operations		
62 Funding for OAH Budget Deficiencies	$101,358	R
Funding for the day-to-day operations of the office, provide resources for the hiring of temporary law judges when conflicts of interest exist, and to hire temporary hearings assistants. A decrease in federal funds is requested due to the uncertainty in the availability of federal dollars to the OAH from EEOC.	$0	NR
	0.00	
a. Office Requirements $69,358		
b. Federal Funds $32,000		
Total $101,358		
63 Hearings Division Clerical Support & ALJ Training	$54,332	R
Resources are need to complete an integrated Hearings Program that was authorized in the 1997 Session. Provide funding for one Division clerical assistant and education seminars for Administrative Law Judges.	$38,880	NR
	1.00	
64 Reduce Civil Rights Caseload Backlog	$76,171	R
Provides funding for two positions in the Civil Rights Division to investigate and hear cases of political discrimination. One of the positions is clerical and the other is for an administrative law judge.	$6,900	NR
	2.00	
Budget Changes	**$231,861**	R
	$45,780	NR
Total Position Changes	3.00	
Revised Total Budget	**$2,635,030**	

Office of State Planning

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$1,815,850**	
Budget Changes		
(1410) Administration		
65 Reduce Contractual and Communication Services	($6,118)	R
Funds are reduced from the budget of the Office of State Planning for contractural services and communication.		
(1412) Miscellaneous Contractual Services		
66 County Boundary Resurvey Program		
Fundung is needed for the Geodetic Survey Program to reestablish and monument county boundaries to insure that the boundaries can be identified, preserved, and referenced to the North Carolina State Plane Coordinating System. It will take seven years to re-survey the county boundaries of each county in the State. A portion of the funds will support the survey of a section of the North Carolina/South Carolina boundary. This request is a recommendation of the Joint State Boundary Commission.	$300,000 0.00	NR
(2510) Miscellaneous Contractual Services		
67 Digital Orthophotography Appropriation		
Funding is recommended to participate in a shared plan for the continude development of digital orthophotography in the State. Fifty percent of the image data layer is shared by the National Aerial Photography Program.	$1,000,000 0.00	NR
Budget Changes	($6,118)	R
	$1,300,000	NR
Total Position Changes	0.00	
Revised Total Budget	$3,109,732	

Revenue

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$68,746,867**	

Budget Changes

(1600) Administration

68 Reduce Contractual Services

Reduce contractual services (532140) in the Planning Development and Technology (PDT) Division. — ($326,098) NR

69 Develop New Remittance Processing System

Appropriates initial funding for a Data Capture Platform which includes replacement of the remittance processing system to comply with Year 2000 requirements, and installation of high speed scanners to capture data directly from tax returns for processing through the Integrated Tax Administration System (ITAS). Funding also expands existing Information System staff with four positions: Computer Training Specialist III, Computer Consultant II, Computer Consultant IV, and Telecommunications Systems Analyst II.

$236,548 R
$12,035,600 NR
4.00

(191A) Statewide Reserves - Availability

70 Reversion of Funds to Administer Fed Retiree Acct

Per Chapter 19, Section 3(b) of the 1996 Session Laws, $1.2 million was authorized to administer the federal retiree refund program. Funding was expended from a reserve in the department's budget: 24710/2002 - Federal Retiree Administration Account. The balance in the reserve - $741,902 - will revert to the General Fund, and the department will absorb remaining cost in its operating budget. — $0 NR

Budget Changes	**$236,548**	**R**
	$11,709,502	**NR**
Total Position Changes	4.00	
Revised Total Budget	**$80,692,917**	

Secretary of State

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$5,310,680**

Budget Changes

(1110)

71 Cash Management & Support Positions

Funds a cash management position to help the Department centralize the cash receipts function and to comply with State policy regarding the timely deposit of State funds. Also funds a clerical support position in the Administration Division.

$52,624	R
$16,250	NR
2.00	

(1110) General Administration

72 Technology Enhancement – Phase II

Continues the second year of funding for a two-year technology improvement project to provide new equipment and to update computer systems and applications.

$134,385	R
$650,000	NR
1.00	

73 Trademarks/Authentications – Staff Expansion

Funds three additional positions in the Trademarks/Authentications Section to help with training local law enforcement in trademark fraud, to examine and review trademark registration applications, and to issue authentication certificates.

$114,831	
$29,607	NR
3.00	

(1120) Publications Division

74 Publications Division – Staff Expansion

Funds a Mail Clerk II position to assist with the Department's considerable mail flow generated by receipts of checks and the Department's dissemination of corporate documents and other correspondence.

$25,162	R
$12,878	NR
1.00	

(1220) Corporations Filing Division

75 Corporations Division Staff Expansion

Funds 15 additional positions in the Corporations Division to address the increasing workload from corporate filings by adding staff for front-counter activities, document examiners, telephone assistance, and data processing personnel.

$390,155	R
$83,988	NR
15.00	

(1220) Uniform Commercial Code

76 Uniform Commercial Code Staff Expansion — $456,108 R; $37,316 NR; 17.00

Funds 17 positions in the Uniform Commercial Code Division to Allow the Secretary of State to operate a second shift in the UCC Division to meet the increasing demands from the business community for financial statement filings and information requests.

(1230) Securities Registration Division

77 Securities Registration Staff Expansion — $223,995 R; $13,190 NR; 5.00

Funds two Securities Field Auditors, one Securities Registration Analyst, and two support persons to handle increases in securities offerings regulated by the Department.

(1500) Boxing Commission

78 Transfer Boxing Commission to Commerce — ($202,770) R; -3.00

Transfer positions, operating support, equipment, property, and other assets of the North Carolina State Boxing Commission to the Department of Commerce. The transfer has all of the elements of a Type 1 transfer as defined by G.S. 143A-6.

	FY1998-99
Requirements	$ 225,870
Receipts	(23,100)
Appropriation	$ 202,770

Budget Changes	**$1,194,490**	R
	$843,229	NR
Total Position Changes	41.00	
Revised Total Budget	**$7,348,399**	

State Board of Elections

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$2,135,381**	
Budget Changes		
(1100) Administration		
79 Computerized Voter Registration System	$585,000	R
Provides funds for increases in costs associated with implementation and maintenance of the Statewide Elections Information Management System. Cost increases result from Third-Party Quality Assurance requirement, data communications costs, SIPS charges, and software maintenance costs.	$460,200	NR
80 Administration -- Increase Positions	$500,538	R
Funds additional positions to handle workload increases resulting from SEIMS project and election activities.	$21,000	NR
	9.00	
(1200) Campaign Reporting		
81 Campaign Reporting Office -- Operating Funds	$174,430	
Provides funds for travel and subsistence, postage, telephone services, printing and binding, and for campaign reserves to address the increasing demands placed upon the Campaign Reporting Office.		
Budget Changes	**$1,259,968**	R
	$481,200	NR
Total Position Changes	9.00	
Revised Total Budget	**$3,876,549**	

State Budget and Management

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$10,930,838**	
Budget Changes		
(1022) 1998 Special Appropriations		
82 N.C. Humanities Council Provides a grant to the North Carolina Humanities Council.	$100,000 0.00	NR
83 Sandhills Region Capital Fund Appropriates funds to Richmond County for the capital costs of completing the Humanities Service Complex.	$500,000 0.00	NR
84 Lincoln County Education Foundation Funds Appropriates funds to match foundation funds for technology projects in the Lincoln County School Administrative Unit.	$300,000	NR
(1310) OSBM Operations		
85 Reduce Travel, Communications, and Data Processing Funds are reduced from the budget of the Office of State Budget and Management for travel, communications, and data processing.	($59,263)	R
86 Operating Support for 1999-01 Budget Preparation Funds are needed to provide the Office with the necessary equipment, travel, data processing, and printing related to the preparation of the FY 1999-01 budget.	$160,000 0.00	NR
Budget Changes	**($59,263)** **$1,060,000**	R NR
Total Position Changes	0.00	
Revised Total Budget	**$11,931,575**	

State Controller

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$10,434,176**	

Budget Changes

(1000) Departmentwide

87 Delete Assistant State Controller Position ($85,012) R

As part of the Span of Control an Assistant State Controller position is eliminated. -1.00

88 Data Processing Shortfall

One-time funding to cover the FY 98 shortfall in Data Processing (532821) costs to the NCAS. $732,000 NR

89 Daily Production Support

Additional funding to continue the level of support necessary for daily production of the NCAS in the following line items: $1,500,000 NR

532140	Outside Services	$ 300,000
532440	Computer Hardware Maintenance	10,000
532441	Computer Software Maintenance	90,000
532522	Lease - Computer Equipment	600,000
532821	Data Processing Costs	500,000

Budget Changes	**($85,012)**	R
	$2,232,000	NR
Total Position Changes	-1.00	
Revised Total Budget	**$12,581,164**	

Treasurer

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$18,872,768**

Budget Changes

(1130) Escheats Division

90 Increase Administrative Supervision -- Escheats — $0 R

Fund a supervisory position in the Escheats Division to oversee the daily processing of tangible and intangible property and cash receipts. The amount of recurring funds needed to support this request are $45,426 and the amount in nonrecurring funds are $7,000. — $0 NR; 1.00

-Requirements	$ 52,426
-Receipts	$ 52,426
-Appropriation	-

(1210) Investment Management

91 Strengthen Investment Management — $52,932 R

Funds an additional Portfolio Manager and replaces outdated accounting systems in the Investment Management Division. — $257,000 NR; 1.00

-Requirements	$ 309,932
-Receipts	-
-Appropriation	$ 309,932
-Nontax Revenue	$ 309,932

(1220) Banking Operations

92 Replace Outdated Warrant Processing System — $738,000 NR

Funds a new imaging and data processing system to replace the existing system which has become outdated and unreliable.

-Requirements	$738,000
-Receipts	-
-Appropriations	$738,000
-Noxtax Revenue	$738,000

(1410) Retirement Division

93 Improve Member Services – Retirement Division $0 R
$0 NR
10.00

Funds 10 additional positions in the Retirement Division to help the Department meet the increasing demand for services placed upon the Division from a rapidly growing, active and retired, membership. The amount of recurring funds needed to support this request are $478,253 and the amount in nonrecurring funds are $826,000.

-Requirements	$ 1,304,253
-Receipts	$ 1,304,253
-Appropriation	-

(1412) & (1413) Firemen and Rescue Squad

94 Firemen's Pension and Rescue Squad Workers Funds $369,593 R

Provides funds to increase the monthly allowance to the Firemen's Pension Fund and to the Rescue Squad Workers Fund by five dollars.

Budget Changes	**$422,525**	R
	$995,000	NR
Total Position Changes	12.00	
Revised Total Budget	**$20,290,293**	

Public Education

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$4,493,194,418**

Budget Changes

ABC Program

1 ABC Bonus Awards 1997-98 — $0 NR

Provide additional funds to pay the projected ABC bonus awards for FY1997-98. $17,118,003 was earmarked from 1997-98 excess reversions.

2 ABC Bonus Awards — $98,480,985 NR

Provide funds to pay the projected ABC bonus awards for FY1998-99.

3 ABC Accountability — $2,000,000 NR

Provide funds to the State Board of Education to pay for existing end-of-grade and end-of-course tests authorized by the Board and the General Assembly. To begin pilot test for alternative assessments for exceptional children as required by federal law.

4 Assistance to Low Performing and At Risk Schools — $2,000,000 NR

Funds to assist low performing and at risk schools.

Excellent Schools Act

5 Increase Teacher Salaries — $0 R

Implement the second year of the new teacher salary schedules called for in the Excellent Schools Act. North Carolina's goal is to increase teacher salaries to the national average. $192,943,537 in recurring funds are located in the Compensation Reserves for this purpose.

6 Teacher Longevity: 1997-98 Salary Increases — $3,254,624 R

Appropriate funds to fund teacher longevity increases associated with the FY1998-99 salary increases that are a part of the Excellent Schools Act.

7 Additional Pay for Extra Duties — $12,405,561 R; $3,160,454 NR

Provide additional funds for teachers in low performing and at-risk schools. These funds will be used to pay for extra duties, student remediation and other teacher activities that lead to improved student performance. A portion of the nonrecurring funds may also be used for additional pay teachers who are a part of local assessment teams.

8 Extend Mentors to Second Year Teachers — $5,473,776 NR

Extend mentors to teachers who had mentors during their first year of teaching. Also provide mentors to instructional support personnel who are in their first year and who were not previously teachers.

9 Extra Pay for Forfeited Vacation Days — $4,250,000 R

Provide additional funds to pay for forfeited teacher vacation days if the teacher teacher is required to work on an optional teacher workday, and did not have the opportunity to take vacation at another time.

Improving Student Performance

10 Funds for Limited Proficiency in English Students — $5,000,000 NR

Provide funds to school systems with students who have limited proficiency in English.

11 School Technology Funds — $5,300,000 NR

Increase School Technology Funds. An additional $4,700,000 was earmarked from 1997-98 excess reversions.

12 Small School Supplemental Funding — $3,000,000 NR

Provide additional fund for Small School Supplemental Funding.

13 Advanced Placement and International Baccalaureate — $2,846,195 NR

Provide funds for pay for advanced placement examinations and international baccalaureate examinations. Funds also may be used for staff development costs for teachers.

14 A+ Schools — $500,000 NR

Provides funds to continue the A+ Schools program.

15 Global Curriculum Funds — $150,000 NR

Provide funds to continue the Global Curriculum program.

16 Total Quality Education — $650,000 NR

Provides funds to continue and to expand the Total Quality Education program.

17 School Leadership Pilot Funds — $200,000 NR

Funds to the State Board of Education for a school leadership pilot project in two school districts. The school districts will participate in the nationwide program of the Center for Leadership in School Reform.

Public Instruction

18 Additional Certification Specialists — $0 R

Provide $160,000 through receipts to increase the number of certification specialists in the Department of Public Instruction.

19	**Charter School Administration Funds** Provide funds to the State Board of Education and the Local Government Commission to provide administrative support audit support for charter schools.	$491,209	R
20	**Student Information System** Funds to begin the replacement of the Student Information System (SIMS)	$1,000,000	NR

Teacher Development

21	**Teaching Fellows Program** Funds to increase the North Carolina Teaching Fellows scholarship from $5,000 per year to $6,500 per year.	$2,400,000	R
22	**National Board for Professional Teaching Standards** Provide funds to pay for North Carolina teachers to take the assessment established by the National Board for Professional Teaching Standards and for leave days to prepare for the assessment.	$2,261,588	NR
23	**Teacher Evaluation Instruments** Funds to the State Board of Education to develop and validate a new teacher performance appraisal instrument.	$500,000	NR

Various Budget Adjustments

24	**Funding for Increases in Average Daily Membership** Provide funding for additional increases in average daily membership in FY1998-99.	$26,553,765	R
25	**Longevity Increases** Appropriate funds to fund teacher longevity increases associated with the FY1997-98 salary increases that were a part of the Excellent Schools Act. $9,010,274 was earmarked from 1997-98 excess reversions	$0	NR
26	**Mentor Teachers** Provide full funding for mentor teachers to first year teachers or instructional support personnel who were not previously teachers.	$9,235,124	NR
27	**Average Annual Salary Adjustment** Annual adjustment in average salaries of certified personnel to reflect actual experience through December 1997.	($35,525,769)	R
28	**School Bus Purchases** Purchase new school buses from nonrecurring funds. $24,199,403 was earmarked from 1997-98 excess reversions.	($24,199,403)	R

Budget Changes	**($10,370,013)**	**R**
	$141,758,122	**NR**
Total Position Changes		
Revised Total Budget	**$4,624,582,527**	

UNC System

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$1,455,260,484**	
Budget Changes		
A. UNC Campuses		
29 Base Budget Reductions Reduce each budget code by 0.1%	($1,502,974)	R
30 New Facility Reserves Adjust reserves for new buildings based on estimated completion dates.	$128,778 ($952,617)	R NR
31 Utilities Reductions Reduce utilities increases based on recent expenditures	($800,938)	R
32 Span of Control Study Board of Governors is directed to use span of control study to improve efficiency of campuses' operations.	($3,595,609)	R
B. Schedule of Priorities		
33 Enrollment Growth Provide for growth of 1,100 additional students, reduced tuition receipts because of shift to more in-state students, and to implement new formula for enrollment changes.	$13,730,338	R
34 Enrollment: Distance Learning & Off-Campus Degrees Provides funding for courses offered off-campuses in order to increase access and to provide for increased capacity, based on projections of substantial enrollment growth. A. Total Request $13,636,958 B. Less Transfers from Cooperative PhD. Programs $(253,929) C. Eliminate on-campus undergraduate bonus factors $(364,024) D. Net Appropriation $13,019,005	$13,019,005	R
35 Information Technology Funds for Computing and Technology to improve effectiveness of teaching and learning, service, and cost effectiveness	$4,500,000 $15,000,000	R NR
36 Libraries Improve library resources for constituent institutions.	$10,000,000	NR

37	**University Outreach to the Public Schools: A.** School Services Matching Incentive Grant Program Funds for campuses to create partnerships with local school systems to extend UNC services to public schools.	$975,000	NR
38	**University Outreach to the Public Schools: B.** Principal Fellows Program Increase the number of fellows in the first year class from 76 to 100.	$480,000	R
39	**University Outreach to the Public Schools: C.** Reading Together Additional General Fund support for this pilot program at UNC-Greensboro.	$300,000	NR
40	**University Outreach to the Public Schools: D** Learning Link: UNC TV Electronic Educational Community Improvements in interactive on-line service to public schools, linking University resources of all campuses to public school teachers	$535,500	NR
41	**Graduate Education and Research** Provide additional support for graduate teaching and research assistants	$8,000,000	R
42	**Distinguished Professors Endowment Trust Fund** Additional state matching funds for program to increase endowed funding for faculty chairs.	$5,600,000	
43	**Inter-Institutional Programs** Manufacturing Extension Partnership Continue state matching funds for federal grant to provide engineering services to small manufacturers in NC.	$900,000	NR

C. Agricultural Programs

44	**Agricultural Enhancement** Provide increased support for non-salary operating costs in the Agricultural Research and Cooperative Extension programs at NC State.	$1,400,000	R
45	**Pfiesteria Research** Provide operating funds to establish a Center for Applied Aquatic Ecology at NC State to facilitate research on toxic microorganisms	$600,000 $1,000,000	R NR
46	**Matching Funds for Agricultural Grants** Provide funds to Agricultural Programs at NC Agricultural and Technical State University to match federal grants.	$500,000	NR
47	**Turfgrass Research** Funds to continue turfgrass research projects at NC State University	$500,000	NR

D. Related Educational Programs

48	**Aid to Students Attending Private Colleges** Provides funding for increases in Legislative Tuition Grants (from $1,450 to $1,600 per year) and for need-based scholarship funds (from $750 to $900 per NC FTE per year).	$7,248,986	R

E. Other Programs

49	**East Carolina Doctoral II Classification** Provides partial funding to recognize need to increase support to East Carolina, recently designated as a Doctoral II University.	$2,000,000	R
50	**Poultry Research** Funding for research in new and emerging diseases affecting the poultry industry. Funds are to be allocated to the College of Veterinary Medicine at NC State.	$100,000	R
51	**Center for Global Business Education and Research** Funds for UNC-Greensboro to provide support services for volunteer group of organizations interested in world trade	$60,000	NR
52	**Leadership NC** Funds to support non-state training program serving 40 to 50 participants per year	$75,000	NR
53	**Teacher Academy** Funds to increase the number of programs offered in technology and literacy.	$500,000	NR
54	**Learn NC** Funding to expand efforts of UNC-Chapel Hill to provide services to public school teachers across the state.	$1,000,000	R
55	**Institute of Medicine** Grant-in-aid funds for this Institute	$400,000	NR
56	**Fiber Optic Infrastructure** Funds to complete payment of fiber optic infrastructure installed at NC Central University	$2,000,000	NR
57	**Oyster Research** Funds for the Institute of Marine Science at UNC-CH for study of sustainable oyster aquaculture.	$300,000	NR

Budget Changes	**$46,307,586**	**R**
	$37,692,883	**NR**
Total Position Changes		
Revised Total Budget	**$1,539,260,953**	

Community Colleges

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$504,200,909**	
Budget Changes		
58 Enrollment Funds additional enrollment growth in the community college system.	$2,000,000	R
59 Technology Provides colleges recurring funds for management information technology staff, non-recurring funds for the purchase and development of software, and recurring funds for Department staff to provide computer and construction technical assistance to colleges as well as SIPS charges and other computer related costs.	$9,000,000 $1,000,000 12.00	R NR
60 Equipment and Books Provides the same level of equipment and book funds to the community college system as it received in the prior fiscal year.	$9,000,000	
61 Equipment Reserve Creates a non-reverting equipment reserve fund to assist community colleges in meeting their backlog of equipment needs as documented in the Phase 3 Funding Study report to the State Board of Community Colleges.	$21,200,000	NR
62 Multi-Campus Funds Provides an equal amount of supplemental funding to those multi-campus college sites operated on an annual basis approved and recommended this year by the State Board of Community Colleges to the General Assembly. Sites operating less than a full year shall receive a pro rata share for the 1998-99 fiscal year.	$1,000,000	R
63 Center for Applied Textile Technology Expands the operating budget of the Center for Applied Textile Technology.	$225,000	R
64 Center for Applied Textile Technology A grant-in-aid for operations at the Center for Applied Textile Technology.	$300,000	NR
65 Operations and Maintenance of Plant Funds Restores the reduction in the operations and maintenance of plant funds to Central Carolina Community College and Southwestern Community College.	$313,668	R

66	**Public Radio Station Funds** Provides $5,000 to each of the Community College System's two public radio stations.	$10,000	R
67	**Prison Program Start-Up Funds-Pamlico CC** Provides funds to allow Pamlico Community College to start new prison education programs.	$500,000	NR
68	**Reduction in Human Resources Development Program** Reduces the Human Resources Development (HRD) program as recommended by the Governor.	($92,904)	R
69	**Worker's Compensation Adjustment** Accepts the Governor's reduction in the Department's Worker Compensation budget.	($121,731)	R
70	**Departmental Reductions** Reduces the Department's budget as recommended by the Governor in the warehouse rent line and vacant program assistant position.	($57,660) -1.00	R
71	**MCC Matching Scholarship Endowment Funds** Provides matching scholarship endowment funds for Montgomery Community College Foundation, Inc.	$500,000	NR

Budget Changes	**$12,276,373**	R
	$32,500,000	NR
Total Position Changes	11.00	
Revised Total Budget	**$548,977,282**	

Health and Human Services

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$2,660,543,899**

Budget Changes

(1.0) Office of the Secretary

1	**Medicaid Receipts for Rural Health** Increases use of Medicaid receipts to support program services.	($226,024)	R

(2.0) Division of Child Development

2	**Transfer Funding to State Auditor** Transfers funds to the Office of the State Auditor to continue supporting the auditing of the Early Childhood Education and Development Initiative Program	($120,270)	R
3	**Federal Funding for Regulatory Activities** Increases use of federal Child Care and Development Block Grant funds to support child care regulatory activities.	($1,011,184)	R

(3.0) Division of Medical Assistance

4	**Transfer Reserve Funds** Budgets 10% of the total availability in the G.S. 143-23.2 reserve to support current services and to reduce appropriations.	($13,000,000)	R
5	**Medicaid Adjustments** Reduces appropriations to reflect current eligibility and utilization information and a more favorable federal funds participation rate.	($45,500,000)	R
6	**Reduce Physician Rate Increase** Reduces the physician rate increase from 10.5% to 5.5%.	($6,210,957)	R

(4.0) Division of Social Services

7	**County AFDC/Child Support Reimbursements** Eliminates reimbursements to counties whose child support enforcement offices are State-operated.	($2,700,000)	R
8	**Caring Program for Children** Reduces funding for the Caring Program for Children due to implementation of the Children's Health Insurance Program.	($100,000)	R
9	**State/County Special Assistance** Reduces appropriation to reflect the current forecast of requirements.	($532,974)	

10 Welfare Reform Reserve Funding — ($20,000,000) R

Eliminates $20 million in recurring appropriations for the Welfare Reform Reserve.

(5.0) Division of Facility Services

11 Certificate of Need Fees — $0 R

Transfers $1.5 million in receipts from Certificate of Need fees to the Treasurer's Office as a nontax revenue.

(6.0) Division of Health Services

12 Immunization Program — ($178,000) R

Reduces appropriations to reflect projected reductions in shipping and printing expenditures.

13 Maternity Care Coordination Start-up Grants — ($232,000) R

Reduces appropriations for Maternity Care Coordination start-up grants due to reduced need at the local level.

14 Children's Special Health Services Program — ($1,650,000) R

Reduces funding in the Children's Special Health Services program by $1.65 million due to excess funding for purchase of care services.

(7.0) Division of Youth Services

15 Detention Construction Delays — ($200,000) NR

Reduces operating reserve for the Richmond Boundover Unit due to delays in opening the facility.

(8.0) Division of Child Development

16 Smart Start — $56,634,743 R

Provides funding for direct services statewide, including the 45 counties which received planning funds only in 1997-98.

17 TEACH Program — $100,000 NR

Provides a grant-in-aid to the TEACH Program to establish a capital fund to be matched by expenditures of private funds.

(9.0) Division of Social Services

18 Intensive Family Preservation — $600,000 NR

Provides intensive family preservation programs in the six additional counties which have the highest number of children in foster care in the State.

19 State/County Special Assistance — $3,765,649 R

Increases rate from $893 to $956 per month effective October 1, 1998.

20 Adoptive Parents Criminal Records Check — $95,399 R

Provides funding for adoptive parent criminal record checks including one clerical position to process the record checks. 1.00

21 Food Banks

Provides funding for six area food banks, and the start-up costs for one in Eastern North Carolina. $2,500,000 NR

(10.0) Office of the Secretary

22 ABCs Plan in DHHS Schools

Provides funding for technical assistance to implement the ABCs Plan in the Governor Morehead School and the Schools for the Deaf and to redirect resources from administration into educational programs at each of the schools. Provides $1.25 million for education-related technology, to be placed in a reserve pending the development and approval of a school technology plan for each campus. $2,450,000 NR

23 Human Services Grants-in-Aid

Establishes a reserve for grants-in-aid to public and private human services organizations for programs that provide services to older adults, adults with disabilities, at risk children and youth and families. $2,000,000 NR

24 Year 2000 Computer Support

Supports replacement of automation equipment to ensure compliance with Year 2000 needs for the Eligibility Information and Healthquest Systems. $6,864,399 NR

(11.0) Division of Mental Health

25 Mental Health Center Funds

Provides funding for the construction and expansion of a mental health center in Tyrrell County. $400,000 NR

26 Day By Day Treatment Center

Provides a grant-in-aid to the Day By Day Treatment Center in Johnston County which provides substance abuse services. $100,000 NR

27 Union House Rehabilitation Facility Funds

Provides $200,000 as a grant-in-aid to the Union House Rehabilitation Facility in Union County. $200,000 NR

28 Atypical Antipsychotic Drugs

Provides funding for atypical antipsychotic drugs at State psychiatric hospitals. $1,326,998 NR

29 Medicaid Match for Area Programs $34,000,000 R

Provides funding to establish a Medicaid match reserve for Area Mental Health Programs in order to continue existing services. $4,000,000 NR

30 Violent & Assaultive Children

Provides funding to continue services to violent and assaultive children in the former Willie M class. $5,353,003 NR

31 Child Mental Health Training

Provides funding to purchase computer software or printed materials for training curricula that promote cultural diversity and competencies in services to children, families, and communities. — $75,000 NR

32 Dix Hospital Planning & Study Continuation

Provides $2 million for the design of a new Dorothea Dix Hospital and $750,000 to study and assess the implications of the Study of State Psychiatric Hospitals on operations within Area Mental Health Programs. — $2,750,000 NR

33 Waiting List for Developmental Disabilities

Provides family support services to developmentally disabled individuals who are not Medicaid-eligible and who are waiting for services. — $4,700,000 NR

(12.0) Division of Health Services

34 Osteoporosis Task Force

Provides funding to continue support for the Osteoporosis Task Force. — $200,000 NR

35 Sickle Cell Services — $1,200,000 R

Provides support to five medical centers that provide specialized support to persons with sickle cell disease.

36 Heart Disease/Stroke Prevention Programs

Provides funding to create and implement a comprehensive initiative to increase physical activity among North Carolinians; continue support of the Cardiovascular Data Unit; and build the capacity of health providers and community groups to increase awareness of hypertension, provide professional development, and provide community and patient education. — $300,000 NR

37 Diabetes Program

Supports establishment of patient care, diabetes control guidelines, education and support activities, including technical assistance. — $200,000 NR

38 Children's Vision Screening

Provides funding for a statewide training and certification program for school-based vision screeners. — $419,000 NR

39 Healthy Start Foundation

Provides funding for the statewide public information and education activities of the First Step Campaign and for local communities to implement pilot programs aimed at reducing infant mortality. — $650,000 NR

40 State Games of North Carolina

Provides funding for the Governor's Council on Physical Fitness to support the State Games. — $200,000 NR

41 AIDS Drug Assistance Program — $8,000,000 NR
Increases funding for the AIDS Drug Assistance Program.

42 Maternal Outreach Programs — $200,000 R
Provides funding for prenatal and infancy home visits by nurses to improve maternal and child outcomes.

43 Cancer Control Program — $250,000 R; $250,000 NR
Provides funding to promote the prevention, early detection, data collection, and optimal care in the control of cancer.

44 Arthritis Prevention Project — $15,000 NR
Continues grant-in-aid for private, local project providing services for arthritis patients in Mecklenburg County.

(13.0) Division of Aging

45 Home and Community Based Services — $3,000,000 NR
Provides funding to reduce waiting lists for in-home aid and caregiver support services to individuals over 60 years old.

46 Senior Centers — $1,000,000 NR
Provides funding to support existing senior centers and to assist in the development of new senior centers.

(14.0) Division of Vocational Rehabilitation

47 Assistive Technology Demonstration Centers — $200,000 NR
Replaces expiring federal grant funds to enable the Assistive Technology Demonstration Centers to continue providing technical assistance, training, and equipment loans to individuals with disabilities and their families.

48 Independent Living Rehabilitation Program — $1,000,000 R
Provides funding to alleviate the backlog of client needs at program offices statewide.

(15.0) Division of Facility Services

49 Poison Control Center — $300,000 NR
Provides funding for the Poison Control Center at the Carolinas Medical Center.

(16.0) Division of Deaf/Hard of Hearing

50 Cued Speech Center — $185,000 NR
Provides a grant-in-aid to Cued Speech Center, Inc. for preschool, transitional, and resource services.

(17.0) Division of Services for the Blind

51 Waiting List for Early Intervention Services — $300,000
Provides funding for early intervention services for visually-impaired children ages three through five years.

Budget Changes	**$5,684,382**	**R**
	$48,438,400	**NR**
Total Position Changes	1.00	
Revised Total Budget	**$2,714,666,681**	

Judicial

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$327,102,308**

Budget Changes

1	**Reduce Salary Reserve Funds** Reduce Department's available salary reserve funds - these funds are generated by filling positions at a salary less than the budgeted salary authorized by the General Assembly.	($300,000)	R
2	**Robeson Dispute Settlement Center Funds** Eliminate state funds for the Robeson Dispute Settlement Center for FY 1998-99 since the Center discontinued providing services. The General Assembly will review the viability of the Center and determine whether it should continue receiving funds next year.	($39,166)	NR
3	**Reduce Funds in Magistrates and Clerks Pay Plans** Reduce funds needed to implement the magistrate ($363,960) and clerks ($742,099) pay plans. These reductions are possible because of updated salary figures and actions taken by the 1997 Session of the General Assembly.	($1,106,059)	R
4	**District Court Judges** Provide funds for 8 additional District Court Judges to be located in Districts 4, 7, 10, 11, 12, 14, 19C and 26. All positions are effective December 1, 1998.	$542,240 $70,224 8.00	R NR
5	**Judges Support Staff** Provide funds for 8 additional judicial assistant I positions effective December 1, 1998.	$153,704 $42,768 8.00	R NR
6	**Assistant and Deputy Clerks of Court** Provide funding for 4 assistant clerks and 25 deputy clerks effective December 1, 1998.	$479,295 $111,808 29.00	R NR
7	**Court Reporters in Superior Court** Provide funds to establish 2 additional court reporter positions effective December 1, 1998.	$54,726 $13,128 2.00	R NR
8	**Assistant District Attorney** Provide funds for an assistant district attorney to be located in District #30, effective December 1, 1998	$40,408 $1,020 1.00	R NR

9	**Magistrate Positions** Provide funds for 5 additional magistrate positions to be located in Currituck, Pamlico, Mecklenburg and Wake Counties. Also provides funds for a half-time magistrate in Columbus County. All positions are effective December 1, 1998.	$104,958 $22,885 5.00	R NR
10	**Sentencing Commission Position** Provide funding for a research and policy position to assist the Commission in meeting its additional duties. The position is effective December 1, 1998. Also provides $50,000 in contractual service funds to assist the Commission in evaluating correctional programs.	$37,656 $59,756 1.00	R NR
11	**Assistant PD's from Indigent Fund** Allows the Department to transfer up to $179,220 in FY 1998-99 from the Indigent Persons' Attorney Fee Fund to establish 4 additional assistant public defenders. All positions are effective December 1, 1998.	$0 $0 4.00	R NR
12	**North Carolina Business Court** Provides recurring funds for a judicial assistant I position and associated operating expenses effective October 1, 1998. Also provides nonrecurring funds to purchase furniture and equipment, and to establish an electronic court.	$33,213 $85,000 1.00	R NR
13	**Transfer Indigent Funds for Capital Case Pilot** Allows the Department to transfer up to $180,040 from the Indigent Persons' Attorney Fee Fund to establish 2 assistant public defenders, 1 investigator, and 1 legal assistant, who work specifically on capital cases. All positions are effective December 1, 1998.	$0 $0 4.00	R NR
14	**Public Defender Support Staff** Provide funds to establish 3 additional investigators and legal assistants effective December 1, 1998.	$139,533 $19,161 6.00	R NR
15	**Arbitration Program** Provide funds for four 30-hour coordinator positions to expand the superior court arbitration program to 7 additional districts, effective December 1, 1998. The program would be operational in 37 of 45 superior court districts.	$200,000 $18,844 3.00	R NR
16	**Custody Mediation Program** Provide funds to expand the custody mediation program to 7 additional district court districts effective December 1, 1998. The program would be operational in 32 of 39 districts.	$300,000	R
17	**Community Penalties** Provide funds to create an accounting specialist position to assist local Community Penalties programs with fiscal management. Also provides $109,139 for local and state programs to expand and enhance their programs. The position is effective December 1, 1998.	$150,000 $9,205 1.00	R NR

18 Continue Drug Treatment Court Program — $62,716 R

The Drug Treatment Court Program began as a pilot in 1995 to allow the court system to closely supervise offenders addicted to drugs or alcohol. Funds are used for case-management and substance abuse treatment services. These nonrecurring funds continue the pilot programs in Mecklenburg, Wake, Person/Caswell, Warren and Forsyth, add a new program in Durham and expand programs in Mecklenburg, Wake and Vance Counties. The Program Administrator's position is funded with recurring funds.

$936,210 NR
2.00

19 Continue Civil Case Management Programs

Provide funds to continue pilot programs in Districts 13, 18, and 30, which assist district court judges with case management and setting of court calendars in civil cases.

$100,503 NR
3.00

20 Continue Bad Check Programs

Continues bad check programs in Columbus, Durham, and Rockingham Counties. These programs are designed to reduce the amount of time spent on prosecuting these cases, and to assist worthless check victims in recovering restitution.

$162,941 NR
5.00

21 Dangerous Offender Task Force — $200,000 R

Provide contractual funds for the Task Force located in District 10 which works to prosecute serious violent offenders more quickly. These funds would be used to establish 2 assistant district attorney and 2 investigator positions.

22 Guardian Ad Litem Attorney and Equipment Funds — $150,000 R

Provides funds to increase the rate paid to attorneys to assist in retaining experienced counsel. A portion of the nonrecurring funds will be used to replace 15 outdated computer systems in offices statewide.

$381,852 NR

23 Dispute Settlement Center Funds

Provide additional funds to the Chatham ($10,000), Cumberland ($10,000), Durham ($15,000), Eastern Carolina ($15,000), Moore ($20,000) and Wake ($15,000) Centers. Also provides $15,000 for the Mediation Network of North Carolina.

$100,000 NR

24 Teen Court Funds

Provides $20,000 for teen court programs in Guilford and Durham Counties and $15,000 in Wake County. Teen courts provide a peer review of juveniles who have committed non-violent misdemeanors and recommend different types of punishment, including community service and restitution.

$55,000 NR

25 Access to Civil Justice

Provide additional funds through the State Bar to Legal Services of North Carolina for representation of indigents in civil cases.

$1,000,000 NR

26	**Center for Death Penalty Litigation** Provide additional funds to the Center for Death Penalty Litigation which provides training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants.	$500,000	NR
27	**Funds for Equipment and Supplies** Provide additional funds for general office equipment and supplies to be distributed statewide based on need.	$200,000	NR
28	**District Court Mediated Settlement Pilot** Provide funds to establish pilot programs in district court which assist in mediating equitable distribution, alimony, and child support issues.	$50,000	NR
29	**Reserve for Court Information Technology Plan** Provides $500,000 for contractual services to assist in developing a long range technology plan for the court system.	$500,000	NR
30	**Replace Computer Equipment / Network Upgrade** Provide funds to replace worn and outdated computer equipment for court offices statewide. Also provides funds to purchase hardware and software required to increase the capacity of the mainframe computer system.	$150,000 $950,000	R NR
	Budget Changes	**$1,392,390** **$5,351,139**	**R** **NR**
	Total Position Changes	83.00	
	Revised Total Budget	**$333,845,837**	

Justice

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$67,165,852**

Budget Changes

31	**Reduce SBI Salary Equity Funds** Of the $2.7 Million appropriated for salary increases for SBI agents, $2.666 Million was allocated, leaving $34,000 for reduction.	($34,000)	R
32	**Appellate Section** Provide additional staff for the Appellate Section of the Criminal Division due to increased workload. Positions include 2 Attorney II's, 2 Attorney III's, a Paralegal and Program Assistant. All positions are effective November 1, 1998.	$209,170 $28,300 6.00	R NR
33	**Capital Litigation Unit** Funds to add 2 Attorney III's, 2 Attorney IV's and a Program Assistant to the Capital Litigation Unit in the Criminal Division. All positions are effective November 1, 1998.	$201,650 $37,500 5.00	R
34	**Consumer Protection Division** Add 2 Consumer Protection Specialists, 2 Program Assistants, a Public Information Assistant and an Attorney II to the Consumer Protection Division due to increased number of citizen complaints and inquiries. All positions are effective November 1, 1998.	$143,341 $18,000 6.00	R NR
35	**Medicaid Fraud Unit** Provide state matching funds to add 2 Investigators, 2 Auditors, 1 Clerical and 1 Attorney II position to the Medicaid Fraud Division effective October 1, 1998. Federal funds cover 75% of the cost of these positions.	$53,198 $13,322 6.00	R NR
36	**Law Enforcement Technology Improvements/DCI Staff** Provide funds for 3 computer operators which will allow the Division of Criminal Information to provide 2 person coverage on all shifts. Also adds a database specialist to maintain increasingly complex criminal information databases. Also provides $57,000 to replace antiquated computers at Justice Academy East. All positions are effective November 1, 1998.	$107,315 $57,000 4.00	R NR

37	**Justice Academy Positions** Provide funds for 3 additional housekeeper / maintenance staff at the Justice Academy East effective November 1, 1998. Also provides $19,000 in recurring funds and $6,000 in nonrecurring funds to replace classroom furnishings on a rotating basis and to upgrade fire alarm systems.	$60,506 $6,000 3.00	R NR
38	**SBI Rent Adjustment** Funds to cover increased rental costs at District field offices located in Fayetteville, Greenville and Asheville.	$167,341	NR
39	**Environmental Division Staff** Add an Attorney II and Program Assistant to work on Marine Fisheries issues in Morehead City. Also establishes 2 Attorney II positions to assist on groundwater and water quality issues. All positions are effective November 1, 1998.	$147,224 $19,800 4.00	R NR
40	**CJIN Coordinator Funds** The Criminal Justice Information Network has been operating without full-time staff since its inception. These funds would support a full-time Information Systems Director effective November 1, 1998. Operating costs associated with the position would come from the CJIN Reserve.	$51,414 1.00	R
41	**NC LEAF Funds** Provide funding to the NC Legal Education Assistance Foundation to assist with loan repayment for public service attorneys.	$125,000	NR
42	**Criminal Justice Information Network—AFIS System** Funds to continue implementation of the Statewide Automated Fingerprint Identification System by placing live scan devices in additional counties.	$150,000	NR

Budget Changes	**$939,818** **$622,263**	R NR
Total Position Changes	35.00	
Revised Total Budget	**$68,727,933**	

Correction

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$867,817,472**

Budget Changes

43 Increase Operating Receipts/Reduce General Fund ($1,600,000) R

DOC estimates they will receive additional receipts in three programs, thus allowing a decrease in the General Fund budget:

(1) Federal Nutrition Programs ($450,000)

DOC received more receipts than anticipated from the federal program that provides free breakfast and lunch to youthful offenders (<21 years of age); a similar level of receipts is anticipated in 1998-99 allowing for a decrease in the General Fund.

(2) Medical Reimbursement from Counties ($600,000)

Counties pay the State to provide medical care for "safekeepers" that counties have requested DOC to hold in state prisons. These reimbursements have increased in 1997-98 and are anticipated to increase at the same level in 1998-99, allowing for a reduction in the General Fund.

(3) Federal Alien Reimbursement Funds ($550,000)

North Carolina receives federal funds to partially fund the cost of housing illegal aliens that are inmates in the North Carolina prison system. Receipts have increased allowing a reduction in the General Fund.

44 Reduce Non Personnel Line Items ($1,511,757) R

Reduce non-personnel line items in the following areas:

Division of Probation and Parole:
- Purchased services ($100,000)
- Supplies ($100,000)
- CJPP Contracts ($38,000)
- Phone,supplies, drug reagents in reserve for new officers ($150,000)

Reserve for Enhanced Criminal Penalties($135,000)

Division of Alcoholism & Chemical Dependency
- Supplies ($30,000)

Departmental Management
- Contractual services, office and computer supplies and equipment ($366,709)

Division of Prisons
- Computer Equipment ($392,048)

Reserve for New Beds
- Engineering/Construction Support ($200,000)

45 Staff Reductions--Division of Probation and Parole ($561,033) R

Reduce 11 positions due to Span of Control (4 Assistant Division Chiefs, 1 Deputy Director Position), reduced workload (2 Parole Hearing Officers) and changes in staffing patterns (4 Pre-Parole Investigators). -11.00

46 Increase Receipts from Correction Enterprises ($500,000) R

Correction Enterprises transfers a portion of the profits in the Enterprise Special Fund to the General Fund; by increasing the amount transferred from $1,060,000 per year to $1,560,000, the General Fund can be reduced (amount level since 1979-80 fiscal year).

47 Staff Reductions--Div of Alcoholism and Chem Depen ($250,000) R

Eliminate funding for 7 positions: 3 Supervisors, 1 Counselor, 1 Substance Abuse Worker and 2 Support Staff. -7.00

48 Staff Reduction--Department Management ($818,888) R

Abolish 3 support positions in Central Area Office due to consolidation; abolish 12 mid level managers in departmental management, area offices and institutions. -15.00

49 Eliminate Matching Funds for Federal Grants ($325,000) R

Since the amount of State funds needed to match federal grants fluctuates widely each year, the DOC is recommending eliminating the remaining appropriation and using other funding sources. The Senate budget recommends using profits from Correction Enterprises.

50 Reduce Staff at Parole Commission ($233,000) R

Reduce staff by 8 positions: 7 clerical and 1 analyst. These reductions are in response to declining workload and a study of the longterm needs of the Commission. This also reduces the supply budget to achieve a 10% reduction in the budget. -8.00

51 Support Vocational Teachers from Welfare Fund ($374,103) R

DOC has gradually been funding more education related positions and costs from the Inmate Canteen/Welfare Fund. This reduction would allow DOC to decrease the General Fund by funding one academic director and 6 teachers from the Inmate Fund.

52 Transfer of Inmate Canteen Fund Profits ($334,000) R

By increasing the amount of personal funds an inmate can draw down weekly ($35 to $40) and increasing the DOC profit margin on inmate purchases from the canteen (17% to 18%), receipts can be increased and the General Fund reduced.

53 Increase Receipts from Work Release Fund ($291,000) R

Inmates on work release pay the DOC $12.50 a day; this reduction is based on increasing that payment by $1 and reducing the General Fund.

54 Close Small Inefficient Prison Units ($3,048,365) R

The Government Performance Audit Committee (GPAC) recommended closing small inefficent prison units as sufficient prison beds become available. The recommended closings are based on the opening of new prisons and current prison population projections. Prisons would be closed in phases as new beds come on-line. The following units would close January 1, 1999: -188.00

Alamance ($485,889; 27 positions)
Alexander ($504,232; 27 positions)
Martin ($432,051; 24 positions)
Sandy Ridge ($427,657; 24 positions)

The following units would close February 1,1999:

Mecklenburg ($814,840; 60 positions)
Stokes ($383,696; 26 positions)

55 Reduce Inmate Costs for Closed Prison Units ($352,871) R

The Governor's budget reduction for closing GPAC prison units did not include inmate costs (e.g.food, medical); however, further reductions can be taken since there will be funding available due to additional prisons coming on line and slower growth in the prison population.

56 Reduction from Construction Delays

Changes in anticipated completion dates for new prisons will delay the need to hire staff at the Avery/Mitchell and Albemarle facilities which are currently under construction. Also pushes back the dates when the two private prison contracts begin (new start dates are 8/98 in Pamlico and 12/98 in Avery/Mitchell). ($12,226,442) NR

57	**Medical Staff for Central Prison and NCCIW** Funding to expand medical staff at Central Prison and NCCIW (Womens Prison). This includes 39 positions at NCCIW, 11 at Central, and one new Physician III Director for the Division of Prisons.	$1,740,563 51.00	R
58	**Criminal Justice Partnership Program** These funds restore some of the funding reduced from the program in 1996. This funding increases the appropriation for grants to county programs to $7.1 Million for 1998-99.	$500,000 $2,000,000	R NR
59	**Post Boot Camp Aftercare Program** The Post Boot Camp Aftercare program began as a pilot in 1996 and was continued with available funds in 1997-98. These funds will be used to continue programs in Forsyth, Mecklenburg, Nash/Edgecombe and New Hanover Counties and to expand to a 5th site on October 1, 1998.	$495,782	NR
60	**John Hyman Funds** Provides a one time grant of $62,500 to support the John Hyman Foundation's work in several northeastern counties with offenders with substance abuse problems.	$62,500	NR
61	**Stanly Correctional Center -- Conversion** Convert Stanly Correctional Center from medium to minimum custody to reduce operating costs.	($270,473) -23.00	R
62	**Union Correctional Center -- Conversion** Convert Union Correctional Center from medium to minimum custody to reduce operating costs.	($213,297) -15.00	R
63	**Summit House Facilities** Summit House is a residential community correction program for women offenders and their children in Guilford, Wake and Mecklenburg Counties. These funds will allow them to upgrade their facilities to meet licensing requirements, to do general repairs, and to eliminate outstanding mortgage debt.	$625,000	NR
64	**Probation and Parole Victim's Assistance Program** These funds continue pilot programs in Wake and Craven Counties which provide services to victims. Funds provide a victim's assistance coordinator and clerical position in each site to assist victims with restitution and obtaining information about the status of the offender. The pilots are currently funded with federal funds which expire June 30, 1998.	$143,287 4.00	NR

Budget Changes	**($8,443,224)** **($8,899,873)**	**R** **NR**
Total Position Changes	-212.00	
Revised Total Budget	**$850,474,375**	

Crime Control and Public Safety

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$33,720,830**

Budget Changes

65	**Eliminate One Position in Crime Prevention** Eliminate one supervisory level position to improve the department's span of control.	($52,437) -1.00	R
66	**Reduce Equipment Funds in Emergency Management** Reduce the line item for equipment to reflect actual funds needed.	($9,556)	R
67	**Tarheel Challenge Program** Provide state matching funds for the National Guard Challenge program. The program will be funded on a 75% federal to 25% state match basis beginning in FY 1999.	$542,000	NR
68	**Air National Guard Maintenance Positions** Provide funds for the 25% state matching requirement for 4 new positions at expanded Air National Guard facilities. The positions are effective October 1, 1998.	$22,611 4.00	
69	**Alcohol Law Enforcement Position** Provide funds for an additional ALE officer in Wake County (District IV). The position is effective July 1, 1998.	$43,092 $31,516 1.00	R NR
70	**Airborne and Special Operations Museum** Provide funds to supplement funds received and/or committed to the Airborne and Special Operations Museum in Fayetteville. This museum will be dedicated to the men and women who have made sacrifices serving our country in Airborne and Special Operations units.	$2,000,000	NR
71	**Highway Patrol Automatic Salary Increase** Provide $2,787,596 in recurring funds from the Highway Fund for the portion of the Highway Patrol automatic salary increase which was inadvertently omitted from the continuation budget.	$0	R
72	**CJIN Hardware / Software** Provide $2,406,611 of nonrecurring funds from the Highway Fund to complete the third of four phases of the Mobile Data Network project. Funds will be used to install 38 transmitters in 23 counties. The Mobile Data Network is a component of the statewide Criminal Justice Information Network.	$0	NR

73 Additional Mobile Data Computers

Provide $2,249,812 in nonrecurring funds from the Highway Fund to purchase 234 additional mobile data computers for Highway Patrol cruisers. Use of the mobile data computers to access data contributes to the maximum use of the Mobile Data Network.

$0 NR

74 Additional Highway Patrol Troopers

Provide $403,900 in recurring funds and $1,583,295 in nonrecurring funds from the Highway Fund for forty new troopers effective December 1, 1998. The department will provide the remaining $943,325 by reallocating 5 management positions.

$0 R
$0 NR

75 State Highway Patrol Salary Schedule

Provide $162,956 in recurring funds from the Highway Fund to increase the salary differential between First Sergeants and Lieutenants from 5% to 10%.

$0 R
$0 NR

76 State Highway Patrol Helicopter Pad

Provide $75,000 in nonrecurring funds from the Highway Fund to purchase 2 acres of land in Union County for a helicopter pad.

$0 NR
0.00

Budget Changes	**$3,710**	R
	$2,573,516	NR
Total Position Changes	4.00	
Revised Total Budget	**$36,298,056**	

Housing Finance Agency

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$2,300,000**
Budget Changes	
Housing Trust Fund	
1 Housing Trust Fund	
Provides nonrecurring funds to support the Housing Trust Fund. In addition to this General Fund appropriation, $2 million is earmarked from the Work First Reserve Fund to establish a reserve for affordable housing for the elderly for a total funding increase of $4 million for FY 1998-99.	$2,000,000 NR
Budget Changes	**$2,000,000 NR**
Total Position Changes	
Revised Total Budget	**$4,300,000**

Agriculture and Consumer Services

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$49,822,632**

Budget Changes

Administrative Services

2 Automated Information and Technical Support — $151,522 R
Funds for hardware, software, and support to provide information and access through Electronic Commerce and incorporating these efforts with other state departments. — $155,106 NR, 3.00

Agronomic Services

3 Animal Waste, Soil and Plant Testing — $271,668 R
Funds to conduct periodic testing of waste, soil and plant samples from animal land application sites. — $144,600 NR, 4.00

Commissioner's Office

4 Farmland Preservation Trust Fund
Provides funds to the Farmland Preservation Trust Fund for a farmland preservation pilot program. — $500,000 NR

Department Wide

5 Receipt Adjustments — ($210,600) R
Adjust receipts in various operating funds within the department and reduce General Fund appropriations by an equal amount in the following divisions:

Markets	($8,500)
Research Stations & State Farms	($100,000)
Agronomic Services	($ 28,000)
Food and Drug Protection	($ 12,500)
Structural Pest	($ 23,600)
Veterinary Services	($ 6,000)
Standards (Weights and Measures)	($ 5,000)
Plant Industry	($ 27,000)
TOTAL REDUCTIONS	($210,600)

Grants-in-Aid

6 Albemarle Farmers' Market
Funds to the Albemarle Downtown Development Corporation, Inc. to complete the construction of a farmers' market facility in Albemarle. — $50,000 NR

7 Jacksonville-Onslow Farmers' Market

Funds for the construction of a facility to serve as the site for the Jacksonville-Onslow Farmers' Market. — $50,000 NR

Markets

8 Seafood and Aquaculture Marketing

Funds to market the state's seafood and aquaculture industry through marketing promotions, trade shows, advertising, and promotional literature. — $300,000 NR

9 Goodness Grows in North Carolina

Funds to expand the Goodness Grows in North Carolina advertising program. — $200,000 NR

Structural Pest

10 Structural Pest Control Program Improvements — $262,650 R

Funds to expand compliance monitoring, establish compliance assistance programs, develop a consumer outreach program, and to develop regulatory responses to new pest control products and techniques. — $80,350 NR; 7.00

Budget Changes	**$475,240**	**R**
	$1,480,056	
Total Position Changes	14.00	
Revised Total Budget	**$51,777,928**	

Labor

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$15,828,463**	
Budget Changes		
Administrative Services		
11 Purchase Furniture/Library Shelving		
Provides $190,000 in nonrecurring funds to purchase office furniture and library shelving. Purchased equipment is to be used subsequent to the relocation of selected departmental divisons to the renovated Old Revenue Building.	$190,000	NR
Budget Changes	**$190,000**	**NR**
Total Position Changes		
Revised Total Budget	**$16,018,463**	

Environment and Natural Resources

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$134,915,353**

Budget Changes

(1.00) Controller's Office

12 Reduce Salary Reserve ($5,053) R

Reduce salary reserve as a result of reallocation of positions.

(1.00) Executive Offices

13 Eliminate Vacant Position ($82,134) R

Eliminate Business Officer III position serving as Special Assistant to the Secretary that is no longer utilized as a result of reassignment of duties. -1.00

14 Conservation Tax Credit Program and Grant Funds $149,990 R

Funds to promote the Conservation Tax Credit Program through training and educational offerings and grants to nonprofit land trusts. $206,500 NR 1.00

(1.00) General Services

15 Reduce Salary Reserve ($10,000) R

Reduce salary reserve in a position recently vacated by retirement.

(1.00) Regional Offices

16 Reduce Operating Funds ($31,416) R

Reduce funds that previously supported the Department of Commerce when they were co-located in DENR's Washington Regional Office (Commerce activities have since moved to Greenville).

(2.00) Forest Resources

17 Improve Efficiency and Computer Technology ($311,034) R

Reduce telephone line charges, the need for aerial photography and temporary services through increased use of computer technology. Also decrease use of overtime and modify fire readiness stand-by schedules.

18 Insurance for CL-215 $160,000 NR

Provides nonrecurring funds for the purchase of hull insurance for the CL-215 aircraft (amphibious water scooping tanker).

19 District 12 Helicopter Funds — $167,860 R
Funds for the operation and maintenance of a fire control helicopter in District 12. — 2.00

(2.00) Marine Fisheries

20 Reduce Operating Support — ($130,000) R
Reduce funds for purchased services, supplies, equipment and other operating expenses.

21 License Administration Funds — $246,088 R
Funds for additional license personnel to staff district offices and to administer the Recreational Commercial Gear License program. Positions are effective January 1, 1999. — 6.00

22 Staff Position for Appeals Review — $29,738 R; $3,800 NR; 1.00
Funds to provide staff support for reviewing appeals to license application denials for the remainder of the moratorium period (effective through June 30, 1999) and under the new restricted license pool process (effective July 1, 1999).

23 Fisheries Management Plans — $540,158 R; $142,500 NR; 10.00
Funds to develop state Fisheries Management Plans (FMPs) to guide coastal fisheries management and to ensure the long-term viability of the stocks. Plans are to be developed for 31 commercially and recreationally significant species and species groups.

24 Coastal Habitat Protection Plans — $160,170 R; $15,300 NR; 3.00
Funds to conduct research on the relationship of coastal habitats, water quality and fisheries production for the development of Coastal Fisheries Habitat Protection Plans. The plans are to be used to develop strategies for protecting coastal fisheries habitat areas.

25 Information Technology Funds — $72,223 R; $1,492,508 NR; 2.00
Funds to continue consolidation and modernization of existing computerized information management systems to facilitate access to licensing, permitting, commercial landings, biological and habitat data.

(2.00) Museum of Natural Sciences

26 Reduce Supplies — ($39,513) R
Reduce funds for supplies due to new bulk purchasing procedures.

27 Grassroots Science Museums — $3,250,000 NR
Provides nonrecurring funds for the Grassroots Science Museums.

(2.00) North Carolina Zoological Park

28 Adjust Equipment/Vehicle Replacement Schedule ($133,079) R

Adjust the schedule for replacement of equipment and motor vehicles at the Zoo and reduce General Fund appropriation by an equal amount.

(2.00) Office of Environmental Education

29 Environmental Education Grant Funds

Funds to provide grants to public schools K-12, public libraries and environmental education centers to purchase environmental education materials and to support school group field trips to environmental education centers. $200,000 NR

(2.00) Parks and Recreation

30 Increase Receipts ($100,000) R

Increase receipts to reflect fee increase at state parks and recreation areas and reduce General Fund appropriation by an equal amount.

31 Expand Natural Heritage Program $216,737 R

Funds to inventory natural areas in counties that have not been surveyed under the Natural Heritage program. $26,300 NR
4.50

32 Adopt-a-Trail Program

Nonrecurring funds to expand the Adopt-a-Trail grant program. $100,000 NR

(2.00) Soil and Water Conservation

33 Technical Assistance for Animal Waste Compliance ($185,445) R

Reduce funding for technical assistance to agriculture operations seeking to obtain approved animal waste management plans. The state's 0.200 non-discharge regulations required operations to have certified plans by December 1997. This eliminates 5.50 of 11.00 positions created by the General Assembly for this purpose in the 1994 and 1995 Sessions. -5.50

34 Agriculture Cost Share Program

Additional funds for the Agriculture Cost Share Program for Nonpoint Source Pollution Control to reimburse farmers up to 75% of the costs of installing best management practices (BMPs) to improve and protect water quality. $1,000,000 NR

35 Soil and Water District Travel Funds

Funds for local Soil and Water Conservation Districts for travel and per diem expenses of district supervisors. $50,000 NR

(3.00) Air Quality

36 Reduce Operating Support ($14,892)

Reduce funds for purchased services, supplies, equipment and other operating expenses.

(3.00) Coastal Management

37 Reduce Operating Support ($30,004) R

Reduce travel, supplies, equipment, printing, and postage expenses through use of automation and a reduction in conference attendance.

38 Coastal/Chevron/Outer Continental Shelf Response

Funds to support staff and research activities for the state's consistency review and response to Chevron Oil's permit application to drill off the North Carolina coast. $367,023 NR
1.00

(3.00) Environmental Health

39 Reduce Staff and Operating Support ($72,210) R

Reduce funds for an Environmental Technician III position in the Wilmington Regional Office as a result of increased federal support, extend equipment replacement schedules, and eliminate funds for a completed wastewater treatment study in Craven County. -0.50

40 Environmental Health Specialists Training

Funds to provide training to local environmental health specialists responsible for performing food, lodging, and institution inspections and other regulatory activities to ensure the sanitation and safety of swimming pools, spas, and tattoo parlors. $100,000 NR

41 Federal Water Supply Assistance Matching Funds

Funds to provide the 20% state match required to receive federal water supply assistance through US EPA's Drinking Water State Revolving Fund program. Funds will be used to provide low interest loans to public water systems for capital expenditures associated with drinking water regulations and compliance. $2,571,880 NR

(3.00) Land Resources

42 Reduce Operating Support ($42,861) R

Reduce inventories, supplies, travel and postage expenses, and extend the replacement schedule on equipment.

43 Sedimentation and Erosion Control Expansion $338,570 R

Funds for additional field staff to perform erosion and sediment control inspections at commercial and residential development sites to determine compliance with required management practices to minimize the impact of land disturbing activities on water quality. $24,000 NR
6.00

(3.00) Pollution Prevention/Environmental Assistance

44 Reduce Pollution Prevention Grants ($24,362) R

Reduce funds to provide demonstration grants to business and industry operations developing innovative pollution technologies.

(3.00) Waste Management

45 Eliminate Computer Consultant Position ($45,095) R

Eliminate Computing Consultant II position and contract programming duties as needed using federal funds. -1.00

(3.00) Water Quality

46 Operating Support $250,533 R

Funds to provide additional operating support for the Water Quality Section.

47 Basinwide Data Management System Development

Funds to continue consolidation and modernization of existing computerized information management systems to facilitate access to environmental programs and data. $500,000 NR

48 Increase Compliance and Reduce Spills $332,280 R

Funds to provide additional staff to respond to system failures, monitor compliance data and perform technical inspections of wastewater collection and land application systems. $28,000 NR
7.00

49 Groundwater Pollution Prevention and Control $721,479 R

Funds to provide additional staff to review permit applications, designate groundwater monitoring requirements, review monitoring data to determine compliance, inspect animal and municipal waste land application systems and facilities, and conduct field assessments of contaminated soils and groundwater. $256,587 NR
12.00

50 Neuse and Tar-Pamlico Rapid Response Teams $544,634 R

Funds to create two rapid response teams to respond to fish kills, algal blooms, citizen complaints and other water quality emergencies occuring in the Neuse and Tar-Pamlico River Basins. $226,774 NR
8.00

51 Water Quality Monitoring $164,080 R

Funds to increase monitoring of flow and nutrient data in the coastal river basins, install continuous monitors in each major estuary, and expand ambient water quality monitoring across the state to improve development of water quality protection strategies and trend projections. $2,872,980 NR
4.00

52 Federal Wastewater Assistance Matching Funds

Funds to provide the 20% state match required to receive wastewater assistance through US EPA's Water Pollution Control Program. Funds will be used to provide low interest loans to local units of government for wastewater construction and improvement projects. $4,860,532 NR

(3.00) Water Resources

53 Real Time Stream-Gauge Data $10,000

Funds to upgrade the state's stream-gauge network to real time data access. $170,000

54 Groundwater Resource Management — $414,724 R / $386,598 NR / 4.00

Funds to monitor, maintain, and redevelop the state's groundwater resource observation wells.

(4.00) Reserves and Special Funds

55 Partnership for the Sounds — $150,000 R / $250,000 NR

Funds to provide additional staff for the Roanoke/Cashie River Center, the Columbia Theater Cultural Resources Center, the Lake Mattamuskeet Lodge and the North Carolina Estuarium and to continue renovations to the Lake Mattamuskeet Lodge.

56 Study Alternative Animal Waste Technologies — $750,000 NR

Funds for the UNC Board of Governors for the Animal and Poultry Waste Management Center at NCSU to study alternative methods of managing animal waste.

57 Neuse River Modeling and Monitoring (MODMON) — $720,000 NR

Funds for the Water Resources Research Institute (WRRI)to continue data collection and monitoring efforts to support the development of a nutrient model for the Neuse River Estuary.

58 Upper Neuse River Basin Association — $300,000 NR

Funds to support the development of a comprehensive and coordinated state-local watershed management plan for the Upper Neuse River Basin to serve as a model watershed management approach for river basins and sub-basins in North Carolina.

59 New River Monitoring Funds — $50,000 NR

Funds to support water quality monitoring efforts in the New River.

60 Museum of Life and Science — $500,000 NR

Funds to support Phase 2 of the BioQuest exhibit at the Museum of Life and Science.

61 LLRW Facility Siting Assistance Funds — $100,000 NR

Grant-in-aid to Chatham County for expenses incurred as part of their participation in the licensing and siting of a low level radioactive waste facility.

62 County Recreational Building — $50,000 NR

Grant-in-aid to Lincoln County to match funds to construct a recreational facility in eastern Lincoln County.

(5.00) Department Wide

63 Reduce Contracts and Operating Support - LLRW — ($500,000) R

Reduce funding for contractual services and other operating expenses associated with the department's regulatory responsibilities in siting and licensing of a low level radioactive waste facility.

(6.00) Wildlife Resources Commission

64 Beaver Control Program

Continues Beaver Control program with nonrecurring funds and expands coverage statewide to any county that wishes to participate.

$500,000 NR

Budget Changes	**$2,752,166**	**R**
	$22,231,282	**NR**
Total Position Changes	63.50	
Revised Total Budget	**$159,898,801**	

Commerce

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$38,577,339**	
Budget Changes		
Business and Industry		
65 Industrial Recruitment Competitive Fund Provides nonrecurring support for the Industrial Recruitment Competitive Fund.	$3,000,000	NR
66 Marketing and Trade Missions Provides a nonrecurring increase to fund participation at additional industry trade shows and missions, and for increased general advertising media purchases for promoting economic development in the state.	$500,000	NR
Community Assistance		
67 Upper Coastal Plain COG Funds to the Upper Coastal Plain COG to match federal funds for the COG's Small Business Revolving Loan Fund.	$150,000	NR
68 Land Use Planning Provides nonrecurring funds to assist in the preparation of comprehensive land use plans.	$250,000	NR
Industrial Commission		
69 Abolish Position/Reduce Various Operating Support Abolishes Processing Assistant IV postion ($24,411) and reduces various operating support line-items in the continuation budget ($68,911).	($93,322) -1.00	R
70 Temporary Positions Provides nonrecurring funds to support temporary positions in the Office of Executive Secretary to manage increased workload for mediation settlements in workers' compensation cases and processing legal orders for contested cases.	$100,000	NR
Industrial Finance Center		
71 Utility Account (Industrial Development Fund) Provides nonrecurring funding for economic development grants for water and sewer infrastructure in certain economically distressed counties designated in G.S. 143B-437.01.	$3,000,000	NR

NC Alliance for Competitive Technologies

72 Reduce Program Director's Budgeted Salary ($24,356) R

Reduces the budgeted salary of the Program Director for the NC Alliance for Competitive Technologies by $24,356; the revised salary for the position will be $108,668.

Reserves and Transfers

73 Year of the Mountain $300,000 NR

Reserve for planning initiatives in western North Carolina. This is the final year of a 3-year regional planning effort.

74 Special Olympics $3,000,000 NR

Provides nonrecurring funds to the 1999 Special Olympics World Games for general operating and marketing costs.

75 Regional Economic Development Commissions $350,000 R

Increases grant-in-aid support for the seven Regional Economic Development Commissions from $4.275 million to $4.625 million.

76 North Carolina Progress Board $400,000 NR

Provides nonrecurring funds for operating support of the North Carolina Progress Board.

77 Institute of Aeronautical Technology $4,000,000 NR

Provides $4 million in nonrecurring funds for the estimated construction costs of the Institute of Aeronautical Technology.

State Boxing Commission

78 Transfer Boxing Commission to the Department $202,770 R

Transfer positions, operating support, equipment, property, and other assets of the North Carolina State Boxing Commission from the Department of Secretary of State to the Department of Commerce. The transfer has all of the elements of a Type 1 transfer as defined by G.S. 143A-6. 3.00

	FY 1998-99
Requirements	$225,870
Receipts	($23,100)
Appropriations	$202,770

Travel, Film and Sports Development

79 Reduce Printing ($100,000) R

Reduce printing budget to reflect privatization of the North Carolina Travel Guide.

80 Advertising and Marketing Funds $2,200,000

Funds to expand advertising and marketing campaigns designed to promote North Carolina as a travel destination in international and domestic markets.

81 Rural Tourism Development Grant Funds

Funds for the Rural Tourism Development Grant Program to encourage the development of new tourism projects and activities in the rural areas of the state.

$300,000 NR

Wanchese Seafood Industrial Park

82 Oregon Inlet Project -- Staff & Operating Support

Provides funds for staff and operating support to the Wanchese Seafood Industrial Park to serve as the lead state agency on the Oregon Inlet Stabilization Project.

$339,000 R
$11,000 NR
2.00

Budget Changes	**$674,092**	**R**
	$17,211,000	**NR**
Total Position Changes	4.00	
Revised Total Budget	**$56,462,431**	

State Aid to Non-State Entities

GENERAL FUND

	FY 98-99
Total Budget Approved 1997 Session	**$2,000,000**

Budget Changes

Grants-in-Aid

83 Coalition of Farm and Rural Families — $250,000 NR

Funds to foster economic development within the state's rural farm communities by offering marketing and technical assistance to small and limited resource farmers.

84 North Carolina Global Center — $500,000 NR

Funds to assist the North Carolina Global Center (formerly the North Carolina Center for World Languages and Cultures) in conducting research activities and programs related to globalization.

85 Charlotte/Mecklenburg Development Corporation — $1,000,000 NR

Provides grant-in-aid to the Charlotte/Mecklenburg Development Corporation to purchase and renovate real property in the Wilkinson Boulevard corridor of the City West area of the City of Charlotte and to revitalize and redevelop that area.

86 Stanly Co. and Montgomery Co. Airport Authorities — $250,000 NR

Provide a $200,000 grant-in-aid to the Stanly County Airport Authority and a $50,000 grant-in-aid to the Montgomery County Airport Authority. Funds are to be used for expansion and operation of these airports, and to accomodate economic development initiatives in general aviation.

87 N.C. Community Development Initiative — $325,000 NR

Additional funds for the North Carolina Community Development Initiative, Inc. to support operating and program activity grants to mature community development corporations.

88 Southern Piedmont Transit Authority — $500,000 NR

Provides grant-in-aid to the Southern Piedmont Transit Authority to identify and promote transit and transportation solutions to problems resulting from rapid growth and development rates as well as fragmented transportation jurisdictions in the region.

89 Land Loss Prevention Project — $350,000 NR

Funds to provide free legal representation to low-income, financially distressed farmers.

90 Town of Chadbourn -- Emergency Repairs

Provides grant-in-aid to the Town of Chadbourn (Columbus Co.) for emergency water and sewer repairs. $500,000 NR

91 Yadkin/Pee Dee Lakes Project

Grant-in-aid to support the Yadkin/Pee Dee Lakes Project's efforts to promote tourism and economic development. $150,000 NR

92 North Carolina Minority Support Center

Funds to provide technical assistance to community-based minority credit unions. $375,000 NR

93 Center for Community Self-Help

Provide funds to further a statewide program of lending for home ownership. $1,000,000 NR

94 Technological Development Authority

Grant-in-aid to the N.C. Technological Development Authority, Inc. for entrepreneurial support and infrastructure including creating new incubators, enhancing existing incubators, developing capital formation initiatives, supporting technology transfer and matching federal grant and loan funds. Of the total funds to be granted, $500,000 is allocated for construction of wet lab space and additional office space at the First Flight Venture Center. $3,500,000 NR

95 4-H Clubs/Eastern North Carolina Livestock Arena

Provides funds for the construction of a facility to replace the Eastern North Carolina Livestock Arena. This facility will be available for horse and swine breeding stock auctions, cattle sales, and functions associated with the Future Farmers of America and 4-H Clubs. $600,000 NR

96 Institute of Minority Economic Development

Funds to foster economic development within the state through policy analysis, information and technical assistance, resource expansion, and support of community-based initiatives. $1,000,000 NR

97 William S. Lee Leadership Institute

Provides state funds to partially retire debt incurred by the Lynwood Foundation for the purchase and renovation of Historic White Oaks, a facility to house the William S. Lee Leadership Institute. $2,000,000 NR

98 Duplin Multi-Purpose Center Funds

Funds to the Town of Warsaw to match federal funds for a multi-purpose building for economic development and training purposes. $250,000 NR

99 Jones Economic Development Funds

Funds to Jones County for any one or more of the following purposes: construction of an agriculture heritage center, renovation of Jones County Civic Center, construction of an all-purpose human services center, extension of water and sewer lines to the industrial park, and provision of operating funds to the Economic Development Office.

$200,000 NR

Budget Changes **$12,750,000** **NR**

Total Position Changes

Revised Total Budget **$14,750,000**

MCNC

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$2,500,000**	
Budget Changes		
MCNC		
100 Increase and Adjust Final Year of State Funding	($2,500,000)	R
Budget action increases MCNC's final year of state funding to $4.5 million. Funds are to be used for capital and operating expenditures necessary to make MCNC self-sufficient without state funding. Currently budgeted funds of $2.5 million are shifted from recurring to nonrecurring support plus an additional $2 million nonrecurring increase is appropriated for a final year total of $4.5 million.	$4,500,000	NR
Budget Changes	**($2,500,000)**	**R**
	$4,500,000	**NR**
Total Position Changes		
Revised Total Budget	**$4,500,000**	

N.C. Biotechnology Center

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$7,664,396**	
Budget Changes		
N.C. Biotechnology Center		
101 Reduce Operating Support Reduces state funded operating support to the N.C.Biotechnology Center by $25,483.	($25,483)	R
102 N.C. Bioscience Investment Fund, L.L.C. Provides $2.5 million in state appropriations to the N.C. Biotechnology Center for additional investment in The North Carolina Bioscience Investment Fund, L.L.C. This appropriation will increase the state's total financed investment in the Center for this venture capital fund to $10 million.	$2,500,000	NR
Budget Changes	**($25,483)** **$2,500,000**	
Total Position Changes		
Revised Total Budget	**$10,138,913**	

Rural Economic Development Center

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$3,920,000**	
Budget Changes		
Administration		
103 Reduce Operating Support Reduces state funded operating support to the Rural Economic Development Center by $12,662. This reflects a 1.5% reduction from the Center's administrative budget excluding grants.	($12,662)	R
Grants Programs		
104 Supplemental Funding Program Provides nonrecurring funds to support the Supplemental Funding Program for economic development projects, principally water and sewer, in rural communities.	$3,565,000	NR
105 Capacity Grants Program Provides nonrecurring support for the Capacity Grants Program. REDC will provide these grants for units of local government to assist in financing costs associated with the planning and writing of grants/loan applications that support economic development in rural communities.	$200,000	NR
106 Supplemental and Capacity Grants Administration Provides nonrecurring administrative support for the Supplemenal Funding Program and Capacity Grants Program.	$60,000	NR
N.C. Association of CDCs		
107 N.C. Association of CDCs Provides nonrecurring funds to the North Carolina Association of Community Development Corporations to provide training and technical assistance to community development corporations statewide.	$200,000	NR
Budget Changes	**($12,662)** **$4,025,000**	R NR
Total Position Changes		
Revised Total Budget	**$7,932,338**	

State Information Processing Services

GENERAL FUND

	FY 98-99	
Total Budget Approved 1997 Session	**$271,530**	
Budget Changes		
State Information Processing Services		
108 Shift General Fund Positions to Receipt Support	($271,530)	R
Budget action shifts four postions designated for school technology assistance to receipt support.	-4.00	
(1) Application Analyst Program Specialist II (1) Office Assistant IV (2) Computer Consultant IV		
109 Continue and Expand N.C. Information Highway		
Provides nonrecurring funding for the following: 1) to purchase new equipment for certain existing information highway sites to utilize new technology that enables users to realize reduced monthly operating costs;and 2) to expand the number of sites receiving grants that subsidize monthly telecom charges incurred in accessing the information highway.	$6,143,160	NR
Total Requirements $10,140,689 Receipts (3,997,529) Appropriation $ 6,143,160		
Budget Changes	($271,530)	R
	$6,143,160	NR
Total Position Changes	-4.00	
Revised Total Budget	$6,143,160	

Transportation

HIGHWAY FUND

	FY 98-99
Total Budget Approved 1997 Session	**$1,144,625,737**

Budget Changes

Administration

(0160) Management Assessment

1 Increase Funds for Security Services — $33,778 R

Provides additional funding to cover expenses associated with a new card key system. Expenses include cards, software changes to the system, and phone line charges.

(0220) MIS

2 Increase Payments to SIPS — $6,000,000 R / $4,000,000 NR

Increases payments to SIPS to cover increased computer usage and to pay arrears.

3 Increase data communications capacity — $800,000 R / $500,000 NR

Increases data lines to connect additional systems and provide increased data communications capacity.

4 Increase Contract Services for Technical Support — $1,000,000 R

Provides information systems technical support for DOT users statewide.

5 Liability Tracking and Enforcement System (LITES) — $500,000 NR

Increases budget for software development.

6 Hardware and Software for New Requirements — $500,000 R

Provides funding for routine replacement of backbone computer equipment such as servers and routers. Also provides funding for a database modeling tool to predict and avoid system failures.

7 Contract Security for Raney Building — $65,000 R

Provides 24-hour security for Raney Building which was recently renovated to house the MIS Division. Security services would be contracted.

(0240) General Services

8 Increase Postage — $710,785 R

Increases funding for postage to cover increased mail volume, and increased postal rates.

9 Maintenance Funds for Raney Building — $109,751 R

Provides funds to maintain the Raney Building, which was recently renovated to house the MIS Division. 1.00

Salaries and Benefits:	$35,171
Janitorial:	$41,250
Utilities:	$21,000
Building Repairs:	$ 5,000
Uniforms:	$ 330
Materials and Supplies:	$ 1,000
Shop Supplies and Tools:	$ 5,000
Furniture and Equipment:	$ 1,000

Construction and Maintenance

(5120) Construction, Secondary Roads

10 Technical Adjustment to Secondary Roads Allocation — ($2,050,000) R

The allocation to secondary roads is determined by statute, and is a function of gas tax revenues. Because revised gas tax revenue estimates are below the original forecasts, this technical adjustment should be made to the budget for secondary road allocations. Although the allocation for secondary roads will be less than originally projected for FY 1998-99, it represents an increase over FY 1997-98.

(5240) Maintenance - Contract Resurfacing

11 Increase Funding for Contract Resurfacing

Increases funding for contract resurfacing. — $37,707,354 NR

(5400) Capital Improvements

12 Provide Funding for Facility Improvements

Funds 15 facility improvement projects around the State. — $4,070,348 NR

Total Requirements:	$9,777,398
Total Receipts:	$5,707,050
Total Appropriation:	$4,070,348

(5600) Federally Aided Construction

13 Reduce Funds for Federally Aided Construction — ($33,153,153) R

Eliminates Highway Fund match for federally aided construction projects. This amount would be replaced by funds transferred from the Highway Trust Fund to the Highway Fund.

(5910) State Aid Municipalities

14 Technical Adjustment to Aid for Municipalities ($2,050,000) R

The allocation to municipalities is determined by statute, and is a function of gas tax revenues. Because revised gas tax revenue estimates are below the original forecasts, this technical adjustment should be made to the budget for aid to municipalities. Although the allocation for aid to municipalities will be less than originally projected for FY 1998-99, it represents an increase over FY 1997-98.

(5970) Public Transportation

15 Additional Funds for Public Transportation

Increase funding for public transit and rail programs: $12,400,000 NR

Public Transit:	$6,700,000
Rail:	$5,700,000

Division of Motor Vehicles

(0520) Vehicle Registration

16 Hardware and Software for Liability Insurance Sys. $5,000 R

Provides computer hardware and software for new liability insurance system. $197,596 NR

17 License Plates and Stickers $227,044 R

Provides additional funding for license plates and stickers.

(0550) Traffic Records

18 Equipment and Operating Costs for Crash Reporting $66,500 R

Provides for computer equipment and operating costs for the Crash Reporting System currently being developed. $385,000 NR

Reserves

(6220) Environment and Natural Resources

19 Decrease Statutory Allocation to LUST Trust Fund ($189,000) R

Allocation to leaking underground storage tanks is determined by statute, and is a function of gasoline inspection tax revenues. Because revised gas inspection tax revenue estimates are below the original forecasts, this technical adjustment should be made to the budget for leaking underground storage tank allocations. Although the allocation will be less than originally projected for FY 1998-99, it represents an increase over FY 1997-98.

(6270) Crime Control and Public Safety

20 Correction of Error in Calculating Performance Pay — $2,787,596 R

Provides funding for performance pay increases that were approved in the 1997 Session, but that were not budgeted due to departmental error in calculating benefits.

21 Criminal Justice Information Network — $2,406,611 NR

Funds third of four phases for Criminal Justice Information Network. Funds would be used for 38 transmitters in 23 counties, at a cost of $75,000 per transmitter. Roughly $500,000 in federal funds would also be provided for Phase 3 of the project.

22 Increase Salary Differential - Sgt. and 1st Lieut. — $162,956 R

Provides funds to the Highway Patrol to increase the salary differential between Sergeant and First Lieutenant from 5% to 10%.

23 Funds for Additional Troopers — $403,900 R; $1,583,295 NR; 40.00

Provides partial funding for 40 additional troopers to start December 1. In addition to this increased appropriation, the 40 new positions would be partially funded by $943,325 in the existing budget of Crime Control and Public Safety generated by reallocation in the Department of 5 positions. The annualized recurring appropriation for this item is $968,300.

24 Mobile Data Computers for Highway Patrol Troopers — $2,249,812 NR

Provides funding for 234 mobile data computers for highway patrol cars.

25 Highway Patrol Helicopter Pad — $75,000 NR

Provides funds for Highway Patrol helicopter pad.

(6320) State Treasurer

26 Transfer to General Fund — ($13,400,000) NR

Discontinues transfer to General Fund of money in lieu of sales taxes from the Department. The transfer would be discontinued for one year only.

(6370) Transfer to Highway Trust Fund

27 Transfer to Highway Trust Fund — ($38,000,000) NR

Discontinues transfer to Highway Trust Fund of money required by statute. These funds were originally made available from the retirement of Highway Fund bonds. As these bonds were paid off, money equal to the debt service on the bonds was paid to the Highway Trust Fund. The transfer would be discontinued for one year only.

(6610) Employer Retirement Contribution

28	**Reduce Retirement Contribution** Savings realized by a reduction of 0.73% in retirement rate contribution due to an actuarial gain.	($3,612,248)	NR

(6801) Legislative Salary Increase

29	**Funds for Legislative Increase**	$12,000,000	R
	Provides funding for a 2% cost of living adjustment, a 1% performance increase, and a 1% bonus for Highway Fund employees.	$4,000,000	NR

(6803) DMV Equity Pay Adjustments

30	**Reserve for Pay Equity Plan for DMV Enforcement** Provides funds to adjust salaries of DMV Enforcement Officers to achieve equity with respect to other state law enforcement agencies.	$3,390,708	R

(6814) Wastewater Management

31	**Compliance with Stormwater Discharge Permit** Provides funding so that the Department of Transportation can comply with the stormwater discharge permit issued by the Department of Environment and Natural Resources.	$500,000	R

Budget Changes	**($8,679,135)**	**R**
	$15,062,768	**NR**
Total Position Changes	41.00	
Revised Total Budget	**$1,151,009,370**	

General Fund

Statewide Reserves

FY 98-99

1	**Salary Compensation Reserves**		$341,871,828	R
	Public Schools			
	Raise Average Teacher Salary (6.5%)	$192,943,537		
	Principals & Asst. Principals (8.7%)	$ 18,437,996		
	Other Public School Employees (3%)	$ 24,552,564		
	Subtotal	$235,934,097		
	Community Colleges (3%)	$ 14,641,536		
	University Employees			
	EPA Employees (3%)	$ 25,548,463		
	School of Science & Math (6.5%)	$ 212,953		
	Subtotal	$ 25,761,416		
	SPA Employees			
	University SPA Employees (2% + 1%)	$ 12,368,250		
	Agency & Department SPA (2% + 1%)	$ 43,089,837		
	Subtotal	$ 55,458,087		
	Other State Employees (3%)	$ 7,912,764		
	Agency Teachers (6.5%)	$ 2,163,928		
2	**Reserve for 1% Compensation Bonus**		$43,171,138	NR
3	**Reduce Funds for Retirement Rate Adjustment**			
	Due to Actuarial Gains in the Teacher's and State Employees' Retirement System		($42,909,070)	NR
4	**Reduce Funds for Retirement Rate Adjustment**			
	Due to actuarial gains in the Consolidated Judicial Retirement System		($1,472,800)	NR
5	**Debt Service**		($9,661,426)	R
	Reduction due to revised requirements for principal and interest payments		($4,518,148)	NR
6	**Reserve for Juvenile Justice Initiative**		$4,133,295	R
			$13,214,192	NR
7	**Reserve for Travel Rate Increase for State Employees**		$1,000,000	

Senate Reserves Report

8 Global Trans Park Reserve		
	$5,325,000	NR
Total Reserves	**$336,343,697**	**R**
	$13,810,312	**NR**

General Fund

Statewide Capital

FY 98-99

Administration

1 Reserve for State Veterans Nursing Home-Salisbury
Renovation of a 100-bed nursing care unit — $1,000,000 NR

Agriculture and Consumer Services

2 N.C. State Fair
Conservation Education Center-Design — $500,000 NR

3 Eastern Agriculture Center
Funds for continued development including Parking, Paving,and a Covered Walkway — $1,000,000 NR

4 Southeastern Farmers Market and Agriculture Center
Continued Development — $500,000 NR

5 Union County Equine Facility-Planning
$1,000,000 NR

6 Umstead Farm Unit
Authorizes the department to use timber receipts for FY 98-99 for the construction of nutrition and animal care facilities at the Umstead Farm Unit in Butner.

Total Requirements	$533,000
Less Receipts	(533,000)
Appropriation	$ 0

Community Colleges

7 Center for Applied Textile Technology
Center for Applied Textile Technology Lab and Administration Building — $2,000,000 NR

8 Fayetteville Technical Community College
Funds to construct the Model Early Childhood Education Center — $3,000,000

Correction

9 Central Prison-Acute Care Hospital
Design of a new 90-bed facility — $2,500,000 NR

Cultural Resources

10 Museum of Art-Expansion and Renovation
Design Funds — $2,400,000 NR

11 Museum of the Albemarle-New Building
Site preparation and beginning construction — $7,000,000 NR

Environment and Natural Resources

12 State Match-Water Resources Projects
Funds for the state share of federal civil works projects — $7,300,000 NR

13 Construction/Renovation of Aquariums
Funds to complete Roanoke Island facility and to do site development at Pine Knoll Shores and Fort Fisher facilities — $3,750,000 NR

14 Central Piedmont Aquarium-Planning
$500,000 NR

15 Land Acquisition-Jocassee Lake-Transylvania County
Purchase land adjacent to Jocassee Lake to be preserved as a park, recreational, and scenic areas — $5,000,000 NR

16 Detoxification of PCB Landfill in Warren County
$3,000,000 NR

17 Channel Widening/Deepening-Wilmington Port
To improve navigation for shipping terminals and industries. — $4,800,000 NR

Health and Human Services

18 Eastern School for the Deaf
Construction of 11,000 sq. ft. Independent Living Complex in Wilson — $1,040,000 NR

19 Cherry Hospital/Children and Youth Facility
Replace an existing building which no longer meets federal standards — $5,000,000 NR

20 New Whitaker School-Planning
Planning for a 33-bed facility — $250,000 NR

21 Eastern Vocational Rehabilitation Facility/Goldsboro
Purchase an existing building for the expansion of the Traumatic Brain Injured Program — $300,000 NR

State Ports

22 Reserve for Continued Development of State Ports
Continued development of the state ports at Wilmington and Morehead City — $2,000,000 NR

University of North Carolina-Board of Governors

23 East Carolina University
Science Laboratories and Technology Building-Site Development — $3,200,000 NR

24 East Carolina University
Multipurpose Center-Matching Funds — $2,000,000 NR

25 Elizabeth City State University
To complete Fine Arts and Mass Communications Building — $948,600 NR

26 Fayetteville State University
Fine Arts and General Classroom Facility-Site Development — $1,000,000 NR

27 North Carolina A&T State University
Campus Security Improvements — $1,450,000 NR

28 North Carolina Central University
Health and Safety Repairs and Renovations — $2,000,000 NR

29 School of the Arts
Basic Education Complex-Planning — $800,000 NR

30 School of the Arts
Filmmaking Office/Classroom Post Production Complex — $300,000 NR

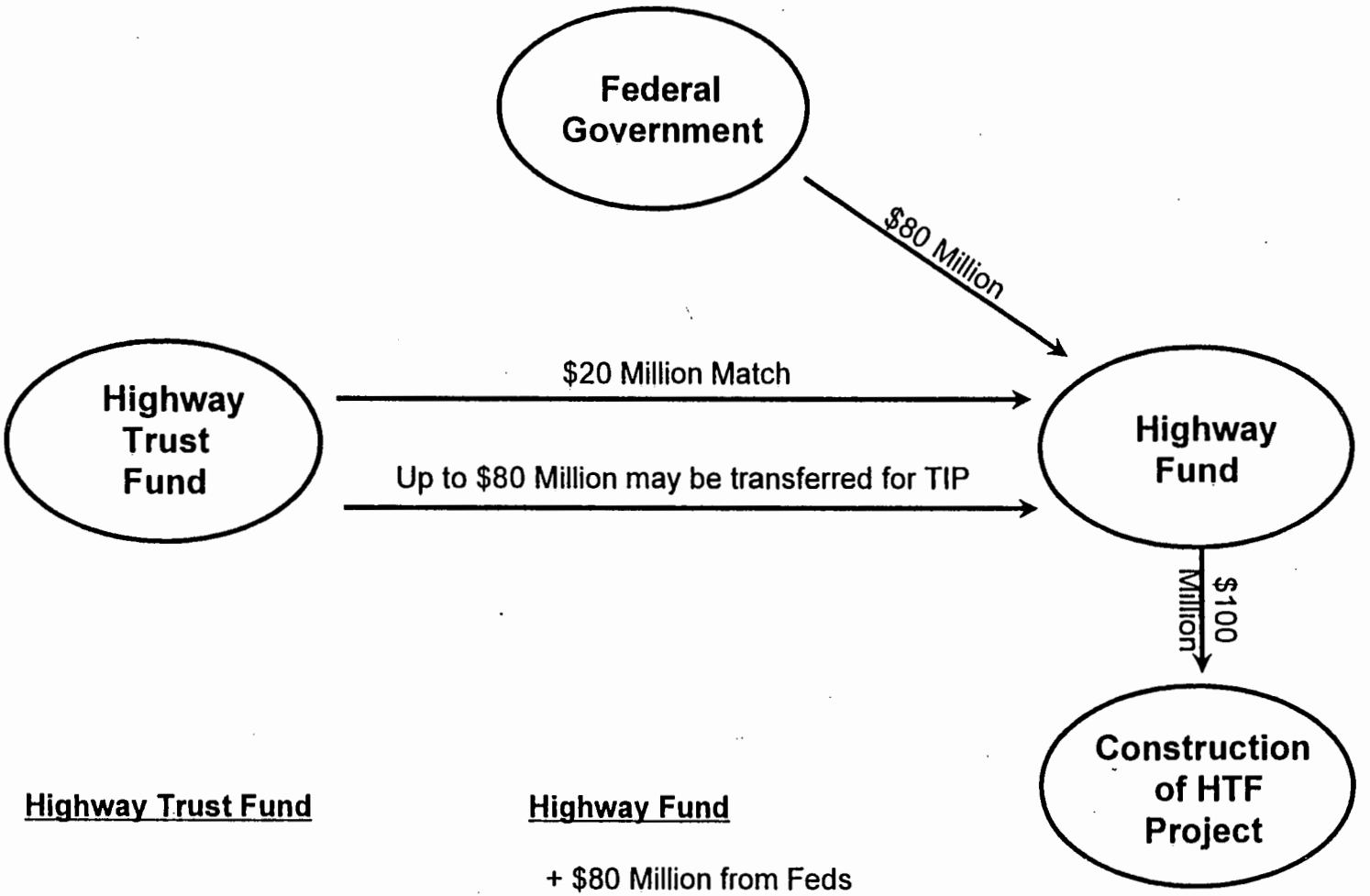
31 North Carolina State University
Toxicology Building-Construction — $13,806,100 NR

32	**North Carolina State University** Engineering Instructional Facility-Advanced Planning	$5,000,000	NR
33	**North Carolina State University** Upfit and Equip Center for Marine Science and Technology Building	$2,400,000	NR
34	**North Carolina State University** Polk House-Funds to relocate and renovate	$600,000	NR
35	**North Carolina State University** Raulston Aboretum Education Center	$3,400,000	NR
36	**UNC-Asheville** Highsmith Center Renovation and Addition-Planning	$1,000,000	NR
37	**UNC-Chapel Hill** R.B. House Library-Renovation	$9,332,700	NR
38	**UNC-Chapel Hill** Medical Biomolecular Research Building-Site Development	$6,000,000	NR
39	**UNC-Chapel Hill** Paul Green Theater	$1,000,000	NR
40	**UNC-Chapel Hill** Additional renovations of Memorial Hall-Planning	$1,000,000	NR
41	**UNC-Chapel Hill** Addition and renovation of the Knapp Building	$6,570,600	NR
42	**UNC-General Administration** School Leadership Academy	$2,000,000	NR
43	**UNC-Charlotte** Academic Facilities-Humanities-Site Development	$3,000,000	NR
44	**UNC-Charlotte** Academic Facilities-Sciences-Planning	$2,000,000	NR
45	**UNC-Greensboro** Science Instructional Building-Site Development	$7,700,000	NR

46	**UNC-Pembroke**		
	Regional Center for Economic, Professional and Community Development-Planning	$700,000	NR
47	**Western Carolina University**		
	Fine and Performing Arts Center-Site Development	$2,500,000	NR
48	**Winston-Salem State University**		
	Computer Science Facility-Planning	$700,000	NR
49	**UNC-Public Television**		
	Advanced Planning, Conversion to Digital TV	$1,100,000	NR
Total Capital Appropriation		**$135,348,000**	**NR**

Example of Transfer from Highway Trust Fund to Highway Fund

Assume federal government grants $80 million for a $100 million Trust Fund Project



Results:

Highway Trust Fund	Highway Fund
	+ $80 Million from Feds
- $100 Million Transfer	+$100 Million from HTF
+$100 Million Project Constructed	-$100 Million Project Constructed
0	$80 Million for TIP

IV

STATE HIGHWAY PATROL

Reclassification

Rank of Lieutenant to Colonel

		Current		Proposed		Additional Costs			
Rank Position	Number	Pay Grade	Maximum Salary	Proposed Pay Grade	Maximum Salary	Salary (See Note)	Social Security	Retire-ment	Total Increase
Colonel	1	84	90,394	85	94,771	4,377	335	677	5,389
Lt. Colonel	2	80	74,796	81	78,352	7,112	544	1,100	8,756
Major	4	78	68,158	79	71,420	13,048	998	2,017	16,063
Captain	14	76	62,103	77	65,039	41,104	3,144	6,355	50,603
Lieutenant	25	74	56,624	75	59,293	66,725	5,104	10,316	82,145
First Sergeant	74	73	54,041	73	54,041	0	0	0	0
Line Sergeant	168	71	49,338	71	49,338	0	0	0	0
Trooper	1092	68	43,058	68	43,058	0	0	0	0
TOTAL	1380								162,956

Note: Salary increase is determined by subtracting Current Salary from Proposed Salary and multiplying by the number of Positions.

The ranks of First Sergeant, Line Sergeant and Trooper will not be affected.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **HOUSE APPROPRIATIONS Subcommittee on Transportation** will meet as follows:

DAY & DATE: **Thurs., July 9, 1998**

TIME: **8:30 AM**

LOCATION: **Room 1228/1327**

- **CONTINUING REVIEW OF THE BUDGET**
- **SPECIAL PROVISIONS**

Respectfully,

Representatives Bowie, Dockham, McMahan
Co-Chairs

I hereby certify this notice was filed by Sharon Gaudette, Committee Clerk, at the following offices at 2 pm on July 7, 1998.

___Principal Clerk
___Reading Clerk - House Chamber

Sharon Gaudette
Sharon Cram (Committee Clerks)

AGENDA

House Appropriations Subcommittee
on
Transportation

July 9, 1998
Room 1228
8:30 A.M.

Chair: Representative Joni Bowie

Overview of Senate Budget Special Provisions

Evan Rodewald
Fiscal Research Division

MINUTES

HOUSE APPROPRIATIONS
Subcommittee on Transportation

July 9, 1998
8:30 A.M.

The HOUSE APPROPRIATIONS Subcommittee on Transportation met in Room 1228/1327 of the Legislative Building on Thursday, July 9, 1998, at 8:30 a.m. **Representative Joanne Bowie presiding.** Visitor's Sheet attached.

Members Present: Representatives Bowie, Dockham, McMahan, Barbee, Blue, Hiatt, Gulley, Saunders and Sutton.

Evan Rodewald, Fiscal Research Staff, presented **Senate Bill 1366,** *AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 1997 AND TO MAKE OTH3R CHANGES IN THE BUDGET OPERATION OF THE STATE* (see attachment I).

Mr. Rodewald reviewed only the Transportation portion of the Senate Budget:

Page 17 - Section 27 - DESIGN-BUILD TRANSPORTATION CONSTRUCTION CONTRACTS AUTHORIZED. This provision was requested by the Department of Transportation (DOT) allowing them to award up to three contracts on a design-build basis. Currently bids for construction projects are solicited only after the designs for the projects are completed. This provision will allow DOT to award projects at the beginning of the design phase. The firm awarded the contract would do the design work as well as the construction. This would allow the contractors to begin mobilizing resources and, in some cases, begin some preliminary construction work while the design phase is completed. It would require the Department to report to the Transportation Oversight Committee before projects are awarded.

Page 174 - Section 27.1 - DISCONTINUE DEPARTMENT OF TRANSPORTATION SALES TAX REIMBURSEMENT FROM HIGHWAY FUND TO GENERAL FUND FOR ONE YEAR.

Page 174 - Section 27.3 - FEDERAL FUNDS FOR PUBLIC TRANSPORTATION IMPROVEMENTS. To the extent allowable by federal law, the DOT shall use ten million dollars of federal highway funds during each year of the 1997-99 biennium for improvements to public transportation.

Page 174 - Section 27.4 - CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS. This changes a provision passed last year by the General Assembly. It allows the Department to use anticipated revenues of the Highway Fund and anticipated revenues of the Highway Trust Fund.

Page 174 - Section 27.5 - OUTDOOR ADVERTISING JUST COMPENSATION SUNSET EXTENDED. This provision was requested by the DOT. It extends the sunset on the law that requires local governments to provide just compensation when they require billboard owners to move billboards adjacent to federally aided highways. If the sunset is not extended North Carolina risks losing 10% of its federal aid.

Page 175 - Section 27.6 - PAYMENTS TO CONTRACT AGENTS FOR COLLECTING EMISSION CONTROL CIVIL PENALTIES AND FOR MAKING SALES OF INSPECTION STICKERS TO LICENSED INSPECTION STATIONS, AND A TECHNICAL CHANGE TO A RELATED STATUTE. This special provision was requested by the Department of Motor Vehicles (DMV). It allows compensation to tag agents for collecting emissions control penalties and for providing inspection stickers to inspection stations. The funds for compensating the tag agents would come from a special fund in the emissions program or from funds already budgeted to the DMV.

Page 176 - Section 27.7 - REOPEN STATE HIGHWAY IN BERTIE COUNTY. The provision simply restates the authority the DOT already has to reopen State Highway 1109 in Bertie County.

Page 176 - Section 27.8 - BRANDED TITLE CLARIFICATION. This provision makes clarifying and technical changes to a provision passed last year that limits anti-theft inspections of vehicles that have been totaled. It would limit the inspections to vehicles that were six years old or younger. Also the provision requires a notice on title and title applications to warn consumers when they are buying a wrecked vehicle that the repair history might not be disclosed on the face of the title *(see attachment I, Page 176).*

Representative Bowie introduced **Representative John Weatherly**, sponsor of this provision to address the Committee.

Representative Sutton questioned what the special provision changes and requested an explanation.

Representative Weatherly indicated the current special provision corrects an over site that occurred in a special provision passed in 1997 *(see attachment III).* The DMV Enforcement Section requested discontinuation of the pre and final inspection of wrecked vehicles. The unintended consequence of this request is that if a wrecked vehicle does not receive a pre and final inspection it automatically receives a branded

title. The consequences of a branded title; lenders will not make the loan value more than half the value of the vehicle.

Representative Sutton inquired under what conditions the burden is shifted to the consumer as to whether the vehicle has been wrecked or damaged.

Representative Weatherly explained if a vehicle has been damaged or repaired 25% or more of its value, the consumer must receive a disclosure statement. If a vehicle has been damaged or repaired more than 75% of its total value it must be branded.

Representative Blue questioned, regardless of the age of the car, if the repairs are more than 75% is the title automatically branded? Representative Weatherly replied, Yes. If the repairs are less than 75% the vehicle receives a clean title. Representative Weatherly replied, No.

Mr. Rodlewald explained *(see attachment IV. pgs. 1-3)* if a vehicle is less than six years old the following process takes place:

1. an anti-theft inspection by the DMV enforcement, and
2. an affidavit to its value

If a vehicle is six years or older only the following takes place:

1. an affidavit to its value

- if vehicle repairs are more than 75% it receives a branded title
- if vehicle repairs are less than 75% it receives a clean title.

Under any circumstance, branded or clean, a notice on the title and the title application must state: "the repair history may not be disclosed." Committee discussion took place.

Representative Sutton expressed his concern that following this process the consumer may not be made aware of damaged or repaired vehicles they are purchasing.

Representative Hiatt expressed concern as to how accessible the information actually is to the consumer in regard to a vehicle that has been damaged or repaired?

Representative McMahan questioned what are the penalties for non-disclosure? Representative Weatherly replied the penalty is three times the damage to the vehicle.

Representative Sutton stated he feels dealers should be legally responsible to the consumer in making them aware of any damage or repair history on a vehicle they are purchasing.

Committee of Centralina Council of Governments. Funds will be approved by the Department of Transportation who will make written reports to the Joint Legislative Transportation Oversight Committee.

2. NONBETTERMENT RELOCATION COST *(see attachment II - Pg. 2).* This act requires that DOT pay relocation costs for water and sewer lines, located within the existing State highway right-of-way; this would affect only Buncombe and Henderson County. Representative Bowie explained that years ago these two counties were set up differently than all the other counties in North Carolina and this provision will include them like all other counties.

3. BLUE RIBBON TRANSPORTATION FINANCE STUDY COMMISSION *(see attachment II - Pg. 3 & 4).* This act changes:
   - The number of members on the Commission to 18
   - Allows for the appointment of four members from the House and four members from the Senate.
   - The Secretary of Transportation or his designee serve as a nonvoting ex officio member
   - The Commission will study transfers from the Highway Fund to other State agencies; including whether the funds will come from the General Fund, and
   - The Legislative Services Commission may allocate up to $200,000 for the expenses of the Commission.

4. MEDIUM CUSTODY ROAD CREW COMPENSATION *(see attachment II. Pg. 5*). This act makes technical changes in regard to the funds appropriated. The Department of Transportation (DOT) may use funds appropriated to pay requested reimbursements submitted by the Department of Correction (DOC) over and above the $6,500,000, but requests shall be subject to negotiations between the DOT, DOC, and Office of State Budget and Management prior to payment.

5. OUTDOOR ADVERTISING JUST COMPENSATION SUNSET EXTENDED *(see attachment II, Pg. 6).* This act is effective upon ratification, but shall expire June 30, 2000.

6. DMV ENFORCEMENT SECTION PAY EQUITY PLAN LIMITATIONS *(see attachment II, Pg. 7).* This act requires that before adjusting salaries or benefits the DOT must consult and receive approval of the Office of State Personnel; as well as, report to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission of Governmental Operations.

Discussion took place.

Representative Hiatt motioned to adopt the Special Provisions. Motion passed.

Mr. Rodewald continued with **Page 177 - Section 27.9** - *DMV ENFORCEMENT SECTION PAY EQUITY PLAN LIMITATIONS.* This provision would assure that the DMV equity pay plan would be consistent with the state personnel policy:

- would consult with and get approval of the Office of State Personnel
- would report to the Joint Legislative Transportation Oversight Committee, and
- would report to the Joint Legislative Commission on Governmental Operations.

Page 118 - Section 15.4 - *GREAT SMOKY MOUNTAINS SPECIAL LICENSE PLATE.* This provision would exempt the Great Smoky Mountains special license plate from the requirement to have a "First in Flight" style of background and lettering.

Page 118 - Section 15.5 - *NC SEAFOOD INDUSTRIAL PARK AUTHORITY REVISIONS.* This provision clarifies and expands the authority of the Seafood Industrial Parks to pursue acquisition of land that would be required to build jetty's for the Oregon Inlet.

Representative Barbee requested **Section 15.4** be flagged for further discussion in regard to the Great Smoky Mountains Special License Plates.

Page 152 - Section 17.7 - *FUNDING OF PRISON ROAD SQUADS.* Mr. Rodewald noted for the Committees interest that this provision, passed by Justice and Public Safety Committee in the Senate, requires that the receipts by the Department of Corrections for the use of prison road squads reflect only the actual costs authorized; not overhead costs.

Page 216 - Section 29.12 - *RELOCATE GLOBAL TRANSPARK AUTHORITY.* This provision requires the Global TransPark Authority to relocate its administrative offices from Raleigh to Kinston.

Meeting adjourned at 9:35 a.m.

Respectfully submitted:

Representative Joanne W. Bowie,
Presiding, Co-Chair

Sharon A. Gaudette
Committee Clerk

Representative Jerry Dockham
Representative Ed McMahan, Co-Chairs

VISITOR REGISTRATION SHEET

APPROP/SUBCOMMITTEE ON TRANSPORTATION 2-9-98 **, 1998**

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mitch D. Alphin	OSBM
Carol Simon	DOT
BERRY Jenkins	Carolinas AGC
Ruth Sappie	NCDOT
Len Sanderson	NC DOT
Carol Howard	DMV
Dale Mikel	Scenic NC
A. B. Swindell	BFT
Jim Ritchey	TTA
Dennis Patterson	AP

SPECIAL PROVISIONS Transportation **Senate Bill 1366**

Department: Transportation

Senate

Title: **DESIGN-BUILD TRANSPORTATION CONSTRUCTION CONTRACTS AUTHORIZED**

Section 27 Code: 98TRANS-S007B

Summary: Special provision requested by DOT. Allows DOT to award three contracts on a design-build basis. Currently, bids for construction projects are solicited only after the designs for the projects have been completed. This provision would allow DOT to award a project before the beginning of the design phase to a firm that would both design and construct the project.

Senate

Title: **DISCONTINUE DEPARTMENT OF TRANSPORTATION SALES TAX REIMBURSEMENT FROM HIGHWAY FUND TO GENERAL FUND FOR ONE YEAR**

Section 27.1 Code: 98TRANS-S003A

Summary: Discontinues for one year the $13.4 million transfer from the Highway Fund to the General Fund. This transfer was established to compensate the General Fund for sales tax payments from which DOT is exempted. This special provision is required for the $13.4 million reduction in the Transportation section of the Committee Report.

Senate

Title: **DISCONTINUE BOND RETIREMENT TRANSFER FROM HIGHWAY FUND TO HIGHWAY TRUST FUND FOR ONE YEAR**

Section 27.2 Code: 98TRANS-S002C

Summary: Allows $38 million transfer from the Highway Fund to the General Fund to be discontinued for one year consistent with the Committee Report. This $38 milliion dollar transfer was established as a funding mechanism for the Highway Trust Fund, and it is related to the retirement of debt service on Highway Fund bonds.

Senate

Title: **FEDERAL FUNDS FOR PUBLIC TRANSPORTATION IMPROVEMENTS**

Section 27.3 Code: 98TRANS-S001

Summary: Clarifies intent of the General Assembly in a special provision from last year. This clarifying change would ensure that $10 million in federal funds could be used for public transportation in each year of the biennium.

Senate

Title: **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS**

Section 27.4 Code: 98TRANS-S005B

Summary: Changes boilerplate special provision form last year to reflect increased revenue forecasts. This boilerplate language allows DOT to anticipate revenue in future years for the purpose of budgeting multi-year road construction projects.

Senate

Title: **OUTDOOR ADVERTISING JUST COMPENSATION SUNSET EXTENDED**

Section 27.5 Code: 98TRANS-S006A

Summary: Special provision requested by DOT. Extends the sunset on the law requiring that local governments provide "just compensation" when requiring owners to move billboards adjacent to federally-aided highways. If this sunset is not extended, North Carolina risks losing 10% of its federal aid.

Senate

Title: **PAYMENTS TO CONTRACT AGENTS FOR COLLECTING EMISSION CONTROL CIVIL PENALTIES AND FOR MAKING SALES OF INSPECTION STICKERS TO LICENSED INSPECTION STATIONS, AND A TECHNICAL CHANGE TO A RELATED STATUTE**

Section 27.6 Code: 98TRANS-S009B

Summary: Special provision requested by DMV. Compensates tag agents for collecting emissions control penalties, and for providing inspection stickers to inspection stations. Funds for these payments would come from either an emissions program special fund, or from funds available to DMV.

Senate

Title: **REOPEN STATE HIGHWAY IN BERTIE COUNTY**

Section 27.7 Code: 98TRANS-SO11

Summary: Restates authority that DOT already has to reopen State Highway 1109 in Bertie County.

Senate

Title: **BRANDED TITLE CLARIFICATION**

Section 27.8 Code: 98TRANS-S008A

Summary: Special provision makes clarifying and technical changes to a special provision passed last year, that would limit anti-theft inspections of totalled vehicles to those vehicles that were six years old or less. The provision would also require a notice on title and title applications to warn consumers that the repair history of a vehicle might not be disclosed on the face of the title.

Senate

Title: **DMV ENFORCEMENT SECTION PAY EQUITY PLAN LIMITATIONS**

Section 27.9 Code: 98TRANS-S017A

Summary: Ensures that the DMV enforcement pay equity plan would be consistent with Office of State personnel policy. Requires plan to be approved by State Personnel, and reported to Transportation Oversight and Governmental Operations.

H.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 3

SENATE BILL 1366
Appropriations Committee Substitute With Amendments Adopted 6/30/98
Third Edition Engrossed 7/1/98

Short Title: Appropriations Act of 1998. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 1997 AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

Section 1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

TITLE OF ACT

Section 1.1. This act shall be known as the "Current Operations Appropriations and Capital Improvement Appropriations Act of 1998".

PART II. CURRENT OPERATIONS/GENERAL FUND

Section 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 1999, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 1998-99 fiscal year.

Current Operations - General Fund	1998-99
General Assembly	$ -0-
Judicial Department	6,743,529
Office of the Governor	
01. Office of the Governor	30,704
02. Office of State Budget and Management	1,000,737
03. Office of State Planning	1,293,882
04. Housing Finance Agency	2,000,000
Office of the Lieutenant Governor	25,000
Department of Secretary of State	2,037,719
Department of State Auditor	1,583,258
Department of State Treasurer	1,417,525
Department of Public Education	131,388,109
Department of Justice	1,562,081
Department of Administration	988,641
Department of Agriculture and Consumer Services	1,955,296
Department of Labor	190,000
Department of Insurance	2,518,893
Department of Transportation	-
Department of Environment and Natural Resources	24,983,448
Office of Administrative Hearings	277,641
Rules Review Commission	-
Department of Health and Human Services	
01. Office of the Secretary	11,088,375
02. Division of Aging	4,000,000
03. Division of Child Development	55,603,289
04. Division of Services for the Deaf and Hard of Hearing	185,000
05. Division of Social Services	(16,371,926)
06. Division of Health Services	9,824,000
07. Division of Medical Assistance	(64,710,957)
08. Division of Services	

	for the Blind	300,000
09.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	52,905,001
10.	Division of Facility Services	300,000
11.	Division of Vocational Rehabilitation Services	1,200,000
12.	Division of Youth Services	(200,000)
Total Department of Health and Human Services		54,122,782
Department of Correction		(17,343,097)
Department of Commerce		
01.	Commerce	17,885,092
02.	Biotechnology Center	2,474,517
03.	MCNC	2,000,000
04.	Rural Economic Development Center	4,012,338
05.	State Aid to non-State Entities	12,750,000
06.	State Information Processing Services	5,871,630
Department of Revenue		11,946,050
Department of Cultural Resources		22,653,814
Department of Crime Control and Public Safety		2,577,226
Office of the State Controller		2,146,988
University of North Carolina - Board of Governors		
01.	General Administration	(38,720)
02.	University Institutional Programs	79,797,910
03.	Related Educational Programs	7,177,770
04.	University of North Carolina at Chapel Hill	
	a. Academic Affairs	(665,108)
	b. Health Affairs	(702,514)
	c. Area Health Education Centers	(39,753)
05.	North Carolina State University at Raleigh	
	a. Academic Affairs	(355,191)
	b. Agricultural Research Service	(42,451)
	c. Cooperative Extension Service	(33,652)
06.	University of North Carolina at Greensboro	(232,914)
07.	University of North Carolina at Charlotte	(111,070)
08.	University of North Carolina at	

Asheville	(20,866)
09. University of North Carolina at Wilmington	(40,663)
10. East Carolina University	
a. Academic Affairs	(191,207)
b. Division of Health Affairs	(42,480)
11. North Carolina Agricultural and Technical State University	(51,643)
12. Western Carolina University	(70,087)
13. Appalachian State University	(151,650)
14. The University of North Carolina at Pembroke	(19,141)
15. Winston-Salem State University	(20,759)
16. Elizabeth City State University	(58,252)
17. Fayetteville State University	(24,605)
18. North Carolina Central University	(3,525)
19. North Carolina School of the Arts	(12,280)
20. North Carolina School of Science and Mathematics.	(9,897)
UNC Hospitals at Chapel Hill	(36,783)
Total University of North Carolina - Board of Governors	84,000,469
Department of Community Colleges	44,776,373
State Board of Elections	1,741,168
Contingency and Emergency	-
Reserve for Compensation Increase	385,042,966
Retirement Rate Adjustment	(44,381,870)
Reserve for Salary Adjustments	-
Debt Service	(14,179,574)
Debt Service - Federal	-
Postage Reduction	-
Reserve for Juvenile Justice Initiatives	17,347,487
Reserve for Travel Rate Increase for State Employees	1,000,000
Reserve for Global TransPark	5,325,000
GRAND TOTAL CURRENT OPERATIONS -- GENERAL FUND	$781,765,822

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

Section 3. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the fiscal year ending June 30, 1999, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Fund appropriations for the 1998-99 fiscal year.

Current Operations - Highway Fund	1998-99
Department of Transportation	
01. Administration	$ 14,219,314
02. Operations -	
03. Construction and Maintenance	
a. Construction	
(01) Primary Construction	-
(02) Secondary Construction	(2,050,000)
(03) Urban Construction	-
(04) Access and Public Service Roads	-
(05) Discretionary Fund	-
(06) Spot Safety Construction	-
b. State Funds to Match Federal Highway Aid	(33,153,153)
c. State Maintenance	37,707,354
d. Ferry Operations	-
e. Capital Improvements	4,070,348
f. State Aid to Municipalities	(2,050,000)
g. State Aid for Public Transportation and Railroads	12,400,000
h. OSHA - State	-
04. Governor's Highway Safety Program	-
05. Division of Motor Vehicles	881,140
06. Reserves and Transfers	(25,641,370)
GRAND TOTAL CURRENT OPERATIONS/ HIGHWAY FUND	$ 6,383,633

PART IV. HIGHWAY TRUST FUND

Section 4. Appropriations from the Highway Trust Fund are made for the fiscal year ending June 30, 1999, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Trust Fund appropriations for the 1998-99 fiscal year.

Highway Trust Fund	1998-99
01. Intrastate System	($ 20,194,558)
02. Secondary Roads Construction	(393,452)
03. Urban Loops	(8,165,838)
04. State Aid - Municipalities	(2,118,880)
05. Program Administration	143,380
GRAND TOTAL/HIGHWAY TRUST FUND	($ 30,729,348)

PART V. BLOCK GRANT FUNDS

Requested by: Senator Martin of Guilford

DHHS BLOCK GRANT PROVISIONS

Section 5. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1999, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT		
01.	Community Action Agencies	$ 11,573,346
02.	Limited Purpose Agencies	642,964
03.	Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	642,964
TOTAL COMMUNITY SERVICES BLOCK GRANT		$ 12,859,274
SOCIAL SERVICES BLOCK GRANT		
01.	County departments of social services	$ 30,395,663
02.	Allocation for in-home services provided by county departments of social services	2,101,113
03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	4,764,124
04.	Division of Services for the Blind	3,205,711
05.	Division of Youth Services	950,674
06.	Division of Facility Services	343,341
07.	Division of Aging - Home and Community Care Block Grant	1,915,234
08.	Day care services	13,853,152
09.	Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
10.	State administration	1,954,237
11.	Child Medical Evaluation Program	238,321
12.	Adult day care services	2,255,301
13.	County departments of social services for child abuse/prevention and permanency planning	394,841
14.	Transfer to Preventive Health Block Services Grant for	

	emergency medical services	213,128
15.	Transfer to Preventive Health Block Services Grant for AIDS education, counseling, and testing	66,939
16.	Department of Administration for the N.C. Commission of Indian Affairs In-Home Services Program for the elderly	203,198
17.	Division of Vocational Rehabilitation - Easter Seals Society	116,779
18.	UNC-CH CARES Program for training and consultation services	247,920
19.	Allocation to the Adolescent Pregnancy Prevention Program	239,261
20.	Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
21.	County departments of social services for child welfare improvements	2,211,687
22.	Transfer from TANF - Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for juvenile offenders	1,182,280
23.	Transfer from TANF - Enhanced Employee Assistance Program	1,000,000
24.	Transfer from TANF - Teen Pregnancy Prevention	2,000,000
TOTAL SOCIAL SERVICES BLOCK GRANT		$ 69,965,690
LOW-INCOME ENERGY BLOCK GRANT		
01.	Energy Assistance Programs	$ 6,350,240
02.	Crisis Intervention	6,461,000
03.	Administration	1,443,572
04.	Department of Commerce - Weatherization Program	4,171,960
05.	Department of Administration - N.C. Commission of Indian Affairs	33,228

TOTAL LOW-INCOME ENERGY BLOCK GRANT	$ 18,460,000
MENTAL HEALTH SERVICES BLOCK GRANT	
01. Provision of community-based services in accordance with the Mental Health Study Commission's Adult Severe and Persistently Mentally Ill Plan	$ 3,794,179
02. Provision of community-based services in accordance with the Mental Health Study Commission's Child Mental Health Plan	1,819,931
03. Administration	624,231
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	$ 6,238,341
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
01. Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol, Drug Abuse Treatment Centers	$ 11,502,939
02. Continuation of services for pregnant women and women with dependent children	5,065,766
03. Continuation and expansion of services to IV drug abusers and others at risk for HIV diseases	4,843,456
04. Provision of services in accordance with the Mental Health Study Commission's Child and Adolescent Alcohol and Other Drug Abuse Plan	5,964,093
05. Services for former SSI recipients	1,123,757
06. Juvenile Services - Family Focus	893,811
07. Juvenile offender services and substance abuse pilot	300,000
08. Administration	2,171,228
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	$ 31,865,050

CHILD CARE AND DEVELOPMENT BLOCK GRANT	
01. Before and After School Child Care Programs and Early Childhood Development Programs	$845,598
02. Quality improvement activities	752,281
TOTAL CHILD CARE AND DEVELOPMENT BLOCK GRANT	$ 1,597,879
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
01. Child care subsidies	$108,625,251
02. Quality and availability initiatives	4,774,736
03. Administrative expenses	5,968,420
04. Transfer from TANF Block Grant for child care subsidies and support	55,075,185
05. Transfer from TANF Block Grant for three child care centers at community colleges	500,000
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	$174,943,592
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT	
01. Work First Cash Assistance:	
Standard Counties	$160,230,540
Electing Counties	43,084,638
02. Work First County Block Grants	50,174,419
03. Transfer to Child Care and Development Fund Block Grant for three child care centers at community colleges	500,000
04. Transfer to the Child Care and Development Fund Block Grant for child care subsidies	55,075,185
05. Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for Work First substance abuse treatment services and drug testing	2,000,000
06. Allocation to the Division of Social Services for evaluation	1,000,000

07.	Allocation to the Division of Social Services for State and county staff development	500,000
08.	Reduction of out-of-wedlock births	1,600,000
09.	Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for screening, diagnostic, and counseling services related to substance abuse services for Work First participants	2,300,000
10.	Transfer to the Social Services Block Grant for substance abuse services for juveniles	1,182,280
11.	Transfer to the Social Services Block Grant to establish the Special Children Adoption Fund	300,000
12.	Department of Commerce - First Stop/Employment Security Commission	750,000
13.	Transfer to Social Services Block Grant - Enhanced Employee Assistance Program	1,000,000
14.	Specialized Vocational Rehabilitation Staff for Work First	477,529
15.	Planning for "Next Step" for TANF children and families	150,000
16.	Work First Substance Abuse Coordinator in Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	75,000
17.	Work First Job Retention and Follow-up Initiatives	2,600,000
18.	Work First Substance Abuse Model Programs	900,000
19.	Transfer to Social Services Block Grant for Teen Pregnancy Prevention	2,000,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		$325,899,591

MATERNAL AND CHILD HEALTH BLOCK GRANT

01.	Healthy Mother/Healthy Children Block Grants to Local Health Departments	$ 9,838,074

02.	High Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments	1,722,869
03.	Services to Children With Special Health Care Needs	4,969,002
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		$ 16,529,945

PREVENTIVE HEALTH SERVICES BLOCK GRANT

01.	Transfer from Social Services Block Grant - Emergency Medical Services	$ 213,128
02.	Hypertension and Statewide Health Promotion Programs	3,320,637
03.	Dental Health for Fluoridation of Water Supplies	213,308
04.	Rape Prevention and Rape Crisis Programs	190,134
05.	Rape Prevention and Rape Education	1,144,957
06.	Transfer from Social Services Block Grant - AIDS/HIV Education, Counseling, and Testing	66,939
07.	Office of Minority Health and Minority Health Council	177,442
08.	Administrative and Indirect Cost	207,210
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		$ 5,533,755

(b) Decreases in Federal Fund Availability - Decreases in federal fund availability in all Block Grants except the TANF Block Grant, the Maternal and Child Health Block Grant, and the Preventive Health Services Block Grant shall be reduced as follows: if federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of the federal block grants listed above shall be reduced by equal percentages to total the reduction in federal funds.

The Department of Health and Human Services shall cooperate with all other State and local agencies and public and private entities (i) that are impacted by the Social Services or the TANF Block Grant and (ii) that will be affected by future reductions in the Social Services Block Grant in the preparation of a State/local

report, setting out concrete plans for dealing with future cuts in the Social Services Block Grant. The Department shall present this report to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources within a week of the convening of the 1999 General Assembly.

If the United States Congress reduces the amount of TANF funds below the amounts specified above after the effective date of this act, then the Department shall reduce every item in the TANF Block Grant section listed above pro rata. Any TANF funds appropriated by the United States Congress in addition to the funds specified in this act shall not be expended until appropriated by the General Assembly. Any TANF Block Grant fund changes shall be reported to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and to the Fiscal Research Division.

Decreases in federal fund availability shall be allocated for the Maternal and Child Health and Preventive Health Services federal block grant as follows: if federal funds are reduced less than ten percent (10%) below the amounts specified above after the effective date of this act, then every program in the Maternal and Child Health and in the Preventive Health Services Block Grants shall be reduced by the same percentage as the reduction in federal funds. If federal funds are reduced by ten percent (10%) or more below the amounts specified above after the effective date of this act, then for the Maternal and Child Health and the Preventive Health Services Block Grants the Department of Health and Human Services shall allocate the decrease in funds after considering the effectiveness of the current level of services.

(c) Increases in Federal Fund Availability -

Any increases in the Community Services Block Grant and the Low-Income Energy Block Grant Funds Grant shall be expended as follows: any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, provided that the resultant increases are in accordance with federal block grant requirements, by allocating the additional funds for direct services only among the programs funded in this section.

Any block grant funds appropriated by the United States Congress for the Social Services Block Grant in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, provided the resultant increases are in accordance with federal block grant requirements, as follows:

(1) Fifty percent (50%) of the funds shall be allocated to the county departments of social services for mandatory services; and

(2) The remaining fifty percent (50%) shall be allocated for direct services only among the programs funded in this section.

The Child Care and Development Fund Block Grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

Any block grant funds appropriated by the Congress of the United States for the Maternal and Child Health Block Grant and the Preventive Health Services Block Grant in addition to the funds specified in this act shall be expended as follows:

(1) For the Maternal and Child Health Block Grant -- Thirty percent (30%) of these additional funds shall be allocated to services for children with special health care needs and seventy percent (70%)

shall be allocated to local health departments to assist in the reduction of infant mortality.

(2) For the Preventive Health Services Block Grants -- These additional funds may be budgeted by the appropriate department, with the approval of the Office of State Budget and Management, after considering the effectiveness of the current level of services and the effectiveness of services to be funded by the increase, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

(d) Changes to the budgeted allocations to the Block Grants appropriated in this act due to decreases or increases in federal funds shall be reported to the Joint Legislative Commission on Governmental Operations, the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and to the Fiscal Research Division.

(e) Limitations on Preventive Health Services Block Grant Funds

Twenty-five percent (25%) of funds allocated for Rape Prevention and Rape Education shall be allocated as grants to nonprofit organizations to provide rape prevention and education programs targeted for middle, junior high, and high school students.

If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 1998-99 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

(f) The sum of one million dollars ($1,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for the 1998-99 fiscal year for evaluation shall be used:

(1) To evaluate the Work First Program to assess the success of the current waiver program in effect until the General Assembly's approval of the new TANF State Plan in order to determine the impact on TANF recipients and their children. The Department shall contract with an independent consultant to develop an evaluation design that shall ensure that the evaluation includes an assessment of the impact of the Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance. The Department shall report the results of this evaluation study, together with any recommendations, to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by March 1, 1999; and

(2) To contract with an independent consultant with expertise in evaluating large social programs to plan and design an evaluation of the Work First Program established by Part 2 of Article 2 of Chapter 108A of the General Statutes that will come into full effect upon the approval of the new TANF State Plan. The

evaluation plan and design shall ensure that the evaluation includes an assessment of the impact of the Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance. The independent consultant shall report on the evaluation plan and design to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by December 1, 1998.

(g) The sum of one hundred fifty thousand dollars ($150,000) appropriated to the Department of Health and Human Services in this section in the TANF Block Grant for the 1998-99 fiscal year for "Next Step" shall be used to develop a substance abuse program plan that meets the specialized substance abuse services needs of TANF children and their families. This plan shall include a strong evaluation model/design to assess services' effectiveness in order to facilitate decision making regarding expansion of the program. The Department shall report on this plan, together with any recommendations, to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources no later than January 1, 1999.

(h) The sum of two million six hundred thousand dollars ($2,600,000) appropriated to the Department of Health and Human Services in this section in the TANF BLock Grant in the 1998-99 fiscal year for the Work First job retention and follow-up model programs shall be used to implement pilots and strategies that support TANF recipients in attaining and maintaining self-sufficiency through job retention, family support services, pre-and post-TANF follow-up. The pilots and strategies shall be developed with a strong evaluation component that looks at outcomes such as child/family well-being, family economic progress, and in consultation with local departments of social services, area mental health programs, the Employment Security Commission, work force development boards, businesses, institutions of higher education, advocacy groups, and faith communities. The Department shall report on its progress in developing and implementing these pilots and strategies to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by January 15, 1999.

(i) The Department of Health and Human Services shall develop a plan for implementation of a specialized vocational rehabilitation counseling component for certain TANF recipients with substance abuse services needs. The Department shall coordinate with the Division of Vocational Rehabilitation and the Department of Commerce, Employment Security Commission, and collaborate with local human services agencies and the business community to develop the plan. The Department shall report on this plan to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by November 15, 1998.

(j) If, during the 1998-99 fiscal year, the Department of Health and Human Services determines that a child care subsidy waiting list for prior or current TANF recipients is detrimental to the continued success of the Work First Program, the Office of State Budget and Management may make additional allocations from the TANF Block Grant to the Child Care Development Fund Block Grant. Prior to making these allocations, the Office of State Budget and Management shall report to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources or to the Joint Legislative Commission on Governmental Operations, whichever meets earlier.

(k) The sum of two million dollars ($2,000,000) appropriated to the Department of Health and Human Services in this section in the TANF Block Grant for the 1998-99 fiscal year and transferred to the Social Services Block Grant for Teen Pregnancy Prevention shall be used to develop and implement local programs and initiatives aimed at reducing teen pregnancy. The programs developed with these funds shall be based on model programs that have been proven successful by extensive evaluation. The programs and initiatives shall include:

(1) Adolescent parenting programs;
(2) Adolescent pregnancy prevention programs;
(3) Local coalition programs combining adolescent parenting and adolescent pregnancy prevention components;
(4) Teen care coordination projects;
(5) A media campaign, to raise awareness of teens and their parents.

(l) The sum of one million three hundred thousand dollars ($1,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 1998-99 fiscal year shall be allocated to county departments of social services for hiring or contracting for additional child protective services, foster care, and adoption worker and supervisor positions created after this act becomes law based upon a formula which takes into consideration the number of child protective services, foster care, and adoption cases, and child protective services, foster care, and adoption workers and supervisors necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services. No local match shall be required as a condition for receipt of these funds.

(m) The sum of nine hundred eleven thousand six hundred eighty-seven dollars ($911,687) appropriated in this section in (i) the Social Services Block Grant and (ii) in the TANF Block Grant transferred to the Social Services Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 1998-99 fiscal year shall be used to implement this subsection. Of the monies in the Special Children Adoption Fund, the Department shall award a minimum of four hundred thousand dollars ($400,000) to licensed private adoption agencies. The Department of Health and Human Services, Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon successful placement for adoption of children described in G.S. 108A-50 and in foster care. No local match shall be required as a condition for receipt of these funds.

The Department of Health and Human Services, Division of Social Services, shall evaluate the cost-effectiveness of county departments of social services and licensed public and private adoption agencies in placing children who are in the custody of the department of social services and report the results of this evaluation by May 1, 1999, to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources.

(n) If funds appropriated through the Child Care and Development Fund, which includes the Child Care and Development Block Grant, for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to other programs, in accordance with federal requirements of the grant, in order to use the federal funds fully.

(o) The sum of five hundred thousand dollars ($500,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for the 1998-99 fiscal year and transferred to the Child Care and

Development Fund Block Grant for transfer to the Department of Community Colleges shall be used to continue the three model early childhood education centers in three community colleges, one in the eastern part of the State, one in the western part of the State, and one in the Piedmont.

(p) Notwithstanding the amounts specified in this section for the components of the Temporary Assistance for Needy Families (TANF) Block Grant, the Department may expend TANF Block Grant funds during the first quarter of the 1998-99 fiscal year for the same purposes for which those funds were expended during the last quarter of the fiscal year ending June 30, 1998.

Requested by: Senator Martin of Pitt

NER BLOCK GRANT FUNDS

Section 5.1. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1999, according to the following schedule:

WELFARE-TO-WORK BLOCK GRANT		$25,000,000
COMMUNITY DEVELOPMENT BLOCK GRANT		
01.	State Administration	$ 980,000
02.	Urgent Needs and Contingency	1,277,400
03.	Community Empowerment	2,767,700
04.	Economic Development	8,516,000
05.	Community Revitalization	28,528,600
06.	State Technical Assistance	440,000
07.	Housing Development	1,490,300
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT - 1999 Program Year		$ 44,000,000

(b) Decreases in Federal Fund Availability

Decreases in federal fund availability for the Community Development Block Grants -- If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

(c) Increases in Federal Fund Availability for Community Development Block Grant

Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: -- Each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

(d) Limitations on Community Development Block Grant Funds -- Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to nine hundred thousand dollars ($900,000) may be used for State administration; up to one million two hundred seventy-seven thousand four hundred dollars ($1,277,400) may be used for Urgent Needs and Contingency; up to two million seven hundred sixty-

seven thousand seven hundred dollars ($2,767,700) may be used for Community Empowerment; up to eight million five hundred sixteen thousand dollars ($8,516,000) may be used for Economic Development; not less than twenty-eight million five hundred twenty-eight thousand six hundred dollars ($28,528,600) shall be used for Community Revitalization; up to four hundred forty thousand dollars ($440,000) may be used for State Technical Assistance; up to one million four hundred ninety thousand three hundred dollars ($1,490,300) may be used for Housing Development. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

(e) Scattered Sites Program Improvements -- The Department shall implement improvements to the system for distributing Scattered Sites awards in the Community Revitalization category to maximize funding opportunities. The Department shall make changes in the funding cycle for Scattered Sites projects, shall reduce the cap on grants for these projects to three hundred fifty thousand dollars ($350,000), and shall increase funding allocations by up to fifteen percent (15%) to address outhouses and other critical on-site water/wastewater needs. The Department may adopt temporary rules to implement these changes.

(f) Welfare-to-Work Block Grant -- The Office of State Budget and Management may identify in the budgets of the Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services, potential sources of State funds which may be used as match for the federal Welfare-to-Work Block Grant. If funds are not sufficient from these sources, the Office of State Budget and Management may identify potential sources from other State agencies and departments.

PART VI. GENERAL FUND AND HIGHWAY FUND AVAILABILITY STATEMENTS

GENERAL FUND AVAILABILITY STATEMENTS

Section 6. The General Fund and availability used in developing the 1998-99 budget is shown below:

		($ Millions)
01.	Composition of the 1998-99 beginning availability:	
	a. Revenue collections unaddressed in 1997-98	$ 121.5
	b. Revenue collections in 1997-98 in excess of authorized estimates	614.4
	c. Unexpended appropriations during 1997-98 (reversions)	100.0
	d. Adjustment for Emergency Appro./Yr. 2000 Conversion	(20.5)
	Beginning Credit Balance	815.4
02.	Earmarked Transfers from Credit Balance:	
	a. Transfer to Savings Reserve	(21.6)
	b. Transfer for Reserve for Repairs & Renovations	(145.0)
	c. Transfer to Clean Water Management Reserve	(53.0)
	d. Transfer to Reserve for Bailey/Emory/Patton Cases Refunds	(400.0)
	Total Transfers	(619.6)
03.	Beginning Unrestricted Fund Balance	195.8
04.	Revenues Based on Existing Tax Structure:	
	a. Tax Revenues Originally Projected	11,547.7
	Additional Projected Tax Revenue	152.5
	Total Tax Revenues	11,700.2
	b. Tax Changes:	

01.	Repeal Food Tax Effective Nov. 1	(53.9)
02.	Repeal Income Tax on Retired Gov't. Emp. (Bailey Case)	(128.6)
03.	Continue Earmarked Refund for Federal Retirees	(35.5)
	Total Tax Changes	(218.0)
c.	Non-Tax Revenues	472.4
	Additional Non-Tax Revenue:	
	Treasurer's Banking Division	1.1
	Secretary of State Fees	0.5
	DHHS-Certificate of Need Fees	1.5
	Fed. Retiree Refund Program-Administration	0.7
	Intangibles Tax Reserve Balance	7.4
	Fed. Retiree Refund Reserve Balance	9.7
	Transfer from Insurance Regulatory Fund	3.1
	Total Non-Tax Revenues	496.4
d.	Disproportionate Share Receipts	85.0
	1997-98 Reserved DSH Receipts	35.4
	Total DSH Receipts	120.4
e.	Highway Trust Fund Transfer	170.0
TOTAL GENERAL FUND AVAILABILITY		$ 12,464.8
TOTAL 1998-99 APPROPRIATIONS BY 1997 AND 1998 EXTRA SESSION		$ 11,547.6
REMAINING GENERAL FUND AVAILABILITY		$ 917.2

HIGHWAY FUND AVAILABILITY

Section 6.1. The Highway Fund appropriations availability used in developing modifications to the 1998-99 Highway Fund budget contained in this act is shown below:

	1998-99
Beginning Credit Balance	$ 5,159,370
Estimated Revenue	1,224,263
TOTAL HIGHWAY FUND AVAILABILITY	$ 6,383,633

PART VII. GENERAL PROVISIONS

Requested by: Senators Odom, Plyler, Perdue

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

Section 7. Section 7.2(a) of S.L. 1997-43 reads as rewritten:

"(a) Of the funds appropriated in this act to the Contingency and Emergency Fund, the sum of nine hundred thousand dollars ($900,000) for the 1997-98 fiscal year and the sum of nine hundred thousand dollars ($900,000) for the 1998-99 fiscal year shall be designated for emergency allocations, which are ~~for the purposes outlined in G.S. 143-23(a1)(3), (4), and (5).~~ for expenditures:

(1) Required by a court, Industrial Commission, or administrative hearing officer's order or award or to match unanticipated federal funds;

(2) Required to respond to an unanticipated disaster such as a fire, hurricane, or tornado; or

(3) Required to call out the National Guard.

Two hundred twenty-five thousand dollars ($225,000) for the 1997-98 fiscal year and two hundred twenty-five thousand dollars ($225,000) for the 1998-99 fiscal year shall be designated for other allocations from the Contingency and Emergency Fund."

PART VIII. RESERVES

BAILEY/EMORY/PATTON CASES REFUNDS RESERVE

Section 8. There is established in the Office of State Treasurer a Reserve Fund for the Bailey/Emory/Patton Cases Refunds.

There is transferred from General Fund overcollections for the 1997-98 fiscal year to the Office of State Treasurer, Reserve for the Bailey/Emory/Patton Cases Refunds, the sum of four hundred million dollars ($400,000,000). These funds shall be held in reserve and allocated pursuant to the Consent Order entered in the Bailey/Emory/Patton cases, 92 CVS 10221, 94 CVS 06904, 95 CVS 06625, 95 CVS 08230, 98 CVS 00738, and 95 CVS 04346, in Wake County Superior Court on 10 June 1998.

JUVENILE JUSTICE RESERVE

Section 8.1. (a) There is established in the Office of State Budget and Management a reserve fund entitled the "Juvenile Justice Reserve Fund" to provide funds to implement the recommendations of the Governor's Commission on Juvenile Crime and Justice, which are set forth in Senate Bill 1260 and House Bill 1373 of the 1998 Regular Session of the 1997 General Assembly and entitled "Juvenile Justice Reform Act". There is appropriated from the General Fund to the Office of State Budget and Management the sum of seventeen million three hundred forty-seven thousand four hundred eighty-seven dollars ($17,347,487) for the 1998-99 fiscal year for the Juvenile Justice Reserve Fund. The Director of the Budget shall allocate funds from the Juvenile Justice Reserve Fund as follows:

(1) $1,000,000 nonrecurring to the Department of Health and Human Services for planning and design of 208 new training school beds.

(2) $32,980 nonrecurring and $726,666 recurring to the Department of Health and Human Services to make 32 beds at Umstead Detention Center permanent effective October 1, 1998.

(3) $4,800,000 nonrecurring to the Department of Health and Human Services for renovation of two existing GPAC units and construction at those units to provide 24 detention beds at each unit, if practicable. Any funds remaining after allocation of funds for renovation of the two GPAC units shall be used for planning and design of four additional 24-bed detention units, for which the General Assembly intends to appropriate construction funds.

(4) $930,427 recurring and $563,298 nonrecurring to the Administrative Office of the Courts for court counselors and support staff (100 counselors, 6 counselor supervisors, and 20 support staff effective April 1, 1999, and June 1, 1999).

(5) $506,776 nonrecurring to the Administrative Office of the Courts for three family court pilots beginning December 1, 1998, and expiring December 1, 2000, pursuant to Section 16.17 of this act.

(6) $25,000 nonrecurring to the Department of Crime Control and Public Safety for an external study of the Tarheel Challenge Project pursuant to Section 19.1 of this act.

(7) $700,000 nonrecurring to the Department of Public Instruction for the Communities in Schools Program, a public/private partnership working with at-risk students.

(8) $500,000 nonrecurring to the Board of Governors of The University of North Carolina for the Center for the Prevention of School Violence for operating support of this research, training, and information center at North Carolina State University.

(b) The Director of the Budget shall allocate funds for the following purposes only if Senate Bill 1260 or House Bill 1373 becomes law during the 1998 Regular Session of the 1997 General Assembly:

(1) $5,435,000 for local grant funds as follows:

a. $1,425,000 nonrecurring for local home-based family services programs.

b. $750,000 nonrecurring for local substance abuse programs established in enacted Senate Bill 1260 or House Bill 1373.

c. $1,500,000 nonrecurring and $1,760,000 recurring to be distributed as provided in enacted Senate Bill 1260 or House Bill 1373.

(2) $200,000 recurring for house arrest as defined in enacted Senate Bill 1260 or House Bill 1373.

(3) $33,000 nonrecurring and $200,000 recurring for contractual services for three sites for the Guard Response Alternate Sentencing Program as established in enacted Senate Bill 1260 or House Bill 1373.

(4) $8,626 nonrecurring and $21,206 recurring for two counselors for the On Track Program as established in enacted Senate Bill 1260 or House Bill 1373. The positions will become effective April 1, 1999.

(5) $1,100,000 nonrecurring and $200,000 recurring for the juvenile information system, including a project coordinator and two business system analysts effective October 1, 1998, as established in enacted Senate Bill 1260 or House Bill 1373.

(6) $100,000 nonrecurring to study the At-Risk Assessment System established in enacted Senate Bill 1260 or House Bill 1373.

(7) $50,000 nonrecurring for the Substance Abuse Prevention Plan established in enacted Senate Bill 1260 or House Bill 1373.

(8) $119,512 nonrecurring for contractual services and $94,996 recurring for two positions for the Sentencing Commission, effective October 1, 1998.

Prior to awarding local grants, the department administering the grants pursuant to enacted Senate Bill 1260 or House Bill 1373 shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the proposed recipients of the grants awarded from the Juvenile Justice Reserve Fund. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a description of the local services, programs, or projects that will receive funds. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

(c) The Department of Health and Human Services shall review the membership of local Community-Based Alternatives Youth Services Advisory Committees established pursuant to G.S. 7A-289.13 and the proposed membership of the local committees or councils established pursuant to enacted Senate Bill 1260 or

House Bill 1373. In its deliberations, the Department shall consider and make recommendations regarding the membership of local committees or councils administering grant funds for the purpose of ensuring that the funds are distributed in an appropriate manner. The Department shall report its recommendations to the 1999 General Assembly on or before March 1, 1999. In addition, prior to any notification of proposed grant awards to local Community-Based Alternatives Youth Services Advisory Committees, the Department of Health and Human Services shall report to the Joint Legislative Commission on Governmental Operations for its review of the proposed grant awards.

(d) If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission of the Department of Crime Control and Public Safety shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of these funds. The report shall identify the amount of funds to be received for the 1998-99 fiscal year, the amount of funds anticipated for the 1999-2000 fiscal year, and the allocation of funds by program and purpose.

(e) The Department of Health and Human Services shall report to the Joint Legislative Commission on Governmental Operations prior to finalizing site selection for training school beds and detention beds authorized pursuant to this section.

PART IX. PUBLIC SCHOOLS

Requested by: Senators Plyler, Perdue, Odom

ALLOCATIONS FOR PUBLIC SCHOOLS

Section 9. (a) There is allocated from unexpended 1997-98 General Fund appropriations the sum of fifty-five million twenty-seven thousand six hundred eighty dollars ($55,027,680) which shall be used as follows:

(1) $17,118,003 to fulfill the State's obligations to public school employees who qualified for performance bonuses for the 1997-98 school year under the ABC's of Public Education Program;

(2) $9,010,274 to fulfill the State's obligations to public school teachers who qualified for longevity payments for the 1997-98 school year;

(3) $24,199,403 to permit the State Board of Education to order school buses needed for the 1998-99 school year; and

(4) $4,700,000 for the State School Technology Fund to provide additional school technology funds prior to the beginning of the 1998-99 school year.

(b) This section shall not become effective if the allocations in subsection (a) of this section are enacted in other legislation by the 1997 General Assembly.

Requested by: Senators Winner, Lee, Plyler, Perdue, Odom

TEACHER SALARY SCHEDULES

Section 9.1. (a) Effective for the 1998-99 school year, the Director of the Budget may transfer from the Reserve for Compensation Increase for the 1998-99 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one percent (1%) of base salary for 10 to 14 years of State service, one and one-half percent (1.5%) of base salary for 15 to 19 years of State service, two percent (2%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 1998, for all teachers whose

salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education and the Superintendent of Public Instruction. The longevity payment shall be paid in a lump sum once a year.

(b)(1) For the 1998-99 school year, the following monthly salary schedules shall apply to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

1998-99 Monthly Salary Schedule
"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	2,310	N/A
1	2,352	N/A
2	2,395	N/A
3	2,551	2,857
4	2,678	2,999
5	2,779	3,112
6	2,826	3,165
7	2,874	3,218
8	2,923	3,273
9	2,972	3,328
10	3,021	3,383
11	3,071	3,439
12	3,123	3,497
13	3,176	3,557
14	3,230	3,617
15	3,285	3,679
16	3,341	3,741
17	3,398	3,805
18	3,456	3,870
19	3,516	3,937
20	3,577	4,006
21	3,640	4,076
22	3,703	4,147
23	3,767	4,219
24	3,832	4,291
25	3,899	4,366
26	3,968	4,444
27	4,038	4,522
28	4,109	4,602
29+	4,182	4,683

1998-99 Monthly Salary Schedule
"G" Teachers

Years of Experience	"G" Teachers	NBPTS Certification
0	2,454	N/A

1	2,499	N/A
2	2,545	N/A
3	2,710	3,035
4	2,845	3,186
5	2,953	3,307
6	3,003	3,363
7	3,054	3,420
8	3,106	3,478
9	3,158	3,536
10	3,210	3,595
11	3,263	3,654
12	3,318	3,716
13	3,375	3,780
14	3,432	3,843
15	3,490	3,908
16	3,550	3,976
17	3,610	4,043
18	3,672	4,112
19	3,736	4,184
20	3,801	4,257
21	3,868	4,332
22	3,934	4,406
23	4,002	4,482
24	4,072	4,560
25	4,143	4,640
26	4,216	4,721
27	4,290	4,804
28	4,366	4,889
29+	4,443	4,976

(2) Certified public school teachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "G" teachers. Certified public school teachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "G" teachers.

(c) Effective for the 1998-99 school year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "G" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

(d) Effective for the 1998-99 school year, speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

(e) Effective for the 1998-99 school year, certified school nurses who are employed in the public schools as nurses shall be paid on the "G" salary schedule.

Requested by: Senators Winner, Lee, Perdue

FUNDS TO IMPLEMENT THE ABC'S OF PUBLIC EDUCATION PROGRAM

Section 9.2. Section 8.36 of S.L. 1997-443 reads as rewritten:

"Section 8.36. (a) Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education ~~may use up to seventy-two million four hundred thousand dollars ($72,400,000) for the 1997-98 fiscal year to~~ shall provide incentive funding for schools that meet or exceed the projected levels of improvement in student performance, in accordance with the ABC's of Public Education Program. In accordance with State Board of Education policy, incentive awards in schools that achieve higher than expected improvements may be up to: (i) one thousand five hundred dollars ($1,500) for each teacher and for certified personnel; and (ii) five hundred dollars ($500.00) for each teacher assistant. In accordance with State Board of Education policy, incentive awards in schools that meet the expected improvements may be up to: (i) seven hundred fifty dollars ($750.00) for each teacher and for certified personnel; and (ii) three hundred seventy-five dollars ($375.00) for each teacher assistant.

(b) The State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for assistance teams to low-performing schools."

Requested by: Senators Winner, Lee

EXTRA PAY FOR MENTOR TEACHERS

Section 9.3. (a) Funds appropriated to State Aid to Local School Administrative Units, shall be used to provide qualified and well-trained mentors for newly certified teachers, teachers who had mentors during the 1997-98 school year, and entry-level instructional support personnel who have not previously been teachers. These funds shall be used to compensate each mentor at the rate of (i) one hundred dollars ($100.00) per month for a maximum of 10 months for serving as a mentor for a first or second year teacher during the school year, and (ii) one hundred dollars ($100.00) for serving as a mentor for a first-year teacher for one day prior to the beginning of the school year.

(b) The State Board of Education may use funds for the mentor program to evaluate the program. The State Board shall report the results of its evaluation to the Joint Legislative Education Oversight Committee prior to March 5, 2000.

Requested by: Senators Winner, Lee, Perdue

AID TO LOW-PERFORMING AND AT-RISK SCHOOLS

Section 9.4. (a) Funds appropriated for the 1998-99 fiscal year for aid to low-performing and at-risk schools shall be used to provide services to:

(1) Elementary schools at which fifty percent (50%) of the students are below grade level on previous year's end-of-grade test, during the 1997-98 school year or the 1998-99 school year;

(2) Middle schools at which fifty percent (50%) of the students in the sixth grade were below grade level on their end-of-grade fifth grade tests during the 1997-98 school year or the 1998-99 school year; and

(3) The five percent (5%) of high schools in the State that have the lowest composite scores on the ABC's accountability measures.

(b) Funds for salary-related items in the amounts of twelve million four hundred five thousand five hundred sixty-one dollars ($12,405,561) in recurring funds and three million one hundred sixty thousand four hundred fifty-four dollars ($3,160,454) in nonrecurring funds shall be used as follows:

(1) Up to ten percent (10%) of the nonrecurring funds on a statewide basis may be used for salary supplements for teachers assigned to local assessment teams;

(2) The remainder of the funds shall be used for extra pay for extra duties for teachers for such activities as Saturday academies and after school tutoring, for professional development, and for additional days of work outside of the 220 paid days in the school calendar. These days should be cooperatively planned by the principal and the faculty.

These funds shall be allocated by the State Board based on the average daily membership of the school.

The Director of the Budget is encouraged to include these funds in the continuation budget for the 1999-2001 fiscal biennium.

(c) Funds for nonsalary items in the amount of two million dollars ($2,000,000) shall be used only for staff development costs, and for textbooks, instructional supplies, materials, and equipment.

(d) The principal of a low-performing or at-risk school, in consultation with the faculty and the site-based management team, shall develop an initial plan for improving the school. The plan shall include whole-staff training. The plan shall be submitted to the local superintendent and approved by the local board prior to submission to the State Board of Education. The plan shall be revised annually.

The plan shall be reviewed and accepted or rejected by the State Board of Education within 30 days after receipt of the plan. The State Board may delegate to the State Superintendent the responsibility for accepting or rejecting the plan.

The local board shall receive the money for each school for which a plan is approved. The local board shall receive for each school for which a plan is approved a minimum of ten thousand dollars ($10,000) from the funds in subsection (c) of this section; the remainder of these funds shall be allocated on the basis of average daily membership. The State Board of Education shall allocate funds in subsection (b) of this section on the basis of on teacher days based on average daily membership of the school.

(e) The State Board of Education is encouraged to use federal funds such as Goals 2000 and Comprehensive School Reform Demonstration Grants to assist low-performing and at-risk schools.

(f) Funds allocated in subsections (b) and (c) of this section shall revert on August 31, 1999.

(g) The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to December 1, 1998, on the plans and on the use of funds for Aid to Low-Performing and At-Risk Schools.

Requested by: Senators Winner, Lee, Perdue

ABC'S HIGH SCHOOL ACCOUNTABILITY MODEL

Section 9.5. The State Board of Education shall continue its efforts to improve the standards for determining whether high schools meet or exceed their projected levels of improvement in student performance in accordance with the ABC's of Public Education Program. The General Assembly urges the State Board to consider including in the standards (i) a measurement of improvement in individual students' performance, (ii) dropout rates, and (iii) a measurement of student enrollment and achievement in courses required for graduation, advanced placement courses, or other upper level courses.

Requested by: Senators Winner, Lee, Perdue

SCHOOL-BASED ADMINISTRATOR SALARIES

Section 9.6. (a) Funds appropriated to the Reserve for Compensation Increase shall be used for the implementation of the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

(b) The salary schedule for school-based administrators shall apply only to principals and assistant principals. The salary schedule for the 1998-99 fiscal year, commencing July 1, 1998, is as follows:

	Assistant Principals			Principal I		
Step	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%
4	$2,873	$2,902	$2,930	--	--	--
5	2,983	3,013	3,043	--	--	--
6	3,033	3,063	3,094	--	--	--
7	3,085	3,116	3,147	--	--	--
8	3,137	3,168	3,200	$3,137	$3,168	$3,200
9	3,190	3,222	3,254	3,190	3,222	3,254
10	3,242	3,274	3,307	3,242	3,274	3,307
11	3,296	3,329	3,362	3,296	3,329	3,362
12	3,351	3,385	3,418	3,351	3,385	3,418
13	3,409	3,443	3,477	3,409	3,443	3,477
14	3,466	3,501	3,535	3,466	3,501	3,535
15	3,525	3,560	3,596	3,525	3,560	3,596
16	3,586	3,622	3,658	3,586	3,622	3,658
17	3,646	3,682	3,719	3,646	3,682	3,719
18	3,709	3,746	3,783	3,709	3,746	3,783
19	3,773	3,811	3,848	3,773	3,811	3,848
20	3,839	3,877	3,916	3,839	3,877	3,916
21	3,907	3,946	3,985	3,907	3,946	3,985
22	3,973	4,013	4,052	3,973	4,013	4,052
23	4,042	4,082	4,123	4,042	4,082	4,123
24	4,113	4,154	4,195	4,113	4,154	4,195
25	4,184	4,226	4,268	4,184	4,226	4,268
26	4,258	4,301	4,343	4,258	4,301	4,343
27	4,333	4,376	4,420	4,333	4,376	4,420

28	4,410	4,454	4,498	4,410	4,454	4,498
29	4,487	4,532	4,577	4,487	4,532	4,577
30	4,577	4,623	4,669	4,577	4,623	4,669
31	4,669	4,716	4,762	4,669	4,716	4,762
32	--	--	--	4,762	4,810	4,857

	Principal II			Principal III		
Step	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%
4	--	--	--	--	--	--
5	--	--	--	--	--	--
6	--	--	--	--	--	--
7	--	--	--	--	--	--
8	--	--	--	--	--	--
9	--	--	--	--	--	--
10	$3,296	$3,329	$3,362	--	--	--
11	3,351	3,385	3,418	--	--	--
12	3,409	3,443	3,477	$3,466	$3,501	$3,535
13	3,466	3,501	3,535	3,525	3,560	3,596
14	3,525	3,560	3,596	3,586	3,622	3,658
15	3,586	3,622	3,658	3,646	3,682	3,719
16	3,646	3,682	3,719	3,709	3,746	3,783
17	3,709	3,746	3,783	3,773	3,811	3,848
18	3,773	3,811	3,848	3,839	3,877	3,916
19	3,839	3,877	3,916	3,907	3,946	3,985
20	3,907	3,946	3,985	3,973	4,013	4,052
21	3,973	4,013	4,052	4,042	4,082	4,123
22	4,042	4,082	4,123	4,113	4,154	4,195
23	4,113	4,154	4,195	4,184	4,226	4,268
24	4,184	4,226	4,268	4,258	4,301	4,343
25	4,258	4,301	4,343	4,333	4,376	4,420
26	4,333	4,376	4,420	4,410	4,454	4,498
27	4,410	4,454	4,498	4,487	4,532	4,577
28	4,487	4,532	4,577	4,577	4,623	4,669
29	4,577	4,623	4,669	4,669	4,716	4,762
30	4,669	4,716	4,762	4,762	4,810	4,857
31	4,762	4,810	4,857	4,857	4,906	4,954
32	4,857	4,906	4,954	4,954	5,004	5,053
33	4,954	5,004	5,053	5,053	5,104	5,154
34	5,053	5,104	5,154	5,154	5,206	5,257
35	--	--	--	5,257	5,310	5,362
36	--	--	--	5,362	5,416	5,469

	Principal IV			Principal V		
Step	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%
4	--	--	--	--	--	--
5	--	--	--	--	--	--
6	--	--	--	--	--	--
7	--	--	--	--	--	--
8	--	--	--	--	--	--

9	--	--	--	--	--	--
10	--	--	--	--	--	--
11	--	--	--	--	--	--
12	--	--	--	--	--	--
13	$3,586	$3,622	$3,658	--	--	--
14	3,646	3,682	3,719	$3,709	$3,746	$3,783
15	3,709	3,746	3,783	3,773	3,811	3,848
16	3,773	3,811	3,848	3,839	3,877	3,916
17	3,839	3,877	3,916	3,907	3,946	3,985
18	3,907	3,946	3,985	3,973	4,013	4,052
19	3,973	4,013	4,052	4,042	4,082	4,123
20	4,042	4,082	4,123	4,113	4,154	4,195
21	4,113	4,154	4,195	4,184	4,226	4,268
22	4,184	4,226	4,268	4,258	4,301	4,343
23	4,258	4,301	4,343	4,333	4,376	4,420
24	4,333	4,376	4,420	4,410	4,454	4,498
25	4,410	4,454	4,498	4,487	4,532	4,577
26	4,487	4,532	4,577	4,577	4,623	4,669
27	4,577	4,623	4,669	4,669	4,716	4,762
28	4,669	4,716	4,762	4,762	4,810	4,857
29	4,762	4,810	4,857	4,857	4,906	4,954
30	4,857	4,906	4,954	4,954	5,004	5,053
31	4,954	5,004	5,053	5,053	5,104	5,154
32	5,053	5,104	5,154	5,154	5,206	5,257
33	5,154	5,206	5,257	5,257	5,310	5,362
34	5,257	5,310	5,362	5,362	5,416	5,469
35	5,362	5,416	5,469	5,469	5,524	5,578
36	5,469	5,524	5,578	5,578	5,634	5,690
37	5,578	5,634	5,690	5,689	5,746	5,803
38	--	--	--	5,803	5,861	5,919
39	--	--	--	--	--	--
40	--	--	--	--	--	--
41	--	--	--	--	--	--

Step	Principal VI Base	Principal VI Base + 1%	Principal VI Base + 2%	Principal VII Base	Principal VII Base + 1%	Principal VII Base + 2%
4	--	--	--	--	--	--
5	--	--	--	--	--	--
6	--	--	--	--	--	--
7	--	--	--	--	--	--
8	--	--	--	--	--	--
9	--	--	--	--	--	--
10	--	--	--	--	--	--
11	--	--	--	--	--	--
12	--	--	--	--	--	--
13	--	--	--	--	--	--
14	--	--	--	--	--	--
15	--	--	--	--	--	--
16	$3,907	$3,946	$3,985	--	--	--
17	3,973	4,013	4,052	$4,113	$4,154	$4,195
18	4,042	4,082	4,123	4,184	4,226	4,268

19	4,113	4,154	4,195	4,258	4,301	4,343
20	4,184	4,226	4,268	4,333	4,376	4,420
21	4,258	4,301	4,343	4,410	4,454	4,498
22	4,333	4,376	4,420	4,487	4,532	4,577
23	4,410	4,454	4,498	4,577	4,623	4,669
24	4,487	4,532	4,577	4,669	4,716	4,762
25	4,577	4,623	4,669	4,762	4,810	4,857
26	4,669	4,716	4,762	4,857	4,906	4,954
27	4,762	4,810	4,857	4,954	5,004	5,053
28	4,857	4,906	4,954	5,053	5,104	5,154
29	4,954	5,004	5,053	5,154	5,206	5,257
30	5,053	5,104	5,154	5,257	5,310	5,362
31	5,154	5,206	5,257	5,362	5,416	5,469
32	5,257	5,310	5,362	5,469	5,524	5,578
33	5,362	5,416	5,469	5,578	5,634	5,690
34	5,469	5,524	5,578	5,689	5,746	5,803
35	5,578	5,634	5,690	5,803	5,861	5,919
36	5,689	5,746	5,803	5,920	5,979	6,038
37	5,803	5,861	5,919	6,038	6,098	6,159
38	5,920	5,979	6,038	6,159	6,221	6,282
39	6,038	6,098	6,159	6,282	6,345	6,408
40	6,159	6,221	6,282	6,407	6,471	6,535
41	--	--	--	6,536	6,601	6,667

Step	Principal VIII Base	Base + 1%	Base + 2%
4	--	--	--
5	--	--	--
6	--	--	--
7	--	--	--
8	--	--	--
9	--	--	--
10	--	--	--
11	--	--	--
12	--	--	--
13	--	--	--
14	--	--	--
15	--	--	--
16	--	--	--
17	--	--	--
18	$4,258	$4,301	$4,343
19	4,333	4,376	4,420
20	4,410	4,454	4,498
21	4,487	4,532	4,577
22	4,577	4,623	4,669
23	4,669	4,716	4,762
24	4,762	4,810	4,857
25	4,857	4,906	4,954
26	4,954	5,004	5,053
27	5,053	5,104	5,154
28	5,154	5,206	5,257

29	5,257	5,310	5,362
30	5,362	5,416	5,469
31	5,469	5,524	5,578
32	5,578	5,634	5,690
33	5,689	5,746	5,803
34	5,803	5,861	5,919
35	5,920	5,979	6,038
36	6,038	6,098	6,159
37	6,159	6,221	6,282
38	6,282	6,345	6,408
39	6,407	6,471	6,535
40	6,536	6,601	6,667
41	6,667	6,734	6,800

(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools, shall be determined in accordance with the following schedule:

Classification	**Number of Teachers Supervised**
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal.

(e) For the 1998-99 fiscal year, a principal or assistant principal shall be placed on the appropriate step plus one percent (1%) if:

(1) The employee's school met or exceeded the projected levels of improvement in student performance for the 1997-98 fiscal year, in accordance with the ABCs of Public Education Program; or

(2) The local board of education found in 1997-98 that the employee's school met objectively measurable goals set by the local board of education for maintaining a safe and orderly school.

The principal or assistant principal shall be placed on the appropriate step plus two percent (2%) if the conditions set out in both subdivisions (1) and (2) are satisfied. The principal or assistant principal shall receive a lump-sum payment for the 1998-99 fiscal year service if the conditions set out in subdivision (1) or (2) or both are satisfied. The lump sum shall be paid as determined by guidelines adopted by the State Board. Placement on the salary schedule in the following year shall be based upon these increases.

(f) For the 1998-99 fiscal year, a principal or assistant principal shall receive a lump sum payment of:

(1) One percent (1%) of his or her State-paid salary if the employee's school meets or exceeds the projected levels of improvement in student performance for the 1998-99 fiscal year, in accordance with the ABCs of Public Education Program; or

(2) One percent (1%) of his or her State-paid salary if the local board of education finds that the employee's school has met the goals of the local plan for maintaining a safe and orderly school.

The principal or assistant principal shall receive a lump-sum payment of two percent (2%) if the conditions set out in both subdivisions (1) and (2) are satisfied. The lump sum shall be paid as determined by guidelines adopted by the State Board. Placement on the salary schedule in the following year shall be based upon these increases.

(g) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

(h) There shall be no State requirement that superintendents in each local school unit shall receive in State-paid salary at least one percent (1%) more than the highest paid principal receives in State salary in that school unit: Provided, however, the additional State-paid salary a superintendent who was employed by a local school administrative unit for the 1992-93 fiscal year received because of that requirement shall not be reduced because of this subsection for subsequent fiscal years that the superintendent is employed by that local school administrative unit so long as the superintendent is entitled to at least that amount of additional State-paid salary under the rules in effect for the 1992-93 fiscal year.

(i) Longevity pay for principals and assistant principals shall be as provided for State employees.

(j)(1) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

(2) If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subdivision applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subdivision for one calendar year following the date of the merger.

(k) Participants in an approved full-time masters in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during this internship period. Certification of eligible full-time interns shall be supplied to the Department of Public Instruction by the Principal's Fellow

Program or a school of education where the intern participates in a full-time masters in school administration language.

Requested by: Senators Winner, Lee, Perdue

PRINCIPAL SALARY STUDIES

Section 9.7. Section 8.43(d) of S.L. 1997-443 reads as rewritten:

"(d) The State Board of Education may use up to fifty thousand dollars ($50,000) of funds appropriated by this act to State Aid to Local School Administrative Units for the ~~1997-98~~ 1998-99 fiscal year to study principals' salaries ~~including the~~ including:

(1) The relationship of principals' salaries to the salaries of teachers and other certified school ~~personnel.~~ personnel;

(2) Whether the current relationship between the teacher and principal salary schedules should be increased to a three percent (3%) differential;

(3) Whether assistant principals should be given additional steps for years of experience; and

(4) The appropriate relationship of principal's salary to size of school.

The State Board of Education shall report the results of the study to the Joint Legislative Education Oversight Committee prior to December 15, 1998."

Requested by: Senators Cooper, Winner, Lee

COMMUNITIES IN SCHOOLS FUNDS/DO NOT REVERT

Section 9.8. (a) Funds allocated to Communities in Schools of the Rocky Mount Region, Inc., for the 1997-98 fiscal year shall not revert at the end of the fiscal year but shall remain available for expenditure during the 1998-99 fiscal year.

(b) This section becomes effective June 30, 1998.

Requested by: Senators Winner, Lee, Perdue

SCHOOL ACTIVITY BUS USAGE AUTHORIZED UNDER CERTAIN CIRCUMSTANCES

Section 9.9. G.S. 66-58(c) is amended by adding a new subdivision to read:

"(9b) The use of a public school activity bus by a nonprofit corporation or a unit of local government to provide transportation services to school-aged and preschool-aged children and their caretakers and instructors."

Requested by: Senators Winner, Lee

SCHOOL BOARD QUICK TAKE

Section 9.10. G.S. 40A-42(a) reads as rewritten:

"(a) When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), (4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10) or (12), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41."

Requested by: Senators Winner, Lee

LITIGATION RESERVE

Section 9.11. (a) Funds in the State Board of Education's Litigation Reserve that are not expended or encumbered on June 30, 1998, shall not revert on July 1, 1998, but shall remain available for expenditure until June 30, 1999.

(b) The State Board of Education may expend up to five hundred thousand dollars ($500,000) for the 1998-99 fiscal year from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

(c) Subsection (a) of this section becomes effective June 30, 1998.

Requested by: Senators Winner, Lee

EXCEPTIONAL CHILDREN FUNDS

Section 9.12. (a) The funds appropriated for exceptional children in this act shall be allocated as follows:

(1) Each local school administrative unit shall receive for academically gifted children the sum of seven hundred forty-six dollars and ninety-five cents ($746.95) per child for four percent (4%) of the 1998-99 allocated average daily membership in the local school administrative unit, regardless of the number of children identified as academically gifted in the local school administrative unit. The total number of children for which funds shall be allocated pursuant to this subdivision is 49,828 for the 1998-99 school year.

(2) Each local school administrative unit shall receive for exceptional children other than academically gifted children the sum of two thousand two hundred forty-eight dollars and thirty-nine cents ($2,248.39) per child for the lesser of (i) all children who are identified as exceptional children other than academically gifted children or (ii) twelve and five-tenths percent (12.5%) of the 1998-99 allocated average daily membership in the local school administrative unit. The maximum number of children for which funds shall be allocated pursuant to this subdivision is 147,334 for the 1998-99 school year.

The dollar amounts allocated under this subsection for exceptional children shall also increase in accordance with legislative salary increments for personnel who serve exceptional children.

(b) To the extent that funds appropriated for exceptional children other than academically gifted children are adequate to do so, the State Board of Education may allocate these funds to provide services for severely disabled children in school units and in group homes.

Requested by: Senators Winner, Lee

ALTERNATIVE SCHOOLS/AT-RISK STUDENTS

Section 9.13. The State Board of Education may use up to two hundred thousand dollars ($200,000) of the funds in the Alternative Schools/At-Risk Student allotment for the 1998-99 fiscal year to:

(1) Implement G.S. 115C-12(24), and

(2) Conduct studies of alternative schools and access to alternative schools, as required by Senate Bill 1260 or House Bill 1373, if enacted by the 1998 Regular Session of the 1997 General Assembly.

Requested by: Senators Winner, Lee

CHARTER SCHOOLS

Section 9.14. (a) If the projected average daily membership of schools other than charter schools in a county school administrative unit with 3,000 or fewer students is decreased by more than four percent (4%) due to projected shifts of enrollment to charter schools, the State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for the 1998-99 fiscal year to reduce the loss of funds to the schools other than charter schools in the unit to a maximum of four percent (4%). This subsection applies to the 1998-99 fiscal year only.

(b) G.S. 115C-238.29D reads as rewritten:

"**§ 115C-238.29D. Final approval of applications for charter schools.**

(a) The State Board shall grant final approval of an application if it finds that the application meets the requirements set out in this Part or adopted by the State Board of Education and that granting the application would achieve one or more of the purposes set out in G.S. 115C-238.29A. The State Board shall act by March 15 of a calendar year on all applications and appeals it receives prior to February 15 of that calendar year.

(b) The State Board shall authorize no more than five charter schools per year in one local school administrative unit. The State Board shall authorize no more than 100 charter schools statewide. If more than five charter schools in one local school administrative unit or more than 100 schools statewide meet the standards for final approval, the State Board shall give priority to applications that are most likely to further State education policies and to strengthen the educational program offered in the local school administrative units in which they are located.

(c) The State Board of Education may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. The State Board shall not allocate any funds to the school until the school has obtained space.

(d) The State Board of Education may grant the initial charter for a period not to exceed five years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed five years each. A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education. Beginning with the charter school's second year of operation and annually thereafter, the State Board shall allow a charter school to increase its enrollment by ten percent (10%) of the school's previous year's enrollment or as is otherwise provided in the charter. This enrollment growth shall not be considered a material revision of the charter application and shall not require the prior approval of the State Board.

(e) The State Board of Education shall not grant an initial charter to a school or approve a material change to a charter that is projected to result in a decrease in one school year, due to shifts of enrollment to charter schools, of more than four percent (4%) of the average daily membership of schools other than charter schools in a local school administrative unit."

(c) G.S. 115C-238.29F(d) reads as rewritten:

"(d) Instructional Program. --

(1) The school shall provide instruction each year for at least 180 days.

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.

(3) A charter school shall conduct the student assessments required for charter schools by the State Board of Education. In conducting these assessments, the school shall be subject to the State Board's policies and guidelines on testing ethics.

(4) A charter school is a local educational agency for the purpose of G.S. 115C-110. The school shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with special needs.

(5) The school is subject to and shall comply with Article 27 of Chapter 115C of the General Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its charter."

(d) G.S. 115C-238.29F(e)(3) reads as rewritten:

"(3) If a teacher employed by a local school administrative unit makes a written request for an extended leave of absence to teach at a charter school, the local school administrative unit shall grant the leave. The local school administrative unit ~~shall~~ is required to grant a leave of absence for any number of years requested by the ~~teacher,~~ teacher up to four years and ~~shall~~ to extend the leave of absence for any number of years requested by the ~~teacher, and shall extend the leave at the teacher's request.~~ teacher, so long as the total number of years requested does not exceed four. The local school administrative unit is authorized to grant a leave of absence or an extension of a leave of absence for a total of more than four years if it finds it is in the best interest of the unit to do so. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave or extension of leave be made up to 45 days before the teacher would otherwise have to report for duty. For subsequent years, the local school administrative unit may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. A teacher who has career status under G.S. 115C-325 prior to receiving an extended leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2)."

(e) The State Board of Education may spend up to fifty thousand dollars ($50,000) from State Aid to Local School Administrative Units for the 1998-99 fiscal year to establish a charter school advisory committee.

(f) G.S. 115C-238.29F(f) reads as rewritten:

"(f) Accountability. --

(1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.

(2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.

(3) The school shall report at least annually to the chartering entity and the State Board of Education the information required by the chartering entity or the State Board.

(4) The school shall report electronically to the local board of education on students enrolled in the school and on students who withdraw or drop out of the school. The State Board of Education shall determine the content, format, and timing of this report."

(g) The State Board of Education shall examine the funding formula for charter schools and its impact on public schools, giving special attention to the impact of the formula on instructional programs, school-building administration, and school transportation.

The State Board shall report electronically its findings to the Joint Legislative Education Oversight Committee prior to December 15, 1998.

Requested by: Senators Winner, Lee

TESTING

Section 9.15. (a) Of the funds appropriated for State Aid to Local School Administrative Units, the State Board of Education may use up to two million dollars ($2,000,000) for the 1998-99 fiscal year to:

(1) Cover cost increases in end-of-grade, end-of-course, and other tests previously authorized by the SBE and the General Assembly, that are caused by increases in average daily membership;

(2) Reestablish high school end-of-course tests previously established by the State Board of Education in accordance with Section 8.27 of S.L. 1997-443;

(3) Develop new end-of-course tests required for high school, in accordance with Section 8.27 of S.L. 1997-443; and

(4) Begin the development of alternative assessments for children with special needs.

The General Assembly encourages the Director of the Budget to include these funds in the continuation budget request for the 1999-2000 fiscal year and subsequent fiscal years.

(b) G.S. 115C-174.11(c)(1) reads as rewritten:

"(1) The State Board of Education shall adopt a system of annual testing for grades three through 12. These tests shall be designed to measure progress toward reading, communication skills, and mathematics for grades three through eight, and toward competencies designated by the State Board for grades nine through 12. Notwithstanding subsection (a) of this section, the State Board shall develop and implement a study allowing selected local school administrative units that volunteer to administer a standardized test in May, 12 months prior to the third grade end-of-grade test, in order to establish a baseline that will be used to measure academic growth at the end of third grade. Initially, the State Board shall select 12 volunteer local school administrative units that are diverse in geography and size to participate in the study. If the State Board determines that a standardized test administered in May, 12 months prior to the third grade end-of-grade test, is more reliable than a standardized test administered at the beginning of third grade for the purpose of measuring academic growth, the State Board may change the test date for additional local school units. The State Board shall report the

results of the study to the Joint Legislative Education Oversight Committee by October 15, 2000.

Baseline measurements administered in May, 12 months prior to the third grade end-of-grade test, are not public records as provided in Chapter 132 of the General Statutes."

Requested by: Senators Winner, Lee

SUBSTITUTE TEACHERS

Section 9.16. (a) G.S. 115C-12(8) reads as rewritten:

"(8) Power to Make Provisions for Sick Leave and for Substitute Teachers. -- The Board shall provide for sick leave with pay for all public school employees in accordance with the provisions of this Chapter and shall promulgate rules and regulations providing for necessary substitutes on account of sick leave and other teacher absences.

~~The pay for a substitute shall be fixed by the Board.~~ The minimum pay for a substitute teacher who holds a teaching certificate shall be fifty-four percent (54%) of the daily pay rate of an entry-level teacher with an 'A' certificate. The minimum pay for a substitute teacher who does not hold a teaching certificate shall be thirty-eight percent (38%) of the daily pay rate of an entry-level teacher with an 'A' certificate. The pay for noncertified substitutes shall not exceed the pay of certified substitutes.

Local boards may use State funds allocated for substitute teachers to hire full-time substitute teachers.

If a teacher assistant acts as a substitute teacher, the salary of the teacher assistant for the day shall be the same as the daily salary of an entry-level teacher with an 'A' certificate.

~~The Board may provide to each local school administrative unit not exceeding one percent (1%) of the cost of instructional services for the purpose of providing substitute teachers for those on sick leave as authorized by law or by regulations of the Board, but not exceeding the provisions made for other State employees.~~"

(b) If the average number of substitute teacher days taken by teachers in a local school administrative unit is higher than the statewide average, the local board of education shall determine the reasons unit average is high and shall develop a plan for decreasing the unit average.

Requested by: Senators Winner, Lee

TORT CLAIM LIABILITY/SCHOOL BUSES

Section 9.17. (a) G.S. 115C-257 reads as rewritten:

"**§ 115C-257. Attorney General to pay claims.**

The Attorney General is hereby authorized to pay reasonable medical expenses, not to exceed ~~six hundred dollars ($600.00),~~ three thousand dollars ($3,000), incurred within one year from the date of accident to or for each pupil who sustains bodily injury or death caused by accident, while boarding, riding on, or alighting from a school bus operated by any local school administrative unit."

(b) G.S. 143-300.1 reads as rewritten:

"**§ 143-300.1. Claims against county and city boards of education for accidents involving school buses or school transportation service vehicles.**

(a) The North Carolina Industrial Commission shall have jurisdiction to hear and determine tort claims against any county board of education or any city board of

education, which claims arise as a result of any alleged mechanical defects or other defects which may affect the safe operation of a public school bus or school transportation service vehicle resulting from an alleged negligent act of maintenance personnel or as a result of any alleged negligent act or omission of the ~~driver~~ driver, volunteer, or monitor of a public school bus or school transportation service vehicle when:

(1) The salary of that driver is paid or authorized to be paid from the State Public School Fund, and the driver is an employee of the county or city administrative unit of which that board is the governing body,

(1a) The monitor was appointed and acting in accordance with G.S. 115C-245(d),

(1b) The volunteer was aboard the bus with the permission of the principal or was assisting a student in entering or leaving the bus, or

(2) The driver is an unpaid school bus driver trainee under the supervision of an authorized employee of the Department of Transportation, Division of Motor Vehicles, or an authorized employee of that board or a county or city administrative unit thereof,

and which driver was at the time of the alleged negligent act or omission operating a public school bus or school transportation service vehicle in the course of his employment by or training for that administrative unit or ~~board.~~ board, which monitor was acting as such in the course of serving under G.S. 115C-245(d), or which volunteer was aboard the bus with the permission of the principal or was assisting a student in entering or leaving the bus. The liability of such county or city board of education, the defenses which may be asserted against such claim by such board, the amount of damages which may be awarded to the claimant, and the procedure for filing, hearing and determining such claim, the right of appeal from such determination, the effect of such appeal, and the procedure for taking, hearing and determining such appeal shall be the same in all respects as is provided in this Article with respect to tort claims against the State Board of Education except as hereinafter provided. Any claim filed against any county or city board of education pursuant to this section shall state the name and address of such board, the name of the employee upon whose alleged negligent act or omission the claim is based, and all other information required by G.S. 143-297 in the case of a claim against the State Board of Education. Immediately upon the docketing of a claim, the Industrial Commission shall forward one copy of the plaintiff's affidavit to the superintendent of the schools of the county or city administrative unit against the governing board of which such claim is made, one copy of the plaintiff's affidavit to the State Board of Education and one copy of the plaintiff's affidavit to the office of the Attorney General of North Carolina. All notices with respect to tort claims against any such county or city board of education shall be given to the superintendent of schools of the county or city administrative unit of which such board is a governing board, to the State Board of Education and also to the office of the Attorney General of North Carolina.

(b) The Attorney General shall be charged with the duty of representing the city or county board of education in connection with claims asserted against them pursuant to this section where the amount of the claim, in the opinion of the Attorney General, is of sufficient import to require and justify such appearance.

(c) In the event that the Industrial Commission shall make award of damages against any county or city board of education pursuant to this section, the Attorney General shall draw a voucher for the amount required to pay such award. The funds necessary to cover vouchers written by the Attorney General for claims against

county and city boards of education for accidents involving school buses and school transportation service vehicles shall be made available from funds appropriated to the Department of Public Instruction. Neither the county or city boards of education, or the county or city administrative unit shall be liable for the payment of any award made pursuant to the provisions of this section in excess of the amount paid upon such voucher by the Attorney General. Settlement and payment may be made by the Attorney General as provided in G.S. 143-295.

(d) The Attorney General may defend any civil action which may be brought against the ~~driver~~ driver, volunteer, or monitor of a public school bus or school transportation service vehicle or school bus maintenance mechanic when such driver or mechanic is paid or authorized to be paid from the State Public School ~~Fund~~ Fund, when the monitor is acting in accordance with G.S. 115C-245(d), when the volunteer was aboard the bus with the permission of the principal or was assisting a student in entering or leaving the bus, or when the driver is an unpaid school bus driver trainee under the supervision of an authorized employee of the Department of Transportation, Division of Motor Vehicles, or an authorized employee of a county or city board of education or administrative unit thereof. The Attorney General may afford this defense through the use of a member of his staff or, in his discretion, employ private counsel. The Attorney General is authorized to pay any judgment rendered in such civil action not to exceed the limit provided under the Tort Claims Act. The Attorney General may compromise and settle any claim covered by this section to the extent that he finds the same to be valid, up to the limit provided in the Tort Claims Act, provided that the authority granted in this subsection shall be limited to only those claims which would be within the jurisdiction of the Industrial Commission under the Tort Claims Act."

(c) This section applies as to claims arising on or after July 1, 1998.

Requested by: Senators Winner, Lee

EXTRA PAY FOR FORFEITED VACATION DAYS

Section 9.18. (a) Of the funds appropriated to State Aid to Local School Administrative Units, the sum of four million two hundred fifty thousand dollars ($4,250,000) for the 1998-99 fiscal year shall be used by local boards of education to pay teachers for working on, and thereby forfeiting, vacation days, in accordance with G.S. 115C-302.1(c). The State Board of Education shall make available to each local school administrative unit sufficient funds to provide pay for a maximum of six days for each teacher who is qualified to receive additional pay for forfeited vacation days under G.S. 115C-302.1(c). For the 1998-99 fiscal year, the funds allotted under this subsection shall be available for days scheduled by local boards and individual schools as follows: two for days scheduled by the local board of education under G.S. 115C-84.2(a)(4); and four for days scheduled by school principals in consultation with school improvement teams under G.S. 115C-84.2(a)(5).

(b) G.S. 115C-84.2 reads as rewritten:

"**§ 115C-84.2. School calendar.**

(a) School Calendar. -- Each local board of education shall adopt a school calendar consisting of 220 days all of which shall fall within the fiscal year. A school calendar shall include the following:

(1) A minimum of 180 days and 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of

instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

(2) A minimum of 10 annual vacation leave days.

(3) The same or an equivalent number of legal holidays occurring within the school calendar as those designated by the State Personnel Commission for State employees.

(4) Ten days, as designated by the local board, for use as teacher workdays, additional instructional days, or other lawful purposes. A local board may delegate to the individual schools some or all of the 10 days to schedule under subdivision (5) of this subsection. A local board may schedule different purposes for different personnel on any given day and is not required to schedule the same dates for all personnel.

(5) The remaining days shall be scheduled by each individual school by the school's principal in consultation with the school improvement team. Days may be scheduled for any of the purposes allowed under subdivision (4) of this subsection. Days may be scheduled for different purposes for different personnel and there is no requirement to schedule the same dates for all personnel.

Local boards and individual schools are encouraged to use the calendar flexibility in order to meet the annual performance standards set by the State Board. Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

Local boards and individual schools shall give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on days scheduled in accordance with subdivision (4) or (5) of this subsection. A teacher may elect to waive this notice requirement for one or more such days.

(b) Limitations. -- The following limitations apply when developing the school calendar:

(1) The total number of teacher workdays for teachers employed for a 10 month term shall not exceed 200 days.

(2) The calendar shall include at least ~~30~~ 42 consecutive days when teacher attendance is not required unless: (i) the school is a year-round school; or (ii) the teacher is employed for a term in excess of 10 months. At the request of the local board of education or of the principal of a school, a teacher may elect to work on one of the 42 days when teacher attendance is not required in lieu of another scheduled workday.

(3) School shall not be held on Sundays.

(4) Veteran's Day shall be a holiday for all students enrolled in the public schools.

(c) Emergency Conditions. --

(1) During any period of emergency in any section of the State where emergency conditions make it necessary, the State Board of Education may order general, and if necessary, extended recesses or adjournment of the public schools.

(2) The State Board of Education may adopt rules to allow a local board to request that the State Board suspend one or more days from the school calendar for an individual school. In order to

suspend days under this subdivision a local board shall show and the State Board shall find that extraordinary circumstances that could not have been reasonably predicted justify the action.

(d) Opening and Closing Dates. -- Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. Different opening and closing dates may be fixed for schools in the same administrative unit."

(c) The amendments to G.S. 115C-84.2(b)(2) set out in subsection (b) of this section apply to school years beginning with the 1999-2000 school year.

Requested by: Senators Winner, Lee, Perdue

TEACHING FELLOWS PROGRAM

Section 9.19. (a) G.S. 115C-363.23A(a) reads as rewritten:

"(a) A Teaching Fellows Program shall be administered by the North Carolina Teaching Fellows Commission. The Teaching Fellows Program shall be used to provide a four-year scholarship loan of ~~five thousand dollars ($5,000)~~ six thousand five hundred dollars ($6,500) per year to North Carolina high school seniors interested in preparing to teach in the public schools of the State. The Commission shall adopt very stringent standards, including minimum grade point average and scholastic aptitude test scores, for awarding these scholarship loans to ensure that only the best high school seniors receive them."

(b) Notwithstanding the provisions of G.S. 115C-363.23A(f), the Public School Forum, as administrator for the North Carolina Teaching Fellows Program, may spend, in addition to funds required for collection costs related to loan repayments, up to one hundred fifty thousand dollars ($150,000) for the 1998-99 fiscal year from the fund balance for the Program for costs associated with administration of the Program.

Requested by: Senators Winner, Lee

LIMITED ENGLISH PROFICIENCY

Section 9.20. (a) The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate the funds to local school administrative units on the basis of the number of students they serve with limited English proficiency, with a minimum of 20 students per unit and a maximum of ten and six-tenths percent (10.6%) of the average daily membership of the unit.

Local school administrative units shall use funds allocated to them to pay for classroom teachers, textbooks, classroom materials/instructional supplies/equipment, and staff development for students with limited English proficiency. A unit may use the funds for a program like the Bilingual Teacher Assistant Demonstration Project.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

(b) G.S. 115C-105.25(b)(4) reads as rewritten:

"(4) Funds allocated for children with special needs, for students with limited English proficiency, and ~~funds allocated~~ for driver's education shall not be transferred."

(c) The State Board of Education shall review its certification requirements for English as a Second Language (ESL) and determine whether the

requirements should be revised in order to assist local school administrative units to quickly obtain adequate numbers of qualified teachers. The State Board and the Board of Governors of The University of North Carolina shall coordinate efforts to provide ESL certification programs that are geographically disbursed throughout the State. The Board of Governors shall examine providing ESL certification programs through distance learning methods and off-campus programs.

(d) The State Board of Education shall identify existing or develop new programs that provide instructional personnel with in-service, noncertificate training for assisting students with limited English proficiency in the regular classroom. The Board of Governors of The University of North Carolina and the State Board of Community Colleges shall collaborate with the State Board of Education in order to deliver these programs to geographically diverse locations.

(e) The State Board of Education shall survey local school administrative units to determine whether schools are able to recruit and retain ESL certified teachers. The State Board shall provide the results of this survey to the Joint Legislative Education Oversight Committee prior to December 15, 1999.

Requested by: Senators Winner, Lee

DRIVERS EDUCATION FUNDS DO NOT REVERT

Section 9.21. (a) Of the funds appropriated for drivers education for the 1997-98 fiscal year, but not expended for that purpose, up to thirty-five thousand dollars ($35,000) shall not revert at the end of the fiscal year. The State Board of Education may use these funds during the 1998-99 fiscal year for forms to implement S.L. 1997-507, AN ACT TO PROVIDE THAT CERTAIN STUDENTS WHO DROP OUT OF SCHOOL OR DO NOT MAKE PROGRESS TOWARD GRADUATION SHALL NOT BE ELIGIBLE FOR DRIVERS PERMITS OR LICENSES.

(b) The State Board of Education may use funds appropriated for drivers education for the 1998-99 fiscal year to implement S.L. 1997-507.

(c) Subsection (a) of this section becomes effective June 30, 1998.

Requested by: Senators Winner, Lee

ADDITIONAL TEACHERS FOR MIDDLE SCHOOL CHILDREN WHO ARE ACADEMICALLY BELOW GRADE LEVEL

Section 9.22. Section 8.29(c) of S.L. 1997-443 reads as rewritten:

"(c) Of the funds appropriated to State Aid to Local School Administrative Units, the sum of three million two hundred thousand dollars ($3,200,000) for the 1997-98 fiscal year and the sum of three million two hundred thousand dollars ($3,200,000) for the 1998-99 fiscal year shall be used to provide additional teachers for middle school children who are academically below grade level. Middle school children are children in a school that serves grades six, seven, and eight, and no other grades.

(1) The State Board of Education shall allocate these teacher positions to pilot middle schools on the basis of the number of students in grade six who scored at proficiency Level I on the end-of-grade test in mathematics, on the end-of-grade test in reading, or on both, at the end of their last school year. The funds shall be used in schools ~~that have at least 50 such students~~ at a ratio of one teacher to every 50 students. ~~No partial positions shall be allocated.~~ Positions shall be rounded to the nearest one-half position.

(2) The purpose of these funds is to improve the academic performance and the behavior of these students during the first school year after elementary school by placing them in classes with a low student-to-teacher ratio for either all of their core academic

subjects or for the subject or subjects in which they are below grade level. In order to accomplish this purpose, local school administrative units shall use (i) the teachers allocated for these students pursuant to the regular teacher allotment and (ii) the teachers allocated for these students under this section only to improve the academic performance and the behavior of these students. Local boards of education shall adopt rules to ensure that each student for whom funds for additional teacher positions are allocated under this section shall be assigned a teacher who is responsible for monitoring the academic progress of the student.

(3) Of the funds appropriated in this section, the State Board of Education may use up to twenty-five thousand dollars ($25,000) to evaluate the effectiveness of these smaller classes in improving academic performance and discipline in middle schools."

Requested by: Senators Winner, Lee

UNIFORM EDUCATION REPORTING SYSTEMS FUNDS/BUILDING LEVEL REPORTS ON SCHOOL FUNDING

Section 9.23. Section 8.25(b) of S.L. 1997-443 reads as rewritten:

"(b) The State Board of Education shall modify the Uniform Education Reporting System to provide clear, accurate, and standard information on the use of funds at the unit and school level. The plan shall provide information that will enable the General Assembly to determine State, local, and federal expenditures for personnel at the unit and school level. The plan also shall allow the tracking of expenditures for textbooks, educational supplies and equipment, capital outlay, at-risk students, and other purposes. The revised Uniform Education Reporting System shall be implemented beginning with the ~~1998-99~~ 1999-2000 school year."

Requested by: Senators Reeves, Perdue

DUES DEDUCTION FOR RETIREES

Section 9.24. (a) Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"**§ 135-18.8. Deduction for payments to certain employees' associations allowed.**

Any member who is a member of a domiciled employees' association that has at least 2,000 members, the majority of whom are employees of the State or public school employees, may authorize, in writing, the periodic deduction from the member's retirement benefits a designated lump sum to be paid to the employees' association. The authorization shall remain in effect until revoked by the member. A plan of deductions pursuant to this section shall become void if the employees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

(b) This section becomes effective July 1, 1998, and applies to retirement benefits paid on or after that date.

Requested by: Senators Winner, Lee, Odom

SCHOOL BUS ALLOCATION

Section 9.25. If funds for school bus replacement are insufficient for the full scheduled allocation of school buses for all local school administrative units, the reductions to allocations should be spread proportionally among the local school administrative units.

Requested by: Senators Winner, Lee

UNIFORM EDUCATION REPORTING SYSTEM (UERS)/STUDENT INFORMATION MANAGEMENT SYSTEM (SIMS) FUNDS

Section 9.26. (a) The State Board of Education shall use funds appropriated for the Uniform Education Reporting System and the Student Information Management System for the 1998-99 fiscal year to begin the development of a replacement for the existing Student Information System. In developing the new system, the State Board shall give priority to the development of applications that maintain student records, maintain ABC accountability data, allow for the transfer of student records between local school administrative units, and facilitate the transfer of transcripts to institutions of higher education.

In designing the new system, the State Board shall develop a model for statewide implementation that maximizes the economies of scale with respect to operations, personnel, and hardware. The State Board's goal shall be to develop a new system that provides information to local schools, local school boards, and the State Board in the most cost-efficient manner.

The new system shall follow guidelines established by the Information Resources Management System.

The State Board may develop pilots of the new system.

(b) The State Board shall provide periodic reports to the Joint Legislative Education Oversight Committee on the development of the new system and shall report to the 1999 General Assembly on implementation of the pilot projects.

(c) Funds appropriated for the Uniform Education Reporting System and the Student Information Management System shall not revert at the end of the fiscal year but shall remain available until expended on the project.

Requested by: Senators Winner, Lee

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

Section 9.27. (a) Funds for small school systems. -- Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of less than 3,150 students and (ii) to each county school administrative unit with an average daily membership of from 3,150 to 4,000 students if the county in which the local school administrative unit is located has a county adjusted property tax base per student that is below the State adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,150 to 4,000 students. The allocation formula shall:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or less.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least $355,000, excluding textbooks.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fund fully the program, the State Board of Education

shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

(b) Nonsupplant requirement. -- A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 1997-99 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

(c) Phase-out provision. -- If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in population or an increase in the county adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be phased out over a two-year period. For the first year of ineligibility, the unit shall receive the same amount it received for the prior fiscal year. For the second year of ineligibility, it shall receive half of that amount.

(d) Definitions. -- As used in this section:

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education.

(2) "County adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

(2a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(4) "State adjusted property tax base per student" means the sum of all county adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

(e) Reports. -- The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 1999, on the results of its analysis of whether counties supplanted funds.

PART X. COMMUNITY COLLEGES

Requested by: Senators Plyler, Purcell, Lee, Winner

EXTEND FOR ONE YEAR THE DEADLINE FOR MATCHING COMMUNITY COLLEGE BOND FUNDS

Section 10. (a) Section 6(b)IV of Chapter 542 of the 1993 Session Laws, as added by Section 4 of Chapter 515 of the 1995 Session Laws, reads as rewritten:

"IV. If the State Board of Community Colleges determines that a community college has not met the matching requirements of G.S. 115D-31(a)(1) by July 1, ~~1998,~~ 1999, with respect to a capital improvement project for which bond proceeds are allocated in subdivision I or pursuant to subdivision II of this subsection, the Board shall certify that fact to the State Treasurer by October 1, ~~1998.~~ 1999. All of these bond proceeds with respect to which the Board certifies that the matching requirement has not been met by July 1, ~~1998,~~ 1999, shall be placed by the State Treasurer in a special account within the Community Colleges Bond Fund and shall be used for making grants to community colleges. Bond proceeds in the special account shall be allocated among the community colleges in accordance with the following conditions:

(1) The State Board of Community Colleges shall generate, by October 1, ~~1998,~~ 1999, a priority ranking of legitimate community college capital improvement needs using a formula based on objective meaningful factors relevant to capital needs, including space to population ratio, population served ratio, capacity enrollment ratio, local to State and vocational education ratios, type of project, and readiness to implement.

(2) The State Board of Community Colleges shall provide the State Treasurer a projected allocation of the proceeds in the special account in accordance with this priority ranking, except that:

a. No projected allocation shall be made for a community college that the Board certified in accordance with this subdivision IV had failed to meet a matching requirement.

b. No more than four million dollars ($4,000,000) shall be allocated to a single community college.

c. Funds shall not be allocated for more than one project per community college.

(3) The proceeds of grants made from bond proceeds in the special account shall be allocated and expended for paying the cost of community college capital improvements in accordance with this allocation by the State Board of Community Colleges, to the extent and as provided in this act. The Director of the Budget is

empowered, when the Director of the Budget determines it is in the best interest of the State and the North Carolina Community College System to do so, and if the cost of a particular project is less than the projected allocation, to use the excess funds to increase the size of that project or increase the size of any other project itemized in this section, or to increase the amount allocated to a particular community college within the aggregate amount of funds available under this section. The Director of the Budget shall consult with the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations before making these changes."

(b) This section becomes effective June 30, 1998.

Requested by: Senators Lee, Winner

INDEPENDENT STUDY OF CAPITAL BUDGET AND OPERATING BUDGET FUND ALLOCATIONS

Section 10.1. The State Board of Community Colleges shall contract with an outside consultant to:

(1) Review the community college capital allocation process and to recommend modifications to the process necessary to make the process more equitable; and

(2) Study performance budget measures and recommend options for allocating community college funds on a performance budgeting basis.

The State Board may use funds from the State Board Reserve to implement this section.

The State Board shall report to the Joint Legislative Appropriations Subcommittees on Education and the Fiscal Research Division prior to February 1, 1999, on the implementation of this section.

Requested by: Senators Lee, Winner, Dalton

COMMUNITY COLLEGE EQUIPMENT RESERVE FUND

Section 10.2. (a) G.S. 115D-31 reads as rewritten:

"**§ 115D-31. State financial support of institutions.**

(a) The State Board of Community Colleges shall be responsible for providing, from sources available to the State Board, funds to meet the financial needs of institutions, as determined by policies and regulations of the State Board, for the following budget items:

(1) Plant Fund. -- Furniture and equipment for administrative and instructional purposes, library books, and other items of capital outlay approved by the State Board. Provided, the State Board may, on an equal matching-fund basis from appropriations made by the State for the purpose, grant funds to individual institutions for the purchase of land, construction and remodeling of institutional buildings determined by the State Board to be necessary for the instructional programs or administration of such institutions. For the purpose of determining amount of matching State funds, local funds shall include expenditures made prior to the enactment of this Chapter or prior to an institution becoming a community college pursuant to the provisions of this Chapter, when such expenditures were made for the purchase of land, construction, and remodeling of institutional buildings subsequently determined by the State Board to be necessary as

herein specified, and provided such local expenditures have not previously been used as the basis for obtaining matching State funds under the provisions of this Chapter or any other laws of the State. Notwithstanding the provisions of this subdivision, G.S. 116-53(b), or G.S. 143-31.4, appropriations by the State of North Carolina for capital or permanent improvements for community colleges may be matched with any prior expenditure of non-State funds for capital construction or land acquisition not already used for matching purposes.

(2) Current Operating Expenses:

a. General administration. -- Salaries and other costs as determined by the State Board necessary to carry out the functions of general administration.

b. Instructional services. -- Salaries and other costs as determined by the State Board necessary to carry out the functions of instructional services.

c. Support services. -- Salaries and other costs as determined by the State Board necessary to carry out the functions of support services.

(3) Additional Support for Regional Institutions as Defined in G.S. 115D-2(4). -- Matching funds to be used with local funds to meet the financial needs of the regional institutions for the items set out in G.S. 115D-32(a)(2)a. Amount of matching funds to be provided by the State under this section shall be determined as follows: The population of the administrative area in which the regional institution is located shall be called the 'local factor,' the combined populations of all other counties served by the institution shall be called the 'State factor.' When the budget for the items listed in G.S. 115D-32(a)(2)a has been approved under the procedures set out in G.S. 115D-45, the administrative area in which the regional institution is located shall provide a percentage to be determined by dividing the local factor by the sum of the local factor and the State factor. The State shall provide a percentage of the necessary funds to meet this budget, the percentage to be determined by dividing the State factor by the sum of the local factor and the State factor. If the local administrative area provides less than its proportionate share, the amount of State funds provided shall be reduced by the same proportion as were the administrative area funds.

Wherever the word 'population' is used in this subdivision, it shall mean the population of the particular area in accordance with the latest United States census.

(b) The State Board is authorized to accept, receive, use, or reallocate to the institutions any federal funds or aids that have been or may be appropriated by the government of the United States for the encouragement and improvement of any phase of the programs of the institutions.

(c) State funds appropriated to the State Board of Community Colleges for equipment and library ~~books~~ books, except for funds appropriated to the Equipment Reserve Fund, shall revert to the General Fund 12 months after the close of the fiscal year for which they were appropriated. Encumbered balances outstanding at the end of each period shall be handled in accordance with existing State budget policies. The Department shall identify to the Office of State Budget and Management the funds that revert at the end of the 12 months after the close of the fiscal year.

(d) State funds appropriated to the State Board of Community Colleges for the Equipment Reserve Fund shall be allocated to institutions in accordance with the equipment allocation formula for the fiscal period. An institution to which these funds are allocated shall spend the funds only in accordance with an equipment acquisition plan developed by the institution and approved by the State Board.

These funds shall not revert and shall remain available until expended in accordance with an approved plan."

(b) The State Board of Community Colleges shall allocate equipment funds appropriated for the 1998-99 fiscal year, including funds appropriated to the Equipment Reserve Fund, in accordance with the formula proposed to the General Assembly by the Board at its May 1998 meeting.

Requested by: Senators Lee, Winner

BUDGET REALIGNMENT TO IMPLEMENT REORGANIZATION AUTHORIZED

Section 10.3. Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Community Colleges may transfer funds within the budget of the Department of Community Colleges to the extent necessary to implement the departmental reorganization plan recommended by the President of the North Carolina Community College System and adopted by the State Board.

Requested by: Senators Lee, Winner

CONTINUING BUDGET CONCEPT

Section 10.4. (a) The State Board of Community Colleges shall implement the continuing budget concept for full-time equivalent students (FTE) earned for the 1998-99 fiscal year as follows:

(1) Community colleges that experience a decline in enrollment shall not receive a decrease in full-time equivalent student (FTE) enrollment funds until their enrollment declines more than three percent (3%). At that time, they shall experience a decline of only the amount over three percent (3%);

(2) Community colleges that experience an increase in enrollment shall not receive an increase in full-time equivalent student (FTE) enrollment funds until their enrollment increases more than two percent (2%). At that time, they shall experience an increase of only the amount over two percent (2%).

(b) The State Board of Community Colleges shall implement the continuing budget concept for subsequent fiscal years by funding (i) the average earned full-time equivalent student (FTE) enrollment for the prior three fiscal years, or (ii) the earned full-time equivalent student (FTE) enrollment for the prior fiscal year, whichever is greater.

Requested by: Senators Lee, Winner

ANNUAL REVIEW ACCOUNTABILITY ENHANCED

Section 10.5. The General Assembly finds that the current annual program review standards are not adequate to ensure that programs are meeting the needs of students, employers, and the general public; therefore, the State Board of Community Colleges shall review the current standard to ensure a higher degree of program accountability and shall establish appropriate levels of performance for each measure based on sound methodological practices.

The State Board shall make an interim report to the Joint Legislative Education Oversight Committee and to the Fiscal Research Division on its improved accountability measures prior to November 1, 1998, and a final report prior to February 1, 1999.

Requested by: Senators Lee, Winner

DEVELOPMENT OF MANAGEMENT INFORMATION SYSTEM

Section 10.6.The State Board of Community Colleges shall develop a plan for an efficient and effective technology and management information system. The system shall be designed to support the Community College System's planning, evaluation, communication, resource management, full-time equivalent student (FTE) reporting, and decision-making processes. The plan shall identify the technology and management information needs of the local colleges and the Department of Community Colleges, the costs of meeting these needs, and the benefits of meeting them.

The State Board shall report to the Joint Legislative Education Oversight Committee prior to February 1, 1999, on the plan it develops.

Requested by: Senators Lee, Winner

COOPERATIVE HIGH SCHOOL EDUCATION PROGRAM ACCOUNTABILITY

Section 10.7. (a) It is the goal of the General Assembly to increase the number of qualified high school students participating in cooperative high school education programs that are provided by local community colleges through cost-effective programs that do not duplicate high school Advanced Placement courses that are currently being offered or that could feasibly be offered. These programs shall provide additional higher education opportunities for qualified high school students while minimizing overlapping costs to the State for public schools and community colleges.

(b) The State Board of Community Colleges and the State Board of Education shall create a joint task force to study the existing policies for cooperative high school education programs and to recommend changes necessary to improve the programs' success and accountability. The Boards shall report their findings and recommendations to the Joint Legislative Education Oversight Committee and the Fiscal Research Division prior to March 1, 1999.

Requested by: Senators Lee, Winner

REPORTING REQUIREMENTS

Section 10.8. The local institutions of the North Carolina Community College System shall comply with annual reporting requirements established by the State Board of Community Colleges; therefore, the State Board of Community Colleges shall develop an action plan to improve the timeliness and accuracy of the data that are required to be reported to the State Board by each institution. This plan may include withholding State funds from the institution if an institution is not in compliance.

The plan shall be approved and implemented by October 30, 1998.

Requested by: Senators Lee, Winner

COMMUNITY COLLEGE TUITION STUDY

Section 10.9. The Joint Legislative Education Oversight Committee shall study community college tuition in light of (i) recent proposals intended to maximize the opportunities of North Carolina residents to continue their education after high school and (ii) federal "Hope Scholarships". The Committee shall report the results of its study to the Appropriations Subcommittees on Education of the Senate and the House of Representatives prior to January 15, 1999.

Requested by: Senators Hoyle, Lee, Winner

HOSPITALITY AND TOURISM JOB TRAINING PROGRAMS

Section 10.10. (a) The State Board of Community Colleges shall study hospitality and tourism job training programs offered by the local institutions of the North Carolina Community College System. The State Board of Community Colleges shall collaborate with the Board of Governors of The University of North Carolina, the State Board of Education, and the Department of Commerce to improve articulation between institutions with regard to hospitality and tourism job training programs. The efforts to improve articulations shall be considered a joint venture of these educational institutions that are participating members of the Culinary, Hospitality, Tourism Education Alliance (CHTEA), and of the Department of Commerce and the travel and tourism industry.

(b) The State Board of Community Colleges, the State Board of Education, the Board of Governors of The University of North Carolina, and the Department of Commerce shall report jointly to the Joint Legislative Education Oversight Committee on the following:

(1) An inventory of all curriculum, continuing education, and job training programs offered in the State that support the travel, tourism, and hospitality industries;

(2) Recommendations for improvements to the programs and a system of program accountability; and

(3) Recommendations on ways to improve communication between the industry and the Boards and to enhance efforts to promote the programs.

Requested by: Senators Lee, Winner

ROANOKE-CHOWAN COMMUNITY COLLEGE/SHELTERED WORKSHOP

Section 10.11. Roanoke-Chowan Community College may use proceeds derived from the lease of buildings associated with the sheltered workshop to phase out the sheltered workshop operation.

Requested by: Senators Rand, Lee

COMMUNITY COLLEGE TUITION WAIVER

Section 10.12. It is the intent of the General Assembly to provide a tuition waiver for up to two years, to the extent that funds are appropriated expressly for that purpose, to deserving students who graduate from a North Carolina high school and are enrolled full-time in a North Carolina community college within six months of graduation.

PART XI. UNIVERSITIES

Requested by: Senators Lee, Winner

UNC INCENTIVE FUNDING

Section 11. (a) G.S. 116-30.3(d) reads as rewritten:

"(d) For fiscal year 1997-98 and ~~each subsequent fiscal year,~~ fiscal year 1998-99, one-half of the reversions required in subsections (a) and (b) of this section shall be available to each special responsibility constituent institution of The University of North Carolina. Those funds shall be used by the institution at the campus level for any of the following: the nonrecurring costs of technology, including the installation of technology infrastructure for academic facilities on the campus of the special responsibility constituent institution, the implementation by the constituent institution of its campus technology plan as approved by the Board of Governors, or for libraries. The funds shall not be used to support positions. Each special responsibility constituent institution shall report annually to the Board of Governors regarding how the institution spent the funds made available under this section."

(b) Effective July 1, 1999, G.S. 116-30.3 as amended by subsection (a) of this section reads as rewritten:

"**§ 116-30.3. Reversions.**

~~(a)~~ Of the General Fund current operations appropriations credit balance remaining at the end of each fiscal year in each budget code of a special responsibility constituent institution, except for the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount ~~greater than two percent (2%)~~ of the General Fund appropriation for that fiscal year may be carried forward by the institution to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. Of the General Fund current operations appropriations credit balance remaining in the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount ~~greater than one percent (1%)~~ of the General Fund appropriation for that fiscal year may be carried forward in that budget code to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. However, the amount carried forward under this section shall not exceed two and one-half percent (2 1/2%) of the General Fund appropriation. The Director of the Budget, under the authority set forth in G.S. 143-25, shall establish the General Fund current operations credit balance remaining in each budget code of each institution.

~~(b) An institution shall cease to be a special responsibility constituent institution under the following circumstances:~~

~~(1) An institution, other than the Area Health Education Centers of the University of North Carolina, does not revert at least two percent (2%) of its General Fund current operations credit balance remaining in each budget code of that institution, or~~

~~(2) The Area Health Education Centers of the University of North Carolina at Chapel Hill does not revert at least one percent (1%) of its General Fund current operations credit balance remaining in its budget code.~~

~~However, if the Board of Governors finds that the low reversion rate is due to adverse and unforeseen conditions, the Board may allow the institution to remain a special responsibility constituent institution for one year to come into conformity with this section. The Board may make this exception only one time for any special responsibility constituent institution, and shall report these exceptions to the Joint Legislative Commission on Governmental Operations.~~

~~(c) One-half of the reversions required in subsection (a) and (b) of this section shall be returned to the General Fund credit balance at the end of each fiscal year.~~

~~(d) For fiscal year 1997-98 and fiscal year 1998-99, one-half of the reversions required in subsections (a) and (b) of this section shall be available to each special responsibility constituent institution of The University of North Carolina. Those funds shall be used by the institution at the campus level for any of the following: the nonrecurring costs of technology, including the installation of technology infrastructure for academic facilities on the campus of the special responsibility constituent institution, the implementation by the constituent institution of its campus technology plan as approved by the Board of Governors, or for libraries. The funds shall not be used to support positions. Each special responsibility constituent institution shall report annually to the Board of Governors regarding how the institution spent the funds made available under this section.~~"

Requested by: Senators Lee, Winner

NATURAL RESOURCES LEADERSHIP INSTITUTE

Section 11.1. For the 1998-99 fiscal year, the requirement for reversion of General Fund appropriations as required by G.S. 116-30.3 for the Cooperative Extension Service budget code at North Carolina State University is reduced by one hundred seventy thousand dollars ($170,000) in order to provide funding for the Natural Resource Leadership Institute sponsored by the Cooperative Extension Service.

Requested by: Senators Lee, Winner

INCENTIVE SCHOLARSHIP PROGRAM FOR NATIVE AMERICANS

Section 11.2. Section 17.3(a) of Chapter 769, 1993 Session Laws, reads as rewritten:

"Sec. 17.3. (a) The Board of Governors of The University of North Carolina shall establish the Incentive Scholarship Program for Native Americans to provide opportunities for Native Americans who are residents of North Carolina to attend constituent institutions of The University of North Carolina under rules adopted by the Board of Governors. Scholarships awarded under the program shall carry a maximum value of three thousand dollars ($3,000) per recipient per academic year, ~~reduced by any amount of need-based aid that the recipient may receive from Pell Grants, North Carolina Student Incentive Grants, Supplemental Educational Opportunity Grants, or the American Indian Student Legislative Grant Program.~~ to be awarded after all other need-based grants for which the recipient is eligible have been included in the student's financial aid package. The maximum amount of the award shall not exceed the cost of attendance budget used to calculate financial aid less other need-based aid received, and in no case shall the award exceed three thousand dollars ($3,000). To be eligible for such a scholarship, a student shall be a Native American, defined as an individual who maintains cultural identification as a Native American through membership in an Indian tribe recognized by the United States or by the State of North Carolina or through other tribal affiliation or community recognition."

Requested by: Senators Lee, Winner, Plyler

AID TO STUDENTS ATTENDING PRIVATE COLLEGES PROCEDURE

Section 11.3. Section 10.4 of S.L. 1997-443 reads as rewritten:

"Section 10.4. (a) Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up to ~~seven hundred fifty dollars ($750.00)~~ nine hundred dollars ($900.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

These funds shall be placed in a separate, identifiable account in each eligible institution's budget or chart of accounts. All funds in this account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be available for the tuition grant program as defined in subsection (b) of this section.

(b) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending these institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, not to exceed ~~one thousand four hundred fifty dollars ($1,450)~~ one thousand six hundred dollars ($1,600) per academic year, which shall be distributed to the student as hereinafter provided.

The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall not approve any grant until it receives proper certification from an approved institution that the student applying for the grant is an eligible student. Upon receipt of the certification, the State Education Assistance Authority shall remit at such times as it shall prescribe the grant to the approved institution on behalf, and to the credit, of the student.

In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and credited grants paid on the behalf of the students.

In the event there are not sufficient funds to provide each eligible student with a full grant:

(1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections (a) and (b) of this section; and

(2) Each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

Any remaining funds shall revert to the General Fund.

(c) Expenditures made pursuant to this section may be used only for secular educational purposes at nonprofit institutions of higher learning. Expenditures made pursuant to this section shall not be used for any student who:

(1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or

(2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years.

(d) The State Education Assistance Authority shall document the number of full-time equivalent North Carolina undergraduate students that are enrolled in off-campus programs and the State funds collected by each institution pursuant to G.S. 116-19 for those students. The State Education Assistance Authority shall also document the number of scholarships and the amount of the scholarships that are awarded under G.S. 116-19 to students enrolled in off-campus programs. An "off-campus program" is any program offered for degree credit away from the institution's main permanent campus.

The State Education Assistance Authority shall include in its annual report to the Joint Legislative Education Oversight Committee the information it has compiled and its findings regarding this program."

Requested by: Senators Lee, Winner

UNC EQUITY FUNDS/CAPITAL FACILITIES STUDY

Section 11.4. Section 10.1 of S.L. 1997-443 reads as rewritten:

"Section 10.1. (a) The funds appropriated to the Board of Governors of The University of North Carolina for equity funds are to address relative inequities in State operating funding revealed through a study of the constituent institutions in the university system. The General Assembly notes that the study dealt with equity based upon current funding from State appropriations and tuition for operations and did

not consider historical equity in funding for physical facilities or funding from non-State sources. Therefore, in making this appropriation, the General Assembly does not conclude that the total funding of any institution, including specifically the historically black universities, is adequate in light of all considerations.

(b) Based on findings of the Legislative Study Commission on the Status of Education at The University of North Carolina, the General Assembly is still concerned about perceived differences in the quality of capital facilities on the different campuses, which may impact the ability of some campuses to attract students and faculty. Since the Board of Governors has recently completed studies of equity of funding for operating costs among the constituent institutions and of the Board of Governors' capital improvements request process, it is timely that the question of equity of facilities be addressed.

The Board of Governors of The University of North Carolina shall study the relative equity and adequacy of the physical facilities of its constituent institutions. The study shall consider the condition of the facilities, whether or not facilities are comparable among the campuses given the different missions of the institutions, comparable adequacy of the physical facilities given the size and projected growth of the school, and such other factors deemed appropriate by the Board of Governors. The study shall include all facilities contributing to the accomplishment of the campuses' missions. First, the Board of Governors shall study those facilities considered central to the academic missions of the campuses that are generally supported from General Fund appropriations. Secondly, the Board of Governors shall study those facilities that contribute to the overall missions of the campuses, including residential, dining, research, and other facilities regardless of the sources of funding. The Board of Governors shall consider its policies on funding of self-liquidating projects and whether those policies contribute to any inequities among the campuses, including the overall costs to the students.

~~The Board of Governors shall report to the General Assembly by January 15, 1999, with the results of its study. The report shall include recommendations to rectify any inequities or inadequacies found in the study.~~

(c) The Board of Governors shall contract with a private consulting firm with expertise in higher education matters to assess the additional capital needs of the constituent institutions of The University of North Carolina. The needs assessment shall project the needs for capital funding for a 10-year period, and shall include a detailed plan for making funding allocations based on the priorities of needs.

The plan shall provide a detailed capital spending plan for the next 10 years to assist the General Assembly in making funding decisions relating to The University of North Carolina, as the State plans for major increases in enrollment in higher education and prepares its citizens to compete in a global economy. The plan shall include considerations of the costs and changes in capital needs caused by new technologies and alternative systems for delivery of higher education services.

The consultant shall visit each campus in The University of North Carolina system to understand the needs of each campus based on their assigned missions, physical needs, and plans.

The Board and its consultant shall provide interim progress reports to the General Assembly on a periodic basis. The Board of Governors shall report to the General Assembly by April 15, 1999, with the results of its study and plan.

Of the funds appropriated to the Board of Governors for fiscal year 1998-99, up to two hundred fifty thousand dollars ($250,000) may be reallocated for the purposes of this section, including funds that would normally revert to the General Fund at the end of the fiscal year."

Requested by: Senators Lee, Winner

MANUFACTURING EXTENSION PARTNERSHIP

Section 11.5. Section 10.7 of S.L. 1997-443 reads as rewritten:

"Section 10.7. Of the funds appropriated to the Board of Governors of The University of North Carolina, the sum of nine hundred thousand dollars ($900,000) for the ~~1997-98~~ 1998-99 fiscal year shall be allocated to North Carolina State University to match additional federal funds for the Manufacturing Extension Partnership Program."

Requested by: Senators Lee, Winner, Warren, Perdue

EAST CAROLINA DOCTORAL II CLASSIFICATION

Section 11.6. Of the funds appropriated to the Board of Governors of The University of North Carolina for the 1998-99 fiscal year, the sum of two million dollars ($2,000,000) shall be allocated to East Carolina University in recognition of the designation of that institution as a Doctoral II University. The funds may be used for additional faculty, increases in faculty salaries, increases in the number of graduate student tuition remissions, and other enhancements required to meet the needs of a Doctoral II institution. The use of these funds shall be in accord with the plan developed for the Board of Governors for adjusting the funding for East Carolina University to a level appropriate for Doctoral II University status. East Carolina University shall report to the Board of Governors, the Office of State Budget and Management, and the Fiscal Research Division on the allocation of these funds within its budgets.

Requested by: Senators Lee, Winner

UNC DISTANCE EDUCATION

Section 11.7. This act provides funding to The University of North Carolina Board of Governors for degree-related courses provided away from the campus sites of the constituent institutions of The University of North Carolina. The intent of this commitment is to provide expanded opportunities for higher education to more North Carolina residents, including nontraditional students, and to increase the number of North Carolina residents who earn post-secondary degrees.

These funds shall be used for the provision of off-campus higher education programs, including the costs for the development or adaptation of programs for this purpose, and the funds may be used for the costs of providing space and services at the off-campus sites.

Prior to approving funding for off-campus programs in nursing, the Board shall consult with the central office of the Area Health Education Centers (AHEC) to obtain information about regional needs and priorities and to coordinate funding with AHEC efforts in nursing education.

The Board of Governors shall track these funds separately in order to provide data on the costs of providing these programs, including the different costs for various methods of delivery of educational programs. The Board of Governors shall provide for evaluation of these off-campus programs, including comparisons to the costs and quality of on-campus delivery of similar programs, as well as the impact on access to higher education and the educational attainment levels of North Carolina residents. The Board shall provide a preliminary report to the General Assembly by May 1, 2000, and subsequent evaluations, including recommendations for changes, shall be made at least biennially to the Joint Legislative Education Oversight Committee.

Requested by: Senators Winner, Rand

UNC HOSPITALS/MANAGEMENT FLEXIBILITY

Section 11.8. (a) G.S. 116-37 reads as rewritten:

"**§ 116-37. University of North Carolina Hospitals at Chapel Hill.**

(a) Composition. -- The Board of Governors of the University of North Carolina is hereby directed to create a board of directors for the University of North Carolina Hospitals at Chapel Hill consisting of 12 members of which nine shall be appointed by the Board of Governors. Three members ex officio of said board shall be the University of North Carolina at Chapel Hill Vice-Chancellor for Health Affairs, University of North Carolina at Chapel Hill Vice-Chancellor for Business and Finance, and the Dean of the University of North Carolina at Chapel Hill Medical School, or successors to these offices under other titles with similar responsibilities. Nine members shall be appointed from the business and professional public-at-large, none of whom shall be Governors of the University, and, thereafter, the nine appointive members shall select one of their number to serve as chairman. Members of this board shall include, but not be limited to, persons with special competence in business management, hospital administration, and medical practice not affiliated with University faculty. The Governors may remove any member for cause. Board members, other than ex officio members, shall each receive such per diem and necessary travel and subsistence expenses while engaged in the discharge of their official duties as is provided by law for members of State boards and commissions generally.

(a1) Appointment to Board. -- Each of the nine persons who, as of June 30, 1989, is serving as an appointed member of the Board shall be reassigned by the Governors, each to a different term, ending June 30, 1989, June 30, 1990, June 30, 1991, June 30, 1992, June 30, 1993, June 30, 1994, June 30, 1995, June 30, 1996, or June 30, 1997. After July 1, 1989, the term of office for new appointments shall commence on July 1, and all members shall serve for four-year terms; provided, however, that no person may be appointed to (i) more than three full four-year terms in succession, or (ii) a four-year term if preceded immediately by 12 years of service. Resignation from a term of office shall not constitute a break in service for the purpose of this subsection. Board member vacancies shall be filled by the Governors for the remainder of the unexpired term.

(b) Meetings and Powers of Board. -- The board of directors shall meet at least every 60 days and may hold special meetings at any time and place within the State at the call of its chairman. The board of directors shall make rules, regulations, and policies governing the management and operation of the University of North Carolina Hospitals at Chapel Hill, consistent with basic State statutes and procedures, to meet the goals of education, research, patient care, and community service. The board's action on matters within its jurisdiction is final, except that appeals may be made, in writing, to the Board of Governors with a copy of the appeal to the University administration. The board of directors shall elect and may remove the executive director of the University of North Carolina Hospitals at Chapel Hill. The board of directors may enter into formal agreements with the University of North Carolina at Chapel Hill, Division of Health Affairs, with respect to the provision of clinical experience for students and may also enter into formal agreements with the University of North Carolina at Chapel Hill for the provision of maintenance and supporting services.

(c) Executive Director. -- The chief administrative officer of the University of North Carolina Hospitals at Chapel Hill shall be the executive director, who shall be appointed by the board of directors to serve at its pleasure. The executive director shall administer the affairs of the University of North Carolina Hospitals at Chapel Hill subject to the duly adopted policies, rules, and regulations of the board of directors, including the appointment, promotion, demotion, and discharge of all personnel. The executive director shall report to the board of directors quarterly or

more often as required. The executive director will serve as secretary to the board of directors.

(d) Personnel. -- The University of North Carolina Hospitals at Chapel Hill shall maintain a personnel office for personnel administration. ~~Notwithstanding the provisions of Chapter 126 of the General Statutes to the contrary, the Board of Directors of the University of North Carolina Hospitals at Chapel Hill shall establish policies and rules governing the study and implementation of competitive position classification and compensation plans for registered and licensed practical nurse positions that have been approved by the Board of Directors. These plans shall provide for minimum, maximum, and intermediate rates of pay, and may include provisions for range revisions and shift premium pay and for salary adjustments to address internal inequities, job performance, and market conditions. The Office of State Personnel shall review the classification and compensation plans on an annual basis. All changes in compensation plans for these registered and licensed practical nurse positions shall be submitted to the Office of State Personnel upon implementation.~~ All employees of the University of North Carolina Hospitals at Chapel Hill shall be deemed to be employees of the State and shall be subject to all provisions of State law relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, and 7 of Chapter 126 of the General Statutes, the provisions of Chapter 126 shall not apply to employees of the University of North Carolina Hospitals at Chapel Hill, and the policies and procedures governing the terms and conditions of employment of such employees shall be adopted by the Board of Directors.

(1) The Board of Directors shall fix or approve the schedules of pay, expense allowances, and other compensation and adopt position classification plans for all employees of the University of North Carolina Hospitals at Chapel Hill.

(2) The Board of Directors shall adopt or provide for rules and regulations concerning, but not limited to, annual leave, sick leave, special leave with full pay or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service awards, and incentive award programs, grounds for dismissal, demotion, or discipline, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and effective career employees. However, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall not have his or her compensation reduced as a result of this subdivision. Further, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall be subject to the rules regarding discipline or discharge that were effective on October 31, 1998, and shall not be subject to the rules regarding discipline or discharge adopted after October 31, 1998.

(3) The Board of Directors may prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the University of North Carolina Hospitals at Chapel Hill.

(4) The Board of Directors shall establish boards, committees, or councils to conduct hearings upon the appeal of employees who have been suspended, demoted, otherwise disciplined, or discharged, to hear employee grievances, or to undertake any other duties relating to personnel administration that the Board of Directors may direct.

(e) Finances. -- The University of North Carolina Hospitals at Chapel Hill shall be subject to the provisions of the Executive Budget Act. There shall be maintained a business and budget office to administer the budget and financial affairs of the University of North Carolina Hospitals at Chapel Hill. The executive director, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. Subject to the approval of the Director of the Budget: All operating funds of the University of North Carolina Hospitals at Chapel Hill may be budgeted and disbursed through a special fund code, all receipts of the University of North Carolina Hospitals at Chapel Hill may be deposited directly to the special fund code; and general fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill may be budgeted in a general fund code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill Operations" and be transferable to the special fund operating code as receipts. Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission.

(e1) Finances -- Patient/Hospital Benefit. -- The Executive Director of the University of North Carolina Hospitals at Chapel Hill or the Director's designee, may expend operating budget funds, including State funds, of the University of North Carolina Hospitals at Chapel Hill for the direct benefit of a patient, when, in the judgment of the Executive Director or the Director's designee, the expenditure of these funds would result in a financial benefit to the University of North Carolina Hospitals at Chapel Hill. Any such expenditures are declared to result in the provision of medical services and create charges of the University of North Carolina Hospitals at Chapel Hill for which the hospitals may bill and pursue recovery in the same way as allowed by law for recovery of other hospitals' charges for services that are unpaid.

These expenditures shall be limited to no more than seven thousand five hundred dollars ($7,500) per patient per admission and shall be restricted (i) to situations in which a patient is financially unable to afford ambulance or other transportation for discharge; (ii) to afford placement in an after-care facility pending approval of third party entitlement benefits; (iii) to assure availability of a bed in an after-care facility after discharge from the hospitals; (iv) to secure equipment or other medically appropriate services after discharge; (v) or to pay health insurance premiums. The Executive Director or the Director's designee shall reevaluate at least once a month the cost-effectiveness of any continuing payment on behalf of a patient.

To the extent that the University of North Carolina Hospitals at Chapel Hill advance anticipated government entitlement benefits for a patient's benefit, for which the patient later receives a lump sum "backpay" award from an agency of the State, whether for the current admission or subsequent admission, the State agency shall withhold from this backpay an amount equal to the sum advanced on the patient's behalf by the University of North Carolina Hospitals at Chapel Hill, if, prior to the disbursement of the backpay, the applicable State program has received notice from the University of North Carolina Hospitals at Chapel Hill of the advancement.

(f) Purchases. -- ~~The University of North Carolina Hospitals at Chapel Hill shall be subject to all provisions of Articles 3 and 3A of Chapter 143 of the General Statutes relating to the Department of Administration, Purchase and Contract Division.~~ There shall be maintained a purchasing office to handle all purchasing requirements of the University of North Carolina Hospitals at Chapel Hill. ~~The Purchase and Contract Division may enter into such arrangements with the board of directors as the Division may deem necessary in consideration of the special requirements of the University of North Carolina Hospitals at Chapel Hill for procurement of certain supplies, materials, equipments and services.~~ Notwithstanding the provisions of Articles 3 and 3A of Chapter 143 of the General Statutes to the

contrary, the Board of Directors shall establish policies and regulations governing the purchasing requirements of the University of North Carolina Hospitals at Chapel Hill. These policies and regulations shall provide for requests for proposals, competitive bidding or purchasing by means other than competitive bidding, contract negotiations and contract awards for purchasing supplies, materials, equipment, and services which are necessary and appropriate to fulfill the clinical, educational, research, and community service missions of the University of North Carolina Hospitals at Chapel Hill. The Board of Directors shall seek the advice of the Director of the Purchase and Contract Division on an annual basis concerning the adequacy of the University of North Carolina Hospitals at Chapel Hill management staff and internal controls to administer the additional authorities authorized under this section.

(g) Property. -- ~~The board of directors shall be responsible to the University Board of Governors for the maintenance, operation, and control of the University of North Carolina Hospitals at Chapel Hill and grounds.~~ Notwithstanding the provisions of Article 6 of Chapter 146 of the General Statutes to the contrary, the Board of Directors shall establish rules and regulations to perform the functions otherwise prescribed for the Department of Administration in acquiring or disposing of any interest in real property by the University of North Carolina Hospitals at Chapel Hill. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the University of North Carolina Hospitals at Chapel Hill. This section does not authorize the Board of Directors to encumber real property. The Board of Directors shall seek the advice of the State Property Office on an annual basis concerning the adequacy of the University of North Carolina Hospitals at Chapel Hill management staff and internal controls to administer the additional authorities permitted by this section. After review by the Attorney General as to form and after the consummation of any such acquisition, the University of North Carolina Hospitals at Chapel Hill shall promptly file a report concerning the acquisition or disposition with the Governor and Council of State.

(h) Patient Information. -- The University of North Carolina Hospitals at Chapel Hill shall, at the earliest possible opportunity, specifically make a verbal and written request to each patient to disclose the patient's Social Security number, if any. If the patient does not disclose that number, the University of North Carolina Hospitals at Chapel Hill shall deny benefits, rights, and privileges of the University of North Carolina Hospitals at Chapel Hill to the patient as soon as practical, to the maximum extent permitted by federal law or federal regulations. The University of North Carolina Hospitals at Chapel Hill shall make the disclosure to the patient required by Section 7(b) of P.L. 93-579. This subsection is supplementary to G.S. 105A-3(c).

(i) Property Construction. -- Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the Board of Directors shall, with respect to the design, construction, and renovation of buildings, utilities, and other property developments of the University of North Carolina Hospitals at Chapel Hill requiring the expenditure of public money:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures governing the responsibilities of the University of North Carolina Hospitals at Chapel Hill to perform the duties of the Department of Administration, the Office of State Construction, and the State Building Commission under G.S. 133-1.1(d), Article 8 of Chapter 143 of the General Statutes, and G.S. 143-341(3).

(3) Develop procedures and limitations governing the use of open-end design agreements.

(4) As appropriate, submit construction documents for review and approval by the Department of Insurance and the Division of Facility Services of the Department of Human Resources.

(5) Use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(6) Seek the advice of the Director of the Office of State Construction on an annual basis concerning the adequacy of the University of North Carolina Hospitals at Chapel Hill management staff and internal controls to administer the additional authorities authorized by this section."

(b) G.S. 126-5 is amended by adding a new subsection to read:

"(c8) Except as to the provisions of Articles 5, 6, and 7 of this Chapter, the provisions of this Chapter shall not apply to:

(1) Employees of the University of North Carolina Hospitals at Chapel Hill.

(2) Employees of the Medical Faculty Practice Plan, a Division of the School of Medicine of East Carolina University.

(3) Employees of UNC Physicians and Associates, a Division of the School of Medicine of the University of North Carolina at Chapel Hill."

(c) G.S. 143-56 reads as rewritten:

"**§ 143-56. Certain purchases excepted from provisions of Article.**

Unless as may otherwise be ordered by the Secretary of Administration, the purchase of supplies, materials and equipment through the Secretary of Administration shall be mandatory in the following cases:

(1) Published books, manuscripts, maps, pamphlets and periodicals.

(2) Perishable articles such as fresh vegetables, fresh fish, fresh meat, eggs, and others as may be classified by the Secretary of Administration.

Purchase through the Secretary of Administration shall not be mandatory for a purchase of supplies, materials or equipment for the General Assembly if the total expenditures is less than the expenditure benchmark established under the provisions of G.S. ~~143-53.1 or~~ 143-53.1, for group purchases made by hospitals through a competitive bidding purchasing program, as defined in G.S. ~~143-129.~~ 143-129, by the University of North Carolina Hospitals at Chapel Hill pursuant to G.S. 116-37(f), by the University of North Carolina at Chapel Hill on behalf of UNC Physicians and Associates pursuant to G.S. 116-37.2(c), or by East Carolina University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

All purchases of the above articles made directly by the departments, institutions and agencies of the State government shall, whenever possible, be based on competitive bids. Whenever an order is placed or contract awarded for such articles by any of the departments, institutions and agencies of the State government, a copy of such order or contract shall be forwarded to the Secretary of Administration and a record of the competitive bids upon which it was based shall be retained for inspection and review."

(d) G.S. 146-22 reads as rewritten:

"**§ 146-22. All acquisitions to be made by Department of Administration.**

Every acquisition of land on behalf of the State or any State agency, whether by purchase, condemnation, lease, or rental, shall be made by the Department of Administration and approved by the Governor and Council of State; provided that if the proposed acquisition is a purchase of land with an appraised value of at least twenty-five thousand dollars ($25,000), and the acquisition is for other than a

transportation purpose, the acquisition may only be made after consultation with the Joint Legislative Commission on Governmental ~~Operations.~~ Operations; and provided further, that acquisitions on behalf of the University of North Carolina Hospitals at Chapel Hill shall be made in accordance with G.S. 116-37(g), acquisitions on behalf of the UNC Physicians and Associates shall be made in accordance with G.S. 116-37.2(d), and acquisitions on behalf of the Medical Faculty Practice Plan made in accordance with G.S. 116-40.6(d). In determining whether the appraised value is at least twenty-five thousand dollars ($25,000), the value of the property in fee simple shall be used. The State may not purchase land as a tenant-in-common without consultation with the Joint Legislative Commission on Governmental Operations if the appraised value of the property in fee simple is at least twenty-five thousand dollars ($25,000)."

(e) G.S. 133-1.1(d) reads as rewritten:

"(d) On projects on which no registered architect or engineer is required pursuant to the provisions of this section, the governing board or awarding authority shall require a certificate of compliance with the State Building Code from the city or county inspector for the specific trade or trades involved or from a registered architect or engineer, except that the provisions of this subsection shall not apply on projects (i) wherein plans and specifications are approved by the Department of Administration, Division of State Construction, and the completed project is inspected by the Division of State Construction and the State Electrical Inspector, (ii) that are exempt from the State Building Code, or (iii) that are subject to G.S. 116-31.11 and the completed project is inspected by the State Electrical Inspector and by The University of North Carolina or its constituent or affiliated institution; , (iv) that are subject to G.S. 116-37(i) and the completed project is inspected by the State Electrical Inspector and by the University of North Carolina Hospitals at Chapel Hill, (v) that are subject to G.S. 116-37.2(e) and the completed project is inspected by the State Electrical Inspector and by the University of North Carolina at Chapel Hill on behalf of the UNC Physicians and Associates, or (vi) that are subject to G.S. 116-40.6(e) and the completed project is inspected by the State Electrical Inspector and by East Carolina University on behalf of the Medical Faculty Practice Plan."

(f) Chapter 116 of the General Statutes is amended by adding the following:

"**§ 116-37.2. The University of North Carolina Physicians and Associates.**

(a) UNC Physicians and Associates. -- "UNC Physicians and Associates," a division of the School of Medicine of the University of North Carolina at Chapel Hill, operates clinical programs and facilities for the purpose of providing medical care to the general public and training physicians and other health care professionals.

(b) Personnel. -- All employees of UNC Physicians and Associates shall be deemed to be employees of the State and shall be subject to all provisions of State law relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, and 7 of Chapter 126 of the General Statutes, the provisions of Chapter 126 shall not apply to employees of UNC Physicians and Associates, and the policies and procedures governing the terms and conditions of employment of such employees shall be adopted by the Board of Trustees of the University of North Carolina at Chapel Hill; provided, that with respect to such employees as may be members of the faculty of the University of North Carolina at Chapel Hill, no such policies and procedures may be inconsistent with policies established by, or adopted pursuant to delegation from, the Board of Governors of the University of North Carolina. Such policies and procedures shall be implemented on behalf of UNC Physicians and Associates by a personnel office maintained by the University of North Carolina at Chapel Hill.

(1) The Board of Trustees shall fix or approve the schedules of pay, expense allowances, and other compensation and adopt position classification plans for employees of UNC Physicians and Associates.

(2) The Board of Trustees may adopt or provide for rules and regulations concerning, but not limited to, annual leave, sick leave, special leave with full pay or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service awards, and incentive award programs, grounds for dismissal, demotion, or discipline, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and effective career employees. However, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall not have his or her compensation reduced as a result of this subdivision. Further, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall be subject to the rules regarding discipline or discharge that were effective on October 31, 1998, and shall not be subject to the rules regarding discipline or discharge adopted after October 31, 1998.

(3) The Board of Trustees may prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of UNC Physicians and Associates.

(4) The Board of Trustees shall establish boards, committees, or councils to conduct hearings upon the appeal of employees who have been suspended, demoted, otherwise disciplined, or discharged, to hear employee grievances, or to undertake any other duties relating to personnel administration that the Board of Trustees may direct.

(c) Purchases. -- Notwithstanding the provisions of Articles 3 and 3A of Chapter 143 of the General Statutes to the contrary, the Board of Trustees of the University of North Carolina at Chapel Hill shall establish policies and regulations governing the purchasing requirements of UNC Physicians and Associates. These policies and regulations shall provide for requests for proposals, competitive bidding or purchasing by means other than competitive bidding, contract negotiations and contract awards for purchasing supplies, materials, equipment, and services which are necessary and appropriate to fulfill the clinical and educational missions of UNC Physicians and Associates. Pursuant to such policies and regulations, purchases for UNC Physicians and Associates shall be effected by a purchasing office maintained by the University of North Carolina at Chapel Hill. The Board of Trustees shall seek the advice of the Director of the Purchase and Contract Division on an annual basis concerning the adequacy of the University of North Carolina at Chapel Hill management staff and internal controls to administer the additional authorities authorized under this section.

(d) Property. -- Notwithstanding the provisions of Article 6 of Chapter 146 of the General Statutes to the contrary, the Board of Trustees shall establish rules and regulations to perform the functions otherwise prescribed for the Department of Administration in acquiring or disposing of any interest in real property for the use of UNC Physicians and Associates. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of UNC Physicians and Associates. This section does not

authorize the Board of Trustees to encumber real property. Such rules and regulations shall be implemented by a property office maintained by the University of North Carolina at Chapel Hill. The Board of Trustees shall seek the advice of the State Property Office on an annual basis concerning the adequacy of the University of North Carolina at Chapel Hill management staff and internal controls to administer the additional authorities permitted by this section. After review by the Attorney General as to form and after the consummation of any such acquisition, the University of North Carolina at Chapel Hill shall promptly file, on behalf of UNC Physicians and Associates, a report concerning the acquisition or disposition with the Governor and Council of State.

(e) Property Construction. -- Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the Board of Trustees shall adopt policies and procedures to be implemented by the administration of the University of North Carolina at Chapel Hill, with respect to the design, construction, and renovation of buildings, utilities, and other property developments for the use of UNC Physicians and Associates, requiring the expenditure of public money for:

(1) Conducting the fee negotiations for all design contracts and supervising the letting of all construction and design contracts.

(2) Performing the duties of the Department of Administration, the Office of State Construction, and the State Building Commission under G.S. 133-1.1(d), Article 8 of Chapter 143 of the General Statutes, and G.S. 143-341(3).

(3) Using open-end design agreements.

(4) As appropriate, submitting construction documents for review and approval by the Department of Insurance and the Division of Facility Services of the Department of Human Resources.

(5) Using the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

The Board of Trustees shall seek the advice of the Director of the Office of State Construction on an annual basis concerning the adequacy of the University of North Carolina at Chapel Hill management staff and internal controls to administer the additional authorities authorized by this section.

"**§ 116-40.6. East Carolina University Medical Faculty Practice Plan.**

(a) Medical Faculty Practice Plan. -- The "Medical Faculty Practice Plan," a division of the School of Medicine of East Carolina University, operates clinical programs and facilities for the purpose of providing medical care to the general public and training physicians and other health care professionals.

(b) Personnel. -- Employees of the Medical Faculty Practice Plan shall be deemed to be employees of the State and shall be subject to all provisions of State law relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, and 7 of Chapter 126 of the General Statutes, the provisions of Chapter 126 shall not apply to employees of the Medical Faculty Practice Plan, and the policies and procedures governing the terms and conditions of employment of such employees shall be adopted by the Board of Trustees of East Carolina University; provided, that with respect to such employees as may be members of the faculty of East Carolina University, no such policies and procedures may be inconsistent with policies established by, or adopted pursuant to delegation from, the Board of Governors of the University of North Carolina. Such policies and procedures shall be implemented on behalf of the Medical Faculty Practice Plan by a personnel office maintained by East Carolina University.

(1) The Board of Trustees shall fix or approve the schedules of pay, expense allowances, and other compensation and adopt position

classification plans for employees of the Medical Faculty Practice Plan.

(2) The Board of Trustees may adopt or provide for rules and regulations concerning, but not limited to, annual leave, sick leave, special leave with full pay or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service awards, and incentive award programs, grounds for dismissal, demotion, or discipline, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and effective career employees. However, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall not have his or her compensation reduced as a result of this subdivision. Further, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall be subject to the rules regarding discipline or discharge that were effective on October 31, 1998, and shall not be subject to the rules regarding discipline or discharge adopted after October 31, 1998.

(3) The Board of Trustees may prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the Medical Faculty Practice Plan.

(4) The Board of Trustees shall establish boards, committees or councils to conduct hearings upon the appeal of employees who have been suspended, demoted, otherwise disciplined, or discharged, to hear employee grievances, or to undertake any other duties relating to personnel administration that the Board of Trustees may direct.

(c) Purchases. -- Notwithstanding the provisions of Articles 3 and 3A of Chapter 143 of the General Statutes to the contrary, the Board of Trustees of East Carolina University shall establish policies and regulations governing the purchasing requirements of the Medical Faculty Practice Plan. These policies and regulations shall provide for requests for proposals, competitive bidding or purchasing by means other than competitive bidding, contract negotiations and contract awards for purchasing supplies, materials, equipment, and services which are necessary and appropriate to fulfill the clinical and educational missions of the Medical Faculty Practice Plan. Pursuant to such policies and regulations, purchases for the Medical Faculty Practice Plan shall be effected by a purchasing office maintained by East Carolina University. The Board of Trustees shall seek the advice of the Director of the Purchase and Contract Division on an annual basis concerning the adequacy of the East Carolina University management staff and internal controls to administer the additional authorities authorized under this section.

(d) Property. -- Notwithstanding the provisions of Article 6 of Chapter 146 of the General Statutes to the contrary, the Board of Trustees shall establish rules and regulations to perform the functions otherwise prescribed for the Department of Administration in acquiring or disposing of any interest in real property for the use of the Medical Faculty Practice Plan. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the Medical Faculty Practice Plan. This section does not authorize the Board of Trustees to encumber real property. Such rules and regulations shall be implemented by a property office maintained by East Carolina University. The Board of Trustees shall seek the advice of the State

Property Office on an annual basis concerning the adequacy of the East Carolina University management staff and internal controls to administer the additional authorities permitted by this section. After review by the Attorney General as to form and after the consummation of any such acquisition, East Carolina University shall promptly file, on behalf of the Medical Faculty Practice Plan, a report concerning the acquisition or disposition with the Governor and Council of State.

(e) Property Construction. -- Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the Board of Trustees shall adopt policies and procedures, to be implemented by the administration of East Carolina University, with respect to the design, construction, and renovation of buildings, utilities, and other property developments for the use of the Medical Faculty Practice Plan, requiring the expenditure of public money for:

(1) Conducting the fee negotiations for all design contracts and supervising the letting of all construction and design contracts.

(2) Performing the duties of the Department of Administration, the Office of State Construction, and the State Building Commission under G.S. 133-1.1(d), Article 8 of Chapter 143 of the General Statutes, and G.S. 143-341(3).

(3) Using open-end design agreements.

(4) As appropriate, submitting construction documents for review and approval by the Department of Insurance and the Division of Facility Services of the Department of Human Resources.

(5) Using the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

The Board of Trustees shall seek the advice of the Director of the Office of State Construction on an annual basis concerning the adequacy of East Carolina University management staff and internal controls to administer the additional authorities authorized by this section."

(g) This section becomes effective November 1, 1998.

Requested by: Senators Lee, Winner

UNC APPLICATIONS POOL

Section 11.9. The Board of Governors of The University of North Carolina shall create a system that provides for the sharing of selected applications for admissions from North Carolina residents among the constituent institutions. The intent of the system shall be to increase the number of qualified North Carolina high school graduates who participate in higher education by providing information about applicants to other schools as well as providing information to applicants about alternative higher education opportunities in North Carolina. The Board of Governors may cooperate with the State Board of Community Colleges and with the private colleges and universities in North Carolina in creating such a system.

The Board of Governors shall report on its progress in developing such a system to the Joint Legislative Education Oversight Committee by January 15, 1999.

Requested by: Senators Lee, Winner, Plyler

PRIVATE COLLEGES/INCENTIVE FUNDS

Section 11.10. G.S. 116-20 reads as rewritten:

"**§116-20. Scholarship and contract terms; base period.**

In order to encourage and assist private institutions to educate additional numbers of North Carolinians, the Board of Governors of the University of North Carolina is hereby authorized to enter into contracts within the institutions under the terms of which an institution receiving any funds that may be appropriated pursuant to this section would agree that, during any fiscal year in which such funds were received,

the institution would provide and administer scholarship funds for needy North Carolina students in an amount at least equal to the amount paid to the institution, pursuant to this section, during the fiscal year. Under the terms of the contracts the Board of Governors of the University of North Carolina would agree to pay to the institutions, subject to the availability of funds, a fixed sum of money for each North Carolina student enrolled as of October 1 of any year for which appropriated funds may be available, over and above the number of North Carolina students enrolled in that institution as of October 1, ~~1970,~~ 1997, which shall be the base date for the purpose of this calculation. Funds appropriated pursuant to this section shall be paid by the ~~Department of Administration~~ State Education Assistance Authority to an institution upon recommendation of the Board of Governors of the University of North Carolina and on certification of the institution showing the number of North Carolina students enrolled at the institution as of October 1 of any year for which funds may be appropriated over the number enrolled on the base date. In the event funds are appropriated for expenditure pursuant to this section and funds are also appropriated, for the same fiscal year, for expenditure pursuant to G.S. 116-19, students who are enrolled at an institution in excess of the number enrolled on the base date may be counted under this section for the purpose of calculating the amount to be paid to the institution, but the same students may ~~not~~ also be counted under G.S. 116-19, for the purpose of calculating payment to be made under that section."

Requested by: Senators Lee, Winner, Odom, Plyler

SUSTAINABLE OYSTER AQUACULTURE STUDY

Section 11.11. (a) Of the funds appropriated in this act to the Board of Governors of The University of North Carolina for fiscal year 1998-99, the sum of three hundred thousand dollars ($300,000) shall be allocated to the Institute of Marine Sciences at the University of North Carolina at Chapel Hill to study the potential for sustainable oyster aquaculture of triploid Crassostrea sikamea (Kumamoto), triploid Crassostrea ariakensis (Suminoe), triploid Crassostrea gigas (Pacific), and triploid Ostrea edulis (European flat). Testing shall be carried out under a variety of environmental conditions, including, but not limited to, the evaluation of oyster growth of each type of oyster in polluted waters and the ability of each type of oyster to purify polluted waters.

(b) The Primary Investigator or Researcher receiving funding pursuant to subsection (a) of this section shall provide progress reports to the Joint Legislative Commission on Seafood and Aquaculture, the Environmental Review Commission, the Marine Fisheries Commission, and the Fiscal Research Division on January 1 and July 1 of each year until the project or study is complete. Upon completion of the project or study, the Primary Investigator or Researcher shall provide a final report of its findings and recommendations to the above entities.

PART XII. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART 1. ADMINISTRATION

Requested by: Senator Martin of Guilford

STANDARDS FOR HEALTH CARE QUALITY AND ACCESS/EXTEND REPORTING DATE

Section 12. Section 11.5(a) of S.L. 1997-443 reads as rewritten:

"(a) The Secretary of the Department of Health and Human ~~Resources~~ Services shall prepare proposed standards to ensure that the citizens of the State have access to quality and affordable health care with special emphasis on health care for children. The proposed standards shall be presented to the General Assembly on or before ~~April 1, 1998.~~ May 1, 1999."

Requested by: Senator Martin of Guilford

HOSPITAL FACILITY AUDITED COST REPORT DUE DATE

Section 12.1. G.S. 131D-4.2(e) reads as rewritten:

"(e) ~~The first audited cost report shall be for the period from January 1, 1995, through September 30, 1995, and shall be due March 1, 1996. Thereafter, the~~ The annual reporting period for facilities licensed pursuant to this Chapter or Chapter 131E of the General Statutes other than facilities owned and operated by a hospital shall be October 1 through September 30, with the annual report due by the following December 31, unless the Department determines there is good cause for delay. The annual report for facilities owned and operated by a hospital shall be due 15 days after the hospital's Medicare cost report is due. The annual reporting period for facilities licensed pursuant to Chapter 122C of the General Statutes shall be July 1 through June 30, with the annual report due by the following December 31, unless the Department determines there is good cause for delay. Under this subsection, good cause is an action that is uncontrollable by the provider. If the Department finds good cause for delay, it may extend the deadline for filing a report for up to an additional 30 days."

Requested by: Senator Martin of Guilford

OFFICE OF STRATEGIC PLANNING

Section 12.2. It is the intent of the General Assembly that the Department of Health and Human Services provide coordinated and strategic planning for the State's health and human services. The Department shall study the advisability of creating an Office of Strategic Planning in the Office of the Secretary of Health and Human Services. The Director of the Office of Strategic Planning would report directly to the Secretary and would have the following responsibilities:

(1) Implementing ongoing strategic planning that integrates budget, personnel and resources with the mission and operational goals of the Department;

(2) Improving program functioning and performance within the agency, across agency lines, and with non-State agencies; and

(3) Reviewing, disseminating, monitoring, and evaluating best practice models.

The Department shall report its findings and recommendations, which shall include the advantages and disadvantages of creating an Office of Strategic Planning and projected costs of implementation. The report shall be made to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and shall be submitted not later than February 1, 1999.

Requested by: Senators Plyler, Perdue, Odom

HUMAN SERVICES GRANTS

Section 12.3. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two million dollars ($2,000,000) for the 1998-99 fiscal year shall be used for grants for programs that provide services to older adults, adults with disabilities, at-risk children, and youth and families. The Secretary of the Department of Health and Human Services shall continue the process for the review, evaluation, and consideration of applications for these grants.

In awarding grants, the Secretary shall consider the merits of the program, the benefit to the State and local communities of the program, and the cost of the program.

Requested by: Senators Martin of Guilford, Plyler, Perdue, Odom

AREA MENTAL HEALTH/ELDERLY HOUSING NONRECURRING PROJECT FUNDS

Section 12.4. (a) Notwithstanding G.S. 143-15.3C, of the funds in the Work First Reserve Fund, nine million five hundred thousand dollars ($9,500,000) shall be appropriated pursuant to G.S. 108A-27.16 to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 1998-99 fiscal year for capital and nonrecurring projects for area mental health authorities as follows:

(1) $500,000 for Developmental Disabilities Services, for wait list management;

(2) $3,500,000 for Developmental Disabilities Services, for distribution to individual facilities, with priority given to the greatest and most justifiable needs. None of these funds shall be distributed for items not historically funded by the State;

(3) $2,500,000 for Substance Abuse Services, for distribution to individual facilities, with priority given to the greatest and most justifiable needs. None of these funds shall be distributed for items not historically funded by the State; and

(4) $3,000,000 for Mental Health Services, for distribution to individual facilities to meet the Developmental Day Inclusion Goal, with priority given to the greatest and most justifiable needs. None of these funds shall be distributed for items not historically funded by the State.

(b) Notwithstanding G.S. 143-15.3C, of the funds in the Work First Reserve Funds, the sum of two million dollars ($2,000,000) is appropriated to the Housing Trust Fund for affordable housing for the elderly.

SUBPART 2. MEDICAL ASSISTANCE

Requested by: Senator Martin of Guilford

MEDICAID GROWTH REDUCTION

Section 12.5. Section 11.10 of S.L. 1997-443 reads as rewritten:

"Section 11.10. (a) The Department of ~~Human Resources~~ Health and Human Services shall develop and implement a plan that is designed to reduce the growth of Medicaid to eight percent (8%) by the year 2001. However, the Department shall not eliminate categories of eligibles or categories of services to achieve this reduction unless the General Assembly identifies specific categories of eligibles or categories of services that it wants eliminated.

(b) The Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, shall consider the following actions in developing the plan to reduce Medicaid growth:

(1) Changes in the methods of reimbursement;

(2) Changes in the method of determining or limiting inflation factors or both;

(3) Recalibration of existing methods of reimbursement;

(4) Develop more specific criteria for determining medical necessity of services;

(5) Contracting for services;

(6) Application of limits on specific numbers of slots or expenditure levels for certain services or both;

(7) Expansion of managed care; and

(8) Recommend changes in statutes to enhance the ability of the Department to manage the program.

(c) In considering the actions listed in subsection (b) of this section and in the development of the Medicaid growth reduction plan, the Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, shall not adjust reimbursement rates to levels which would cause Medicaid providers of service to be out of compliance with certification requirements, licensure rules, or other mandated quality or safety standards.

(d) The Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, may make periodic progress reports to the ~~Chairs~~ members of the ~~House and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and shall make a final report no later than September 1, 1997, on any actions the Department intends to take to meet the required reductions for 1998-99. The Division of Medical Assistance shall not implement any of these actions until after the intended actions have been reported to the ~~Chairs.~~ members.

(e) The Division of Medical Assistance, Department of ~~Human Resources,~~ Health and Human Services, shall report to the ~~Chairs~~ members of the ~~House and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by ~~April 1, 1998,~~ February 1, 1999, on the final plan to reduce Medicaid growth to eight percent (8%) by the year 2001."

Requested by: Senator Martin of Guilford

RULES GOVERNING TRANSFER OF MEDICAID BENEFITS BETWEEN COUNTIES

Section 12.6. Chapter 108A of the General Statutes is amended by inserting a new section to read:

"**§ 108A-57.1. Rules governing transfer of medical assistance benefits between counties.**

Any recipient of medical assistance who moves from one county to another county of this State shall continue to receive medical assistance if eligible. The county director of social services of the county from which the recipient has moved shall transfer all necessary records relating to the recipient to the county director of social services of the county to which the recipient has moved. The county from which the recipient has moved shall pay the county portion of the nonfederal share of medical assistance payments paid for services provided to the recipient during the month following the recipient's move. Thereafter, the county to which the recipient has moved shall pay the county portion of the nonfederal share of medical assistance payments paid for the services provided to the recipient."

Requested by: Senator Martin of Guilford

CONTINUOUS MEDICAID COVERAGE FOR CATEGORICALLY NEEDY FAMILIES WITH CHILDREN

Section 12.7. (a) Section 11.11 of S.L. 1997-443 is amended by inserting a new subsection to read:

"(n1) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets."

(b) The Department of Health and Human Services shall study the effect of this section on both the Medicaid Program and on the Health Insurance Program for Children. The Department shall make an interim report on the results of this study to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by October 1, 1999, and shall make a final report by January 1, 2000.

(c) This section becomes effective October 1, 1998.

Requested by: Senator Martin of Guilford

ALLOCATION OF G.S. 143-23.2 MEDICAID FUNDS

Section 12.8. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, thirteen million dollars ($13,000,000) shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the thirteen million dollar ($13,000,000) reduction in general revenue funding effected in this act.

Requested by: Senators Plyler, Perdue, Odom, Martin of Guilford, Lucas, Cochrane

PRIORITY STUDY OF MEDICAID BENEFITS FOR CERTAIN AGED AND DISABLED PERSONS

Section 12.9. (a) The Department of Health and Human Services shall make it a priority to study ways to meet the medical needs of aged and disabled persons whose annual income is equal to or less than one hundred percent (100%) of the federal poverty level, including ways to provide the State match for Medicaid benefits for these persons.

(b) The Department of Health and Human Services shall report the results of this study to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by March 1, 1999.

Requested by: Senator Martin of Guilford

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPT CHANGE

Section 12.10. (a) Disproportionate share receipts reserved at the end of the 1997-98 fiscal year shall be deposited with the Department of State Treasurer as a nontax revenue for the 1998-99 fiscal year.

(b) For the 1998-99 fiscal year, as it receives funds associated with Disproportionate Share Payments from the State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to eighty-five million dollars ($85,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenues. Any Disproportionate Share Payments collected in excess of the eighty-five million dollars ($85,000,000) shall be reserved by the State Treasurer for future appropriations.

Requested by: Senator Martin of Guilford

CHILD HEALTH INSURANCE TECHNICAL CHANGES

Section 12.11. G.S. 108A-70.18(8), as enacted by Section 1 of S.L. 1998-1 Extra Session, reads as rewritten:

"(8) 'Uninsured' means the applicant for Program benefits was not covered under any private or employer-sponsored comprehensive health insurance plan for the six-month period immediately preceding the date ~~the Program becomes effective.~~ of application for Program benefits. Effective ~~six months from date the Program becomes effective,~~ April 1, 1999, 'uninsured' means the applicant is and was not covered under any private or employer-sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under this subdivision shall be waived if the child has been enrolled in Medicaid and has lost Medicaid ~~eligibility due to a change in family income~~ eligibility, has lost health care benefits due to cessation of a nonprofit organization program that provides

health care benefits to low-income children, or has lost employer-sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer-sponsored health coverage, or cessation of the employer's business."

Requested by: Senator Martin of Guilford

CHILD HEALTH INSURANCE STUDY/OTHER CHANGES

Section 12.12. (a) The Department of Health and Human Services shall conduct a study to identify Department programs where savings in State funds could be realized because some or all of the services provided by the programs are now provided under the Health Insurance Program for Children. The Department shall report its findings to members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than March 1, 1999.

(b) The Office of State Budget and Management shall examine the expenditures and services of State agencies other than the Department of Health and Human Services to determine whether the expenditures and services could be covered under the State Health Insurance Program for Children. The study shall also examine services provided by non-State agencies and funded in whole or in part with State funds. The Office of State Budget and Management shall report its findings to members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than March 1, 1999.

(c) Section 8 of S.L. 1998-1 Extra Session is repealed.

(d) G.S. 143-682, as enacted by Section 3 of S.L. 1998-1 Extra Session, reads as rewritten:

"**§ 143-682. Commission established.**

(a) There is established the Commission on Children With Special Health Care Needs. The Department of Health and Human Services shall provide staff services and space for Commission meetings. The purpose of the Commission is to monitor and evaluate the availability and provision of health services to special needs children in this State, and to monitor and evaluate services provided to special needs children under the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes.

(b) The Commission shall consist of ~~seven~~ eight members appointed by the Governor, as follows:

(1) ~~A parent of a special needs child;~~ Two parents, not of the same family, each of whom has a special needs child. In appointing parents, the Governor shall consider appointing one parent of a child with chronic illness and one parent of a child with a developmental disability or behavioral disorder.

(2) A licensed psychiatrist recommended by the North Carolina Psychiatric Association;

(3) A licensed psychologist recommended by the North Carolina Psychological Association;

(4) A licensed pediatrician whose practice includes services for special needs children, recommended by the Pediatric Society of North Carolina;

(5) A representative of one of the children's hospitals in the State, recommended by the Pediatric Society of North Carolina;

(6) A local public health director recommended by the Association of Local Health Directors; and

(7) An educator providing education services to special needs children, recommended by the North Carolina Council of Administrators of Special Education.

(c) The Governor shall appoint from among Commission members the person who shall serve as chair of the Commission. Of the initial appointments, two shall serve one-year terms, ~~two~~ three shall serve two-year terms, and three shall serve three-year terms. Thereafter, terms shall be for two years. Vacancies occurring before expiration of a term shall be filled from the same appointment category in accordance with subsection (b) of this section."

Requested by: Senators Perdue, Martin of Guilford

STUDY OF ADDITIONAL DENTAL COVERAGE FOR THE HEALTH INSURANCE PROGRAM FOR CHILDREN

Section 12.13. The Department of Health and Human Services shall study the issue of adding dental sealants coverage, additional fluoride treatment, and simple extractions to the dental coverage currently available in the Health Insurance Program for Children.

The Department shall report the results of this study, together with any recommendations, to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and to the Joint Legislative Health Oversight Committee by February 1, 1999.

SUBPART 3. FACILITY SERVICES

Requested by: Senator Martin of Guilford

TRANSFER OF CHARITABLE SOLICITATION PROGRAM TO THE SECRETARY OF STATE

Section 12.14. (a) All functions, powers, duties, and obligations previously vested in the Department of Health and Human Services under Chapter 131F of the General Statutes are transferred to and vested in the Department of the Secretary of State as if by a Type I transfer defined in G.S. 143A-6. All statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations or other funds of the program transferred pursuant to this section shall be transferred in their entirety.

(b) G.S. 131F-2(7) reads as rewritten:

"(7) 'Department' means the Department of ~~Health and Human Services.~~ the Secretary of State."

(c) G.S. 147-36 reads as rewritten:

"**§ 147-36. Duties of Secretary of State.**

It is the duty of the Secretary of State:

(1) To perform such duties as may then be devolved upon ~~him~~ the Secretary by resolution of the two houses of the General Assembly or either of them;

(2) To attend the Governor, whenever required by ~~him,~~ the Governor, for the purpose of receiving documents which have passed the great seal;

(3) To receive and keep all conveyances and mortgages belonging to the State;

(4) To distribute annually the statutes and the legislative journals;

(5) To distribute the acts of Congress received at ~~his~~ the Secretary's office in the manner prescribed for the statutes of the State;

(6) To keep a receipt book, in which ~~he~~ the Secretary shall take from every person to whom a grant shall be delivered, a receipt for the

same; but ~~he~~ may inclose grants by mail in a registered letter at the expense of the grantee, unless otherwise directed, first entering the same upon the receipt book;

(7) To issue charters and all necessary certificates for the incorporation, domestication, suspension, reinstatement, cancellation and dissolution of corporations as may be required by the corporation laws of the State and maintain a record thereof;

(8) To issue certificates of registration of trademarks, labels and designs as may be required by law and maintain a record thereof;

(9) To maintain a Division of Publications to compile data on the State's several governmental agencies and for legislative reference;

(10) To receive, enroll and safely preserve the Constitution of the State and all amendments thereto;

(11) To serve as a member of such boards and commissions as the Constitution and laws of the State may designate;

(12) To administer the Securities Law of the State, regulating the issuance and sale of securities, as is now or may be directed;

(13) To receive and keep all oaths of public officials required by law to be filed in ~~his~~ the Secretary's office, and as Secretary of State, ~~he~~ is fully empowered to administer official oaths to any public official of whom an oath is required; ~~and~~

(14) To receive and maintain a journal of all appointments made to any State board, agency, commission, council or authority which is filed in the office of the Secretary of ~~State.~~ State; and

(15) To regulate the solicitation of contributions pursuant to Chapter 131F of the General Statutes."

(d) This section becomes effective January 1, 1999.

Requested by: Senators Plyler, Perdue, Odom, Kinnaird, Martin of Guilford

ADULT CARE HOMES STAFF RATIO STUDY

Section 12.15. The North Carolina Study Commission on Aging shall study staffing ratios at adult care homes to determine if adequate staffing is being provided on all shifts to ensure quality of care and safety of residents. In conducting the study, the Commission shall consider the changes in staffing ratios proposed and other matters contained in Senate Bill 1492, first edition, 1997 General Assembly, Regular Session 1998.

Requested by: Senator Martin of Guilford

ADULT CARE HOMES REIMBURSEMENT RATE INCREASE

Section 12.16. Section 11.70(d) of S.L. 1997-443 reads as rewritten:

"(d) Effective ~~July 1, 1998,~~ October 1, 1998, the maximum monthly rate for residents in adult care home facilities shall be nine hundred ~~fifteen~~ fifty-six dollars ~~($915.00)~~ ($956.00) per month per resident."

SUBPART 4. AGING

Requested by: Senators Martin of Guilford, Perdue, Plyler, Odom

PRESCRIPTION DRUG ASSISTANCE PROGRAM STUDY

Section 12.17. (a) The Department of Health and Human Services shall work with the Fiscal Research Division of the Legislative Services Office to develop a proposal for a prescription drug assistance program. The purpose of the program shall be to serve low-income elderly and disabled persons who are not eligible for Medicaid and who need prescription drugs to treat a condition which, if left untreated, could result in the person's admission to a nursing facility or otherwise

qualifying for Medicaid. The Department shall utilize the expertise of the Prescription Drug Work Group which authored "A Study of Options for Making Prescription Drugs More Affordable for Older Adults" to complete the analysis necessary for developing the proposal. In developing the proposal the Department shall do the following:

(1) Identify health conditions that need prescription drug treatment and, if not treated, that can lead to nursing home admission or otherwise qualifying the person for Medicaid;
(2) Identify the group of low-income elderly and disabled persons in most need of assistance;
(3) Estimate the number of persons potentially eligible for assistance under the program;
(4) Identify appropriate limitations on levels of assistance;
(5) Estimate the cost of providing drug assistance and the cost of administering the program;
(6) Review similar programs in other states;
(7) Develop a simple and cost-effective system for administering a drug assistance program;
(8) Develop a timetable for program implementation; and
(9) Conduct other activities that will assist in the development of the proposal.

(b) Not later than February 1, 1999, the Department shall report to the 1999 General Assembly with a complete proposal for a prescription drug assistance program. The report shall include several options for consideration by the General Assembly.

Requested by: Senators Martin of Guilford, Plyler, Perdue, Odom

SENIOR CENTER FUNDS

Section 12.18. Section 11.17 of S.L. 1997-443 reads as rewritten:

"Section 11.17. Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, the sum of one million dollars ($1,000,000) for the ~~1997-98~~ 1998-99 fiscal year shall be used to support existing senior centers and to assist in the development of new senior centers. The Department shall allocate funds equally among senior centers throughout the State as determined by the Division of Aging. Expenditures of State funds for senior centers shall not exceed ninety percent (90%) of all funds expended for this purpose."

Requested by: Senators Martin of Guilford, Plyler, Perdue, Odom

IN-HOME AND CAREGIVER SUPPORT FUNDS

Section 12.19. Section 11.18 of S.L. 1997-443 reads as rewritten:

"Section 11.18. Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, Division of Aging, the sum of five million dollars ($5,000,000) for the 1997-98 fiscal year and the sum of ~~five~~ eight million dollars ~~($5,000,000)~~ ($8,000,000) for the 1998-99 fiscal year shall be allocated via the Home and Community Care Block Grant for home and community care services for older persons who are not eligible for Medicaid and who are on the waiting list for these services. These funds shall be used only for direct services. Service recipients shall pay for services based on their income in accordance with G.S. 143B-181.1(a)(10)."

Requested by: Senator Martin of Guilford

FUNDS FOR ALZHEIMER'S ASSOCIATION CHAPTERS IN NC

Section 12.20. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Aging, the sum of one hundred thousand dollars ($100,000) for the 1998-99 fiscal year shall be allocated among the three chapters of the Alzheimer's Association, as follows:

(1) $25,000 for the Western Alzheimer's Chapter;
(2) $50,000 for the Southern Piedmont Alzheimer's Chapter; and
(3) $25,000 for the Eastern Alzheimer's Chapter.

Before funds may be allocated to any Chapter under this section, the Chapter shall submit to the Division of Aging, for its approval, a plan for the use of these funds.

SUBPART 5. SOCIAL SERVICES

Requested by: Senators Martin of Guilford, Kinnaird, Lucas

AUTHORIZED ADDITIONAL USE OF HIV FOSTER CARE AND ADOPTIVE FAMILY FUNDS

Section 12.21. Section 11.23 of S.L. 1997-443 reads as rewritten:

"Section 11.23. (a) In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated ~~in Chapter 324 of the 1995 Session Laws~~ for this purpose shall be used as follows:

(1) To provide medical training in avoiding HIV transmission in the home; and
(2) To ~~transfer~~ provide funds ~~to the Department of Environment, Health, and Natural Resources to create~~ to support three social work positions created within the Department of ~~Environment, Health, and Natural Resources,~~ Health and Human Services, for the eastern part of North Carolina to enable the case managing of families with HIV-infected children so that the children and the parents get access to medical care and so that child protective services issues are addressed rapidly and effectively. The three positions shall be medically based and located:
   a. One in the northeast, covering Northampton, Hertford, Halifax, Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck, Bertie, Wilson, Edgecombe, and Nash Counties;
   b. One in the central east, covering Martin, Pitt, Washington, Tyrrell, Dare, Hyde, Beaufort, Jones, Greene, Craven, and Pamlico Counties; and
   c. One in the southeast, covering New Hanover, Robeson, Brunswick, Carteret, Onslow, Lenoir, Pender, Duplin, Bladen, and Columbus Counties.

(b) The maximum rates for State participation in HIV foster care and adoptions assistance are established on a graduated scale as follows:

(1) $800.00 per month per child with indeterminate HIV status;
(2) $1,000 per month per child confirmed HIV-infected, asymptomatic;
(3) $1,200 per month per child confirmed HIV-infected, symptomatic; and
(4) $1,600 per month per child terminally ill with complex care needs."

Requested by: Senator Martin of Guilford

CHILD WELFARE SYSTEM IMPROVEMENTS

Section 12.22. Section 11.57 of S.L. 1997-443 reads as rewritten:

"Section 11.57. (a) Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, Division of Social Services, the sum of two million two hundred ~~sixty~~-nine thousand seven hundred fifty-two dollars ($2,269,752) for the 1997-98 fiscal year and the sum of two million two hundred sixty-nine thousand seven hundred fifty-two dollars ($2,269,752) for the 1998-99 fiscal year shall be allocated to county departments of social services for hiring or contracting for additional foster care and adoption worker and supervisor positions created after July 1, 1997, based upon a formula which takes into consideration the number of ~~foster care and adoption~~ cases and the number of ~~foster care and adoption~~ workers and supervisors necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services. County departments of social services shall make diligent efforts to hire staff with a professional social work degree from an accredited social work program.

(b) Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, Division of Social Services, the sum of one hundred fifty-nine thousand dollars ($159,000) for the 1997-98 fiscal year and the sum of one hundred sixty-three thousand dollars ($163,000) for the 1998-99 fiscal year shall be used to provide funds for the State Child Fatality Review Team established and maintained pursuant to Part 4B of Article 3 of Chapter 143B of the General Statutes. ~~establish and maintain a State Child Fatality Review Team to conduct in-depth reviews of any child fatalities which have occurred involving children and families involved with local departments of social services child protective services in the 12 months preceding the fatality.~~

~~The purpose of these reviews shall be to implement a team approach to identifying factors which may have contributed to conditions leading to the fatality and to develop recommendations for improving coordination between local and State entities which might have avoided the threat of injury or fatality and to identify appropriate remedies. The Division of Social Services shall make public the findings and recommendations developed for each fatality reviewed relating to improving coordination between local and State entities.~~

~~The State Child Fatality Review Team shall include representatives of the local departments of social services and the Division of Social Services, a member of the local Community Child Protection Team, a member of the local child fatality prevention team, a representative from local law enforcement, a prevention specialist, and a medical professional.~~

~~The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. Any member of the State Child Fatality Review Team may share, only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.~~

~~Meetings of the State Child Fatality Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any executive session shall be sealed from public inspection.~~

~~All otherwise confidential information and records acquired by the State Child Fatality Review Team, in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings except pursuant to an order of the court; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. In addition, all otherwise confidential information and records created by the State Child Fatality Review Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. No member of the State Child Fatality Review Team, nor any person who attends a meeting of the State Child Fatality Review Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.~~

~~Each member of the State Child Fatality Review Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.~~

Funds allocated under this subsection shall be used as follows:

(1) To contract as needed with a statewide prevention organization and a statewide medical organization to identify and orient prevention specialists and medical professionals with experience in reviewing child fatalities to serve on the State Child Fatality Review Team; and

(2) To pay per diem expenses as needed for the five participants in each review who are not employed by the Division of Social Services or county departments of social services.

The Division of Social Services, Department of ~~Human Resources,~~ Health and Human Services, shall report quarterly to the ~~Cochairs~~ members of the ~~House and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and the Fiscal Research Division on the activities of the State Child Fatality Review Team and shall provide a final report to the ~~House and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources within one week of the convening of the 1997 General Assembly, Regular Session 1998, including recommendations for changes in the statewide child protection system.

(c) Counties shall not use State funds appropriated for child welfare services to supplant county funds or reduce county expenditures for child welfare services.

(d) Notwithstanding G.S. 131D-10.6A, the Division of Social Services shall establish training requirements for child welfare services staff initially hired on and after January 1, 1998. The minimum training requirements established by the Division shall be as follows:

(1) Child welfare services workers must complete a minimum of 72 hours of preservice training before assuming direct client contact responsibilities;

(2) Child protective services workers must complete a minimum of 18 hours of additional training that the Division determines is necessary to adequately meet training needs;

(3) Foster care and adoption social workers must complete a minimum of 39 hours of additional training that the Division determines is necessary to adequately meet training needs;

(4) Child Welfare Services supervisors must complete a minimum of 72 hours of preservice training before assuming supervisory responsibilities, and a minimum of 54 hours of additional training that the Division determines is necessary to adequately meet training needs; and

(5) Child welfare services staff must complete 24 hours of continuing education annually thereafter.

The Division of Social Services shall ensure that training opportunities are available for county departments of social services and consolidated human services agencies to meet the training requirements of this subsection.

~~This subsection shall expire June 30, 1999.~~ This subsection shall continue in effect until explicitly repealed.

(e) Article 3 of Chapter 143B of the General Statutes is amended by inserting a new Part to read:

'Part 4B. State Child Fatality Review Team.

"**§ 143B-150.20. State Child Fatality Review Team; establishment, purpose; powers; duties.**

There is established in the Department of Health and Human Services, Division of Social Services, a State Child Fatality Review Team to conduct in-depth reviews of any child fatalities which have occurred involving children and families involved with local departments of social services child protective services in the 12 months preceding the fatality. Steps in this in-depth review shall include interviews with any individuals determined to have pertinent information as well as examination of any written materials containing pertinent information.

The purpose of these reviews shall be to implement a team approach to identifying factors which may have contributed to conditions leading to the fatality and to develop recommendations for improving coordination between local and State entities which might have avoided the threat of injury or fatality and to identify appropriate remedies. The Division of Social Services shall make public the findings and recommendations developed for each fatality reviewed relating to improving coordination between local and State entities. The State Child Fatality Review Team shall consult with the appropriate district attorney in accordance with G.S. 7A-675(d) prior to the public release of the findings and recommendations.

The State Child Fatality Review Team shall include representatives of the local departments of social services and the Division of Social Services, a member of the local Community Child Protection Team, a member of the local child fatality prevention team, a representative from local law enforcement, a prevention specialist, and a medical professional.

The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. The State Child Fatality Review Team may receive a copy of any reviewed materials necessary to the conduct of the fatality review. Any member of the State Child Fatality Review Team may share, only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.

Meetings of the State Child Fatality Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality Review Team may hold periodic public meetings to discuss, in a general

manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of closed sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any executive session shall be sealed from public inspection.

All otherwise confidential information and records acquired by the State Child Fatality Review Team, in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings except pursuant to an order of the court; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. In addition, all otherwise confidential information and records created by the State Child Fatality Review Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. No member of the State Child Fatality Review Team, nor any person who attends a meeting of the State Child Fatality Review Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

Each member of the State Child Fatality Review Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.'"

Requested by: Senator Martin of Guilford

CHILD PROTECTIVE SERVICES

Section 12.23. Section 11.25 of S.L. 1997-443 reads as rewritten:

"Section 11.25. (a) The funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, Division of Social Services, for the 1997-99 fiscal biennium for Child Protective Services shall be allocated to county departments of social services based upon a formula which takes into consideration the number of Child Protective Services cases and the number of Child Protective Services workers and supervisors necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services.

(b) Funds allocated under subsection (a) of this section shall be used by county departments of social services for carrying out ~~investigations of reports~~ investigative assessments of child abuse or neglect or for providing protective or preventive services in which the department confirms abuse, neglect, or dependency."

Requested by: Senators Plyler, Perdue, Odom, Martin of Guilford

FOOD BANKS FUNDS

Section 12.24. (a) Of the funds appropriated to the Department of Health and Human Services, Division of Social Services, for food banks in this act, the sum of two million four hundred thousand dollars ($2,400,000) for the 1998-99 fiscal year shall be allocated as grants-in-aid as follows:

(1)	Albemarle Food Bank/Food Pantry, Inc.	$400,000
(2)	MANNA Food Bank, Inc.	$400,000
(3)	The Food Bank of Northwest, NC., Inc.	$400,000
(4)	Cumberland County Action/Cape Fear Community Food Bank	$400,000
(5)	Second Harvest Food Bank of Metrolina, Inc.	$400,000

(6) Food Bank, Inc. $400,000.

(b) Of the remaining funds appropriated to the Department of Health and Human Services, Division of Social Services, for food banks in this act, the sum of one hundred thousand dollars ($100,000) shall be used in the 1998-99 fiscal year to provide start-up costs for a food bank in Eastern North Carolina.

Requested by: Senator Martin of Guilford

REPORT ON PROGRESS TOWARDS AUTOMATED APPLICATION SYSTEM

Section 12.25. The Department of Health and Human Services shall make an interim report by November 1, 1998, and a final report within a week of the convening of the 1999 General Assembly to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources on its progress in developing and implementing a single statewide automated application system for all means-tested public assistance benefit programs.

Requested by: Senator Martin of Guilford

BIOMETRICS LAW CHANGES

Section 12.26. (a) G.S. 108A-25.1 reads as rewritten:

"**§ 108A-25.1. Recipient identification system.**

(a) The Department shall establish and maintain a uniform system in the Department and in all counties of identifying all ~~Work First, food stamp, and medical assistance program recipients.~~ Work First recipients, except those who are children under the age of 18. This system shall provide security and portability throughout the State and between the departments within the State involved in means-tested public assistance programs and shall have the capability of identifying recipients of assistance from all means-tested programs administered or funded through the Department.

(b) The identification system established in this section shall use multiple biometrics to ensure greater than ninety-nine percent (99%) accuracy for interdepartmental identification.

(c) The Department shall ensure that the biometric identification system will be compatible with any existing departmental biometric identification system.

(d) The Department shall make biometric identification a condition of eligibility for the Work First assistance program for all recipients described in subsection (a) of this section. If any recipient is denied assistance on the basis of the identification system established in this section, the recipient's whole case, or group of recipients whose eligibility for public assistance is dependent on all the other group members' financial and nonfinancial situation, shall be denied assistance."

(b) Section 12.35 of S.L. 1997-443 reads as rewritten:

"Section 12.35. The Department of Health and Human Services shall have the uniform system of recipient identification established in G.S. 108A-25.1 in place and operating ~~before October 1, 1998.~~ as soon as possible after federal approval of the phase-in process. The Department shall implement the start of the phase-in process no later than October 1, 1999. The phase-in process shall begin with a pilot program in which no more than six applicant counties selected by the Department shall participate. The Department shall select those counties that the Department considers most likely to produce cost reductions and other results that meet federal criteria and that lead to the probability of broader statewide and regional implementation. The Department shall report on this pilot to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and to the Joint Legislative Commission on Governmental Operations by April 1, 2000, together with

any recommendations. Except as otherwise provided in this Part, this Part is effective when it becomes law."

(c) This section is effective when it becomes law.

Requested by: Senator Martin of Guilford

APPROVAL OF TANF STATE PLAN AS MODIFIED/ WELFARE LAW CHANGES

Section 12.27. (a) The General Assembly approves the plan titled "North Carolina's Temporary Assistance for Needy Families State Plan FY 1998-2000", prepared by the Department of Health and Human Services and presented to the General Assembly on May 15, 1998, as amended by changes to the welfare law required by this section and any other act of the General Assembly.

(b) G.S. 108A-27(a) reads as rewritten:

"(a) The Department shall establish, supervise and monitor the Work First Program. The purpose of the Work First Program is to provide eligible families with short-term assistance to facilitate their movement to long-term self-sufficiency through ~~employment.~~ gainful employment, not the mere reduction of the welfare roles. The Department shall ensure that the Work First Program focus on this purpose of long-term self-sufficiency. The ultimate goal of the Work First Program is the gradual elimination of generational poverty and the Department shall ensure that all evaluations of the Work First Program, whether performed at the State or the county level, maintain this purpose and this goal of the Work First Program and effect an on-going determination of whether the Work First Program is successful in facilitating families to move to long-term self-sufficiency and in gradually eliminating generational poverty."

(c) G.S. 108A-27.1 reads as rewritten:

"**§ 108A-27.1. Time limitations on assistance.**

(a) Under the Standard Work First Program, unless an extension or an exemption is provided pursuant to the provisions of the Part or the State Plan, any cash assistance provided to a person or family in the employment program shall only be provided for a cumulative total of 24 months. After having received cash assistance for 24 months, the person or the family may reapply for cash assistance, but not until after ~~36~~ 12 months from the last month the person or the family received cash assistance. This subsection shall not apply to child-only cases.

(b) Electing Counties may set any time limitations on assistance it finds appropriate, so long as the time limitations do not conflict or exceed any federal time limitations."

(d) G.S. 108A-27.2 reads as rewritten:

"**§ 108A-27.2. General duties of the Department.**

The Department shall have the following general duties with respect to the Work First Program:

(1) Ensure that eligibility criteria across the State include the Medicaid Standard of Need for the Categorically Needy;

(1a) Ensure that the specifications of the general provisions of the State Plan regarding the procedures required when recipients are sanctioned, prescribed in G.S. 108A-27.9(c), are uniformly developed and implemented across the State;

(1b) Ensure that qualified two-parent families receive assistance prior to meeting work requirements for three months after qualifying for assistance, in order to encourage families to stay together and to overcome barriers to self-sufficiency and gainful employment;

~~(1)~~ (1c) Provide technical assistance to counties developing and implementing their County Plans, including providing information concerning applicable federal law and regulations and changes to

federal law and regulations that affect the permissible use of federal funds and scope of the Work First Program in a county;

(2) Describe authorized federal and State work activities;

(3) Define requirements for assignment of child support income and compliance with child support activities;

(4) Establish a schedule for counties to submit their County Plans to ensure that all Standard County Plans are adopted by the Standard Program Counties by January 15 of each even-numbered year and all Electing County Plans are adopted by Electing Counties by February 1 of each even-numbered year and review and then recommend a State Plan to the General Assembly;

(5) Ensure that the County Plans comply with federal and State laws, rules, and regulations, are consistent with the overall purposes and goals of the Work First Program, and maximize federal receipts for the Work First Program;

(6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal laws and regulations and submit it to the Budget Director for approval;

(7) Submit the State Plan, as approved by the Budget Director, to the General Assembly for approval;

(8) Report monthly to the Joint Legislative Public Assistance Commission on the monthly progress reports submitted by the counties to the Department;

(9) Develop and implement a system to monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Work First Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance. State and county agencies shall cooperate in providing information needed to conduct these evaluations, sharing data and information except where prohibited specifically by federal law or regulation;

(10) Monitor the performance of counties relative to their County Plans and the overall goals of the Work First Program and report every six months to the Director of the Budget and the Joint Legislative Public Assistance Commission and annually to the General Assembly on the counties' attainment of the outcomes and goals;

(11) Provide quarterly progress reports to the county departments of social services, the county boards of commissioners, and the Joint Legislative Public Assistance Commission on the performance of counties in achieving Work First Program expectations;

(12) Report to the Joint Legislative Public Assistance Commission and the ~~House and Senate Appropriations Subcommittees on Human Resources~~ members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources the counties which have requested Electing status, provide copies of the proposed Electing County Plans to the Joint Legislative Public Assistance Commission and ~~the House and Senate Appropriations Subcommittees on Human Resources,~~ the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and make recommendations to the Joint Legislative

Public Assistance Commission, the ~~chairs~~ members of the ~~House and Senate Subcommittees on Human Resources,~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources, and the General Assembly on which of the proposed Electing County Plans ensure compliance with federal and State laws, rules, and regulations and are consistent with the overall purposes and goals for the Work First Program; and

(13) Make recommendations to the General Assembly for approval of counties to become Electing Counties which represent, in aggregate, no more than fifteen and one-half percent (15.5%) of the total Work First caseload at October 1 of each year and, for each county submitting a plan, the reasons individual counties were or were not recommended."

(d) G.S. 108A-27.9(c) reads as rewritten:

"(c) The State Plan shall include the following generally applicable provisions:

(1) Provisions to ensure that eligibility criteria across the State include the Medicaid Eligibility Standard of Need for the categorically needy;

(1a) Provisions to ensure that recipients who are sanctioned are provided a clear explanation of the sanction, and that all recipients, including those under sanction or termination for rules infractions, are fully informed of their right to legal counsel and any other representatives they choose at their own cost;

(1b) Provisions to ensure that qualified two-parent families receive assistance prior to meeting work requirements for three months after qualifying for assistance, in order to encourage families to stay together and to overcome barriers to self-sufficiency and gainful employment;

~~(1)~~ (1c) Provisions to ensure that no Work First Program recipients, required to participate in work activities, shall be employed or assigned when:

a. Any regular employee is on layoff from the same or substantially equivalent job;

b. An employer terminates any regular employee or otherwise causes an involuntary reduction in the employer's workforce in order to hire Work First recipients; or

c. An employer otherwise causes the displacement of any currently employed worker or positions, including partial displacements such as reductions in hours of nonovertime work, wages, or employment benefits, in order to hire Work First recipients;

(2) Provisions to ensure the establishment and maintenance of grievance procedures to resolve complaints by regular employees who allege that the employment or assignment of a Work First Program recipient is in violation of subdivision ~~(1)~~ (1c) of this ~~subsection;~~ subsection, and grievance procedures to resolve complaints by Work First Participants made pursuant to subdivision (3) of this subsection;

(3) Provisions to ensure that Work First Program participants, required to participate in work activities, shall be subject to and have the same rights under federal, State, or local laws applicable to non-Work First Program employees in similarly situated work activities,

including, but not limited to, wage and hour laws, health and safety standards, and nondiscrimination laws, provided that nothing in this subdivision shall be construed to prohibit Work First Program participants from receiving additional State or county services designed to assist Work First Program participants achieve job stability and self-sufficiency;

(4) A description of eligible federal and State work activities;

(5) Requirements for assignment of child support income and compliance with child support activities;

(6) Incentives for high-performing counties, contingency plans for counties unable to meet financial commitments during the term of the State Plan, and sanctions against counties failing to meet performance expectations, including allocation of any federal penalties that may be assessed against the State as a result of a county's failure to perform; and

(7) Anything else required by federal or State law, rule, or regulation to be included in the State Plan."

(e) G.S. 108A-27.3(a) reads as rewritten:

"**§ 108A-27.3. Electing Counties -- Duties of county boards of commissioners.**

(a) The duties of the county boards of commissioners in Electing Counties under the Work First Program are as follows:

(1) Establish county outcome and performance goals based on county economic, educational, and employment factors and adopt criteria for determining the progress of the county in moving persons and families to self-sufficiency;

(2) Establish eligibility criteria for ~~recipients;~~ recipients except for those criteria related to sanctioning procedures mandated across the State pursuant to G.S. 108A-27.9(c);

(3) Prescribe the method of calculating benefits for recipients;

(4) Determine and list persons and families eligible for the Work First Program;

(5) If made a part of the county's Work First Program, develop and enter into Mutual Responsibility Agreements with Work First Program recipients and ensure that the services and resources that are needed to assist participants to comply with the obligations under their Mutual Responsibility Agreements are available;

(6) Ensure that participants engage in the minimum hours of work activities required by Title IV-A;

(7) Provide community service work for any recipient who cannot find employment;

(8) Make payments of Work First Diversion Assistance and Work First Family Assistance to recipients having MRAs;

(9) Monitor compliance with Mutual Responsibility Agreements and enforce the agreement provisions;

(10) Monitor and evaluate the impact of the Work First Program on economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance, and report the findings to the Department quarterly;

(11) Ensure compliance with applicable State and federal laws, rules, and regulations for the Work First Program;

(12) Develop, adopt, and submit to the Department a biennial County Plan;

(13) Provide monthly progress reports to the Department in a format to be determined by the Department;

(14) Develop and implement an appeals process for the county's Work First Program that substantially complies with ~~G.S. 108A-79.~~ G.S. 108A-79 and comply with the procedures related to sanctioning by the Department for all counties in the State pursuant to G.S. 108A-27.2 and prescribed as general provisions in the State Plan pursuant to G.S. 108A-27.9(c)(1)."

(f) G.S. 108A-27.4(e) reads as rewritten:

"(e) Each county shall include in its County Plan the following:

(1) The number of MRAs entered into by the county;

(2) A description of the county's plans for serving families who need child care, transportation, substance abuse services, and employment support based on the needs of the community and the availability of services and funding;

(3) A list of the community service programs equivalent to full-time employment that are being offered to Work First Program recipients who are unable to find full-time employment;

(4) A description of the county's eligibility criteria, benefit calculation, and any other policies adopted by the county relating to eligibility, terms, and conditions for receiving Work First Program assistance, ~~including sanctions,~~ including asset and income requirements, time limits and extensions, rewards, exemptions, and exceptions to requirements. If an Electing County Plan proposes to change eligibility requirements, benefits levels, or reduce maintenance of effort, the county shall describe the reasons for these changes and how the county intends to utilize the maintenance of effort savings;

(5) A description of how the county plans to utilize public and private resources to assist in moving persons and families to self-sufficiency; and

(6) Any request to the Department for waivers to rules or any proposals for statutory changes to remove any impediments to implementation of the County's Plan."

(g) G.S. 108A-27.11 reads as rewritten:

"**§ 108A-27.11. Work First Program funding.**

(a) County block grants, except funds for Work First Family Assistance, shall be computed based on the percentage of each county's total AFDC (including AFDC-EA) and JOBS expenditures, except expenditures for cash assistance, to statewide actual expenditures for those programs in fiscal year 1995-96. The resulting percentage shall be applied to the State's total ~~budgeted funds,~~ certified budget for the current fiscal year, except funds budgeted for Work First Family Assistance, for Work First Program expenditures at the county level.

(b) The following shall apply to funding for Standard Program Counties:

(1) The Department shall make payments of Work First Family Assistance and Work First Diversion Assistance subject to the availability of federal, State, and county funds.

(2) The Department shall reimburse counties for county expenditures under the Work First Program subject to the availability of federal, State, and county funds.

(c) Each Electing County's allocation for Work First Family Assistance shall be computed based on the percentage of each Electing County's total expenditures for cash assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting percentage shall be applied to the ~~total budgeted funds for Work First~~

~~Family Assistance.~~ State's total certified budget for Work First Family Assistance for the current fiscal year. The Department shall transmit the federal funds contained in the county block grants to Electing Counties as soon as practicable after they become available to the State and in accordance with federal cash management laws and regulations. The Department shall transmit one-fourth of the State funds contained in county block grants to Electing Counties at the beginning of each quarter. Once paid, the county block grant funds shall not revert."

(h) G.S. 108A-27.12 reads as rewritten:

"**§ 108A-27.12. Maintenance of effort.**

(a) The Department shall define in the State Plan or by rule the term "maintenance of effort" based on that term as defined in Title IV-A and shall provide to counties a list of activities that qualify for federal maintenance of effort requirements.

(b) If a county fails to comply with the maintenance of effort requirement in subsection (a) of this section, the Director of the Budget may withhold State moneys appropriated to the county pursuant to G.S. 108A-93.

(c) The Department shall maintain the State's maintenance of effort at one hundred percent (100%) of the ~~amount the State budgeted~~ the State certified budget for programs under this Part during fiscal year 1996-97. At no time shall the Department reduce State or county funds previously obligated or appropriated for child welfare services.

(d) For Standard Program Counties, using the ~~preceding~~ 1996-97 fiscal year as the base year, counties shall maintain a financial commitment to the Work First Program equal to the proportion of State funds allocated to the Work First Program. At no time shall a Standard Program County reduce State or county funds previously obligated or appropriated for child welfare services.

(e) During the first year a county operates as an Electing County, the county's maintenance of effort shall be no less than ninety percent (90%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97. If during the first year of operation as Electing the Electing County achieves one hundred percent (100%) of its goals as set forth in its Electing County Plan, then the Electing County may reduce its maintenance of effort to eighty percent (80%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97 for the second year of the Electing County's operation and for all years thereafter that the county maintains Electing Status."

(i) G.S. 108A-27.16 reads as rewritten:

"**§ 108A-27.16. Use of Work First Reserve Fund.**

(a) By the fifteenth of each month, the Secretary shall certify to the Director of the Budget and the Fiscal Research Division of the General Assembly the actual expenditures for Work First Family Assistance for the fiscal year up until the beginning of that month and the projected expenditures for the remainder of the fiscal year. ~~If on March 1 the actual expenditures for the fiscal year exceed two-thirds of the total amount of expenditures expected for the entire fiscal year,~~ If the Director of the Budget declares that the State, an individual county, or an individual region is in a state of economic emergency with regard to lack of funds available for Work First Family Assistance through events beyond their control, then the Director of the Budget shall direct the Secretary ~~shall~~ to attempt to access any available federal funds. If federal funds are unavailable and the General Assembly is not in session, the Director of the Budget may, in the order below:

(1) Use funds available from the Work First Reserve Fund established pursuant to ~~G.S. 143-15.3C;~~ G.S. 143-15.3C to provide Work First Family Assistance funds for the State, the individual counties, or the individual region;

(2) Use funds available to the ~~Department;~~ Department to provide Work First Family Assistance funds for the State, the individual counties, or the individual region; or

(3) Notwithstanding G.S. 143-23, use funds available from other departments, institutions, or other spending agencies of the ~~State.~~ State to provide Work First Family Assistance funds for the State, the individual counties, or the individual region.

(b) The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Public Assistance Commission, and the ~~House of Representatives and Senate Appropriations Subcommittees on Human Resources~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources prior to making any transfer pursuant to this section.

(c) Except as provided in this section, funds from the Work First Reserve Fund established pursuant to G.S. 143-15.3C shall not be expended until appropriated by the General Assembly."

(j) G.S. 108A-27.9(a) reads as rewritten:

"(a) The Department shall prepare and submit to the Director of the ~~Budget, in accordance with the procedures established in G.S. 143-16.1 for federal block grant funds,~~ Budget a biennial State Plan that proposes the goals and requirements for the State and the terms of the Work First Program for each fiscal year. Prior to submitting a State Plan to the General Assembly, the Department shall submit the State Plan to the Joint Legislative Public Assistance Commission for its review and then consult with local governments and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from them."

(k) Section 12.20(b) of S.L. 1997-443 reads as rewritten:

"(b) The requirement that the Department prepare and submit the State Plan to the General Assembly for approval ~~in accordance with the procedures set forth in G.S. 143-16.1~~ as prescribed in G.S. 108A-27.9(a) shall not be applicable for fiscal year 1997-98. Until the counties have prepared their county plans and the State has prepared the State Plan in accordance with this Part and that State Plan has been enacted by the General Assembly and it becomes law, the provisions of the State Plan submitted to the federal government on October 16, 1996, shall remain in effect. State Plans submitted after the 1997-98 fiscal year shall be enacted by the General Assembly and become law in order to be effective."

(l) Section 12.36(a) of S.L. 1997-443 reads as rewritten:

"Section 12.36. (a) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of five million seventy-five thousand two hundred two dollars ($5,075,202) for the 1997-98 fiscal year and the sum of three million nine hundred thousand dollars ($3,900,000) for the 1998-99 fiscal year shall be placed in a Restrictive Reserve to Implement Welfare Reform. These funds shall be allocated from the Reserve as follows:

(1) $275,000 for the 1997-98 fiscal year and $400,000 for the 1998-99 fiscal year to support the establishment of a uniform system of public assistance programs as authorized under G.S. 108A-25.1, and to provide counties with workstations for biometric imaging:

(2) $2,500,000 in each fiscal year to fund program integrity activities in each ~~county;~~ county. These funds shall be given to the counties in a lump sum and unexpended funds shall revert to the General Fund;

(3) $500,000 for the 1997-98 fiscal year to establish and support an Office of Inspector General in the Department of Justice;

(4) $300,000 in each fiscal year to establish a pilot project in the Department of Labor for creation of Individual Development Accounts;
(5) $1,500,202 for the 1997-98 fiscal year for the following purposes:
a. To establish First Stop Employment Assistance in the Department of Commerce;
b. To expand the Labor Market Information System in the Employment Security Commission; and
c. To assist the Job Service Employer Committees or the Workforce Development Boards in their completion of the study of the working poor.
Funds shall not be allocated under this subdivision unless and until the Office of State Budget and Management has certified that federal funds are not available to the Department of Commerce for these purposes; and
(6) $700,000 for the 1998-99 fiscal year for the continued support of the Office of Inspector General in the Department of Justice, and for the First Stop Employment Assistance in the Department of Commerce. These funds shall be allocated by the Office of State Budget and Management on the basis of need."

(m) G.S. 114-41(a)(2) reads as rewritten:
"(2) Establish policies and standards for the investigation, detection, and elimination of fraud, abuse, waste, and mismanagement in the means-tested public assistance ~~programs;~~ programs. The Inspector General shall provide each of the county directors of social services with a copy of the policies and standards for investigation established pursuant to this subdivision, including any amendments. When the Inspector General determines that a county social services agency has not complied with these policies and standards, the Inspector General shall notify the director of that agency of the agency's noncompliance and recommend appropriate corrective action;".

(n) Subsection (l) of this section becomes effective June 30, 1998.

Requested by: Senator Martin of Guilford

WELFARE REFORM AUTOMATION FUNDING CARRY FORWARD

Section 12.28. Of the funds appropriated in S.L. 1997-443 to the Department of Health and Human Services for the 1997-98 fiscal year to implement welfare reform automation specified in the Work First Business Plan, the sum of seven million dollars ($7,000,000) may be carried forward to the 1998-99 fiscal year to be used for the same purposes.

Requested by: Senators Martin of Guilford, Phillips

CHILD PLACING AGENCIES' RATE STUDY

Section 12.29. From funds appropriated to the Department of Health and Human Services in this act, the Department shall contract with an independent consultant to conduct a study of the rate setting of the State's licensed child placing agencies. This study shall:
(1) Review the agencies' current rate-setting process; and
(2) Determine whether this process is resulting in adequate reimbursement.

The Department shall report the results of this study, together with any recommendations, to the members of the Senate Appropriations Committee on

Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources by November 1, 1998.

SUBPART 6. MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

Requested by: Senator Martin of Guilford

THOMAS S. COST CONTAINMENT REPORT EXTENSION

Section 12.30. Section 11.37 of S.L. 1997-443 reads as rewritten:

"Section 11.37. ~~(a) If Thomas S. funds are not sufficient, then notwithstanding G.S. 143-16.3 and G.S. 143-23, the Director of the Budget may use funds available to the Department in an amount not to exceed fifteen million two hundred thousand dollars ($15,200,000).~~

~~(b)~~ (a) The Department of ~~Human Resources,~~ Health and Human Services, in conjunction with area mental health programs, shall develop and implement cost containment measures to reduce the cost of direct services. The Department shall develop these strategies to emphasize positive client outcomes through developmental disability long-term managed supports rather than to emphasize process. These measures shall include, but not be limited to, the following:

(1) Reduction of those process-oriented tasks required by the State, including, but not limited to, tasks required by the Divisions of: Medical Assistance, Vocational Rehabilitation Services, Social Services, Facilities Services, and Mental Health, Developmental Disabilities, and Substance Abuse Services;

(2) Single stream funding from all available sources;

(3) Waivers of federal requirements in order to comply with the federal court order; and

(4) Review and, if necessary, amendment or repeal of rules that conflict or otherwise interfere with cost containment measures.

~~(c)~~ (b) The Department shall provide to the members of the House and Senate Appropriations Subcommittees on Human Resources, and to the Fiscal Research Division a detailed report of the status of development and implementation of cost containment measures required under this section. The report shall address each of the measures listed in subsection (b) of this section, and any other related cost containment measures developed by the Department. The Department shall provide the report on ~~December 1, 1997, and May 1, 1998.~~ May 1, 1999."

Requested by: Senators Martin of Guilford, Plyler, Perdue, Odom

MENTAL HEALTH RESERVE FOR MEDICAID MATCH

Section 12.31. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of thirty-eight million dollars ($38,000,000) for the 1998-99 fiscal year shall be placed in a Mental Health Restricted Reserve in the Office of State Budget and Management. In addition to these funds, the Office of State Budget and Management shall transfer to the Mental Health Restricted Reserve from the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the total amount of funds in the Division's budget allocated as matching funds for Medicaid payments to area mental health authorities. Funds placed in the Reserve may only be used as a State match for Medicaid payments to area mental health authorities for the 1998-99 fiscal year. Funds in the Reserve that are unexpended and unencumbered as of June 30, 1999, shall revert to the General Fund.

Requested by: Senator Martin of Guilford

EARLY INTERVENTION SERVICES/REFERRALS/STUDY

Section 12.32. (a) Section 11.43 of S.L. 1997-443 reads as rewritten:

"Section 11.43. Of the funds appropriated in this act to the Department of ~~Human Resources,~~ Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of five million dollars ($5,000,000) for the 1997-98 fiscal year and the sum of five million dollars ($5,000,000) for the 1998-99 fiscal year shall be allocated based on a plan developed in consultation with the affected divisions within the Department and the North Carolina Interagency Coordinating Council to meet the needs of those children who are on the waiting list for early intervention services. The Department may create up to 41 new positions, as needed, in the Division of Services for the Blind and the Division of Services for the Deaf and the Hard of Hearing to expand early intervention-related preschool ~~services.~~ services for children from birth through five years of age.

The North Carolina Schools for the Deaf and other agencies providing early intervention services to children from birth through five years of age shall ~~work together to develop procedures to~~ ensure that Beginnings for Parents of Hearing-Impaired Children, Inc., ~~shall be~~ is the first agency notified of children newly identified with hearing loss and determined to be eligible for services. The North Carolina Schools for the Deaf and other agencies providing early intervention services to hearing-impaired children from birth through five years of age shall, immediately upon receipt of referral from audiologists and other private practice providers, notify Beginnings for Parents of Hearing-Impaired Children, Inc., of the children newly identified with hearing loss and determined to be eligible for services. The Department of Health and Human Services and the Department of Public Instruction shall include among the agencies named in the Departments' Interagency Agreement Beginnings for Parents of Hearing-Impaired Children, Inc."

(b) The North Carolina Interagency Coordinating Council, with the assistance of the Department of Health and Human Services and the State Board of Education, shall conduct a comprehensive review of North Carolina's system for delivering early intervention services to children ages birth through five years. This study shall identify and recommend solutions to the following:

(1) Issues related to eligibility for services,
(2) Quality, availability, and timeliness of services,
(3) Improving transition from the infant-toddler program to the school-age program, and
(4) Matters pertaining to interagency coordination, and to funding.

The ICC shall report its findings and recommendations to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources, the Education Oversight Committee, and the Fiscal Research Division not later than March 1, 1999.

(c) The Department of Health and Human Services shall develop an organizational mechanism for consolidating and improving the management of early intervention programs and services within the Department. The Department shall report its recommendations to the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than March 1, 1999.

Requested by: Senator Martin of Guilford

NONMEDICAID REIMBURSEMENT CHANGES

Section 12.33. Section 11.12 of S.L. 1997-443 reads as rewritten:

"Section 11.12. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed

at rates no more than those under the North Carolina Medical Assistance Program. Hospitals that provide psychiatric inpatient care for Thomas S. class members or adults with mental retardation and mental illness may be paid an additional incentive payment not to exceed fifteen percent (15%) of their regular daily per diem reimbursement.

The Department of ~~Human Resources~~ Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of ~~Human Resources~~ Health and Human Services may negotiate with providers of medical services under the various Department of ~~Human Resources~~ Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

Family Size	Medical Eye Care Adults	All Rehabilitation	Other
1	$ 4,860	$ 8,364	$ 4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,824	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind ~~and for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services~~ shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for people in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifteen percent (115%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

Income	State Participation	Client Participation

(% of poverty)		
0-100%	100%	0%
101-120%	95%	5%
121-140%	85%	15%
141-160%	75%	25%
161-180%	65%	35%
181-200%	55%	45%
201-220%	45%	55%
221-240%	35%	65%
241-260%	25%	75%
261-280%	15%	85%
281-300%	5%	95%
301%-over	0%	100%.

The Department of ~~Human Resources~~ Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department."

Requested by: Senators Martin of Guilford, Plyler, Perdue, Odom

FUNDS TO REDUCE WAITING LIST FOR SERVICES FOR DEVELOPMENTALLY DISABLED PERSONS

Section 12.34. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of four million seven hundred thousand dollars ($4,700,000) for the 1998-99 fiscal year shall be used to provide family support services to developmentally disabled individuals who are not eligible for Medicaid and who are on the Department's waiting list for services. In addition to providing these services, the Department shall do all of the following:

(1) Immediately pursue approval from the Health Care Financing Administration to implement aggregate funding under the CAP-MR/DD Waiver as soon as possible;

(2) Study the feasibility of providing new or additional services as part of the regular Medicaid program which are aimed at keeping developmentally disabled individuals in their homes rather than the current criterion used in the Medicaid CAP-MR/DD Waiver Program. The study shall include a projected cost-benefit analysis;

(3) Work with area mental health authorities to determine why Medicaid-eligible individuals are waiting for services in the area mental health programs;

(4) Establish goals for the State and area mental health programs that require not more than a six-month wait for services for developmentally disabled individuals;

(5) Collaborate with area mental health programs to maximize the use of existing funds to increase services to the developmentally disabled, non-Medicaid eligible population; and

(6) Pursue additional Medicaid waivers which emphasize family support services for developmentally disabled individuals.

The Department shall report the results of its compliance with this section to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than November 1, 1998. The report shall also include the impact of expansion funds on the waiting list for services for developmentally disabled individuals.

Requested by: Senator Martin of Guilford

FUNDS FOR DOROTHEA DIX DESIGN/CONTINUE STUDY OF STATE PSYCHIATRIC HOSPITALS

Section 12.35. (a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two million dollars ($2,000,000) for the 1998-99 fiscal year shall be allocated for the design of a new Dorothea Dix Hospital. The Department shall make an interim progress report on the status of the design to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than February 1, 1999.

(b) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of seven hundred fifty thousand dollars ($750,000) for the 1998-99 fiscal year shall be used to continue to study the State psychiatric hospitals. The study shall build upon results of the MGT, Inc., study and shall assess:

(1) How many and what type of beds are needed statewide;

(2) The area program capacity and ability to efficiently and effectively absorb specific services now provided within the existing State hospital system; and

(3) The nonpublic system's capacity to absorb specific services identified by MGT as being inappropriately provided by the current State hospital system.

The study shall also make recommendations for other system changes as identified in order to appropriately downsize the State hospital system while maintaining existing service levels and ultimately increasing services to clients in the community. The Department shall solicit proposals to conduct the study.

(c) The Department shall make an interim report to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than February 1, 1999, and shall make a final report not later than May 1, 1999.

Requested by: Senator Martin of Guilford

CHILD MENTAL HEALTH CULTURAL DIVERSITY CURRICULUM

Section 12.36. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of seventy-five thousand dollars ($75,000) for the 1998-99 fiscal year shall be used for the direct purchase of computer software or printed materials for training curricula that will enhance the promotion of cultural diversity and cultural competencies in services to children, families, and communities. These funds may be used only for the direct purchase of software or printed informational materials and any funds not used for this purpose shall revert on June 30, 1999.

SUBPART 7. CHILD DEVELOPMENT

Requested by: Senator Martin of Guilford

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES EXPANSION FUNDS

Section 12.37. In addition to the funds allocated for Early Childhood Education and Development Initiatives in Section 11.55(p) of S.L. 1997-443, of the funds appropriated to the Department of Health and Human Services, Division of Child Development, for Early Childhood Education and Development Initiatives, the sum of fifty-six million six hundred thirty-four thousand seven hundred forty-three dollars ($56,634,743) shall be used to administer and deliver direct services in all 100

counties. Of this amount, the North Carolina Partnership for Children, Inc., may use up to two million dollars ($2,000,000) for State level administration of the program.

Requested by: Senators Martin of Guilford, Plyler, Perdue, Odom

TEACH PROGRAM

Section 12.38. Of the funds appropriated in this act to the Department of Health and Human Services for the Teacher Education and Compensation Helps (TEACH) Program, the sum of one hundred thousand dollars ($100,000) for the 1998-99 fiscal year shall be used to establish a capital fund for TEACH, provided that these funds are matched by expenditures of private funds at a ratio of two private dollars for every one dollar expended from these funds, and provided further that expenses related to office space are not included in the costs charged to the State for the administration of the Program.

SUBPART 8. YOUTH SERVICES

Requested by: Senator Martin of Guilford

DYS TRAINING SCHOOLS EVALUATION

Section 12.39. (a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of four hundred seventy-five thousand dollars ($475,000) shall be used to ensure that multidisciplinary diagnoses and evaluations, as provided for in G.S. 115C-113, are made on all students in training schools operated by the Division of Youth Services and that the requisite resources and services are provided for all DYS training school students who are identified as children with special needs. The Department shall use these funds to provide evaluations, resources, and services, but shall not reduce current DYS services. Lapsed salary funds shall not be used to create new permanent positions.

(b) Within 30 days of adjournment sine die of the 1997 General Assembly, the Department shall report to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and the Fiscal Research Division the line items in the Department's budget from which funds allocated under this section will be taken.

SUBPART 9. HEALTH SERVICES

Requested by: Senator Martin of Guilford

NC HEALTHY START FOUNDATION/REPORTING

Section 12.40. Section 15.29 of S.L. 1997-443 reads as rewritten:

"Section 15.29. The North Carolina Healthy Start Foundation shall:

(1) By January 15, ~~1998,~~ 1999, and more frequently as requested, report to the ~~Joint Legislative Commission on Governmental Operations~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and the Fiscal Research Division the following information:

a. State fiscal year ~~1996-97~~ 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year ~~1996-97~~ 1997-98 itemized expenditures and fund sources;

c. State fiscal year ~~1997-98~~ 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, ~~1997;~~ 1998; and

d. State fiscal year ~~1997-98~~ 1998-99 estimated itemized expenditures and fund sources including actual

expenditures and fund sources through December 31, ~~1997.~~ 1998.

(2) Provide to the Fiscal Research Division a copy of the Foundation's annual audited financial statement within 30 days of issuance of the statement."

Requested by: Senator Martin of Guilford

PREVENT BLINDNESS, INC./REPORTING

Section 12.41. Section 15.33 of S.L. 1997-443 reads as rewritten:

"Section 15.33. Prevent Blindness, Inc., shall:

(1) By January 15, ~~1998,~~ 1999, and more frequently as requested, report to the ~~Joint Legislative Commission on Governmental Operations~~ Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and the Fiscal Research Division the following information:

a. State fiscal year ~~1996-97~~ 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year ~~1996-97~~ 1997-98 itemized expenditures and fund sources;

c. State fiscal year ~~1997-98~~ 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, ~~1997;~~ 1998; and

d. State fiscal year ~~1997-98~~ 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, ~~1997.~~ 1998.

(2) Provide to the Fiscal Research Division a copy of the Prevent Blindness, Inc., annual audited financial statement within 30 days of issuance of the statement."

Requested by: Senator Martin of Guilford

WIC PROGRAM FUNDS

Section 12.42. Section 15.27 of S.L. 1997-443 reads as rewritten:

"Section 15.27. Of the funds appropriated to the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services for the Women, Infants, and Children (WIC) Program, the sum of one million two hundred eighty thousand dollars ($1,280,000) for the 1997-98 fiscal year and the sum of one million two hundred eighty thousand dollars ($1,280,000) for the 1998-99 fiscal year shall, if sufficient federal food funds are available, be used for the WIC Program as follows:

(1) Not more than $500,000 in each fiscal year shall be used to establish new WIC Programs in Head Start or other private or public nonprofit agencies to serve additional mothers, infants, and children. The Department shall utilize these funds for local program operations including staff to provide eligibility determination, nutrition education, and health care referrals. In selecting the new WIC Programs, the Department shall consider accessibility to the target population including location and hours of operation.

(2) Not more than $250,000 in each fiscal year shall be used to renovate facilities of existing programs where space constraints limit program expansion, and to fund rental costs in areas where accessible donated space is not available. In selecting the facilities

the Department shall consider accessibility to the target population including location and extended hours of operation. In determining whether to fund rental of space, the Department shall ensure that options for using donated accessible space have been considered. Not more than $75,000 of funds allocated under this subdivision for each fiscal year shall be used for rental of space.

(3) Not more than $300,000 in each fiscal year shall be used to purchase physician-prescribed special formulas and nutritional supplements for infants, children, and women.

(4) Not more than ~~$60,000~~ $180,000 in ~~each~~ the 1998-99 fiscal year shall be used to provide the required State match to the WIC farmers' market project.

(5) Not more than ~~$170,000~~ $50,000 in ~~each~~ the 1998-99 fiscal year shall be used for the purpose of establishing and maintaining a Public Health Nutritionist Internship Program.

If sufficient federal food funds are not available then funds appropriated for the WIC Program under this section shall be used to supplement federal food funds and any balance in funds remaining after the supplemental use shall be used in accordance with subdivisions (1) through (5) of this section."

Requested by: Senator Martin of Guilford

HEALTHY MOTHERS/HEALTHY CHILDREN PILOT PROGRAM

Section 12.43. (a) The Department of Health and Human Services may initiate a Healthy Mothers/Healthy Children Grant Program in up to six local health departments. The Department may consolidate federal Maternal and Child Health Block Grant funds and State funds appropriated for the Maternal Health, Women's Preventive Health, Child Health, Child Service Coordination and Immunization programs into a Healthy Mothers/Healthy Children Grant Program for each participating local health department. Local health departments participating in the Healthy Mothers/Healthy Children Grant Program may use grant funds to do any of the following:

(1) Improve the health status of women of childbearing age by expanding preventive health services and reducing and/or controlling health risk factors.

(2) Reduce infant mortality and morbidity by preventing high-risk pregnancies, improving the health status of women before pregnancy, improving access to prenatal care, reducing prematurity, and improving survival rates of pre-term and other high-risk infants.

(3) Reduce mortality and morbidity among children and youth by reducing the incidence of communicable disease and other preventable conditions, the occurrence and severity of injuries, the incidence of genetic disorders, and the incidence of chronic illnesses and developmental disabilities.

(4) Enhance the health and functional status of children and youth with chronic handicapping conditions by reducing the severity of such conditions through the provision of early identification, diagnosis, treatment, and care coordination services.

(b) The Department shall not include federal categorical funds, competitive special project funds, and funds for regionalized services in grant funds awarded to local health departments under the Healthy Mothers/Healthy Children Grant Program.

(c) The Department shall require participating local health departments to identify and report expenditures by program in order to monitor and track the use of Healthy Mothers/Healthy Children Grant Program funds to meet federal and State reporting requirements. In addition, the Department shall require local health departments to report on the administrative, programmatic, and health outcome benefits which are realized by providing localities greater flexibility.

(d) The Department shall report to members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources on the implementation of the Healthy Mothers/Healthy Children Grant Program not later than April 1, 1999.

Requested by: Senator Martin of Guilford

CHILD FATALITY TASK FORCE

Section 12.44. (a) Subsections (b), (c), and (d) of Section 285 of Chapter 321 of the 1993 Session Laws are repealed.

(b) G.S. 143-573(c) reads as rewritten:

"(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. ~~The Speaker of the House of Representatives shall call the first meeting no later than October 1, 1991. At the first meeting the members shall elect a chair who shall preside for the duration of the Task Force.~~ Terms shall be two years. The members shall elect a chair who shall preside for the duration of the chair's term as member. In the event a vacancy occurs in the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term."

(c) G.S. 143-574 reads as rewritten:

"**§ 143-574. Task Force -- duties.**

The Task Force shall:

(1) Undertake a statistical study of the incidence and causes of child deaths in this State ~~during 1988 and 1989,~~ and establish a profile of child deaths. The study shall include (i) an analysis of all community and private and public agency involvement with the decedents and their families prior to death, and (ii) an analysis of child deaths by age, cause, and geographic distribution;

(2) Develop a system for multidisciplinary review of child deaths. In developing such a system, the Task Force shall study the operation of existing local teams. The Task Force shall also consider the feasibility and desirability of local or regional review teams and, should it determine such teams to be feasible and desirable, develop guidelines for the operation of the teams. The Task Force shall also examine the laws, rules, and policies relating to confidentiality of and access to information that affect those agencies with responsibilities for children, including State and local health, mental health, social services, education, and law enforcement agencies, to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect children from preventable deaths, and, if so, recommend changes to them;

(3) Receive and consider reports from the State Team; and

(4) Perform any other studies, evaluations, or determinations the Task Force considers necessary to carry out its mandate."

(d) G.S. 143-577 reads as rewritten:

"**§ 143-577. Task Force -- reports.**

~~(a)~~ The Task Force shall ~~provide a preliminary~~ report annually to the Governor and General Assembly, within the first week of the convening or reconvening of the ~~1992 Session of the 1991~~ General Assembly. ~~This preliminary~~ The report shall contain at least a summary of ~~preliminary~~ the conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, and policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State.

~~(b) The Task Force shall make a written report to the Governor and General Assembly within the first week of the convening of the 1997 General Assembly. The Task Force may make a written report to the Governor and General Assembly within one week of the convening of the 1998 Regular Session of the 1997 General Assembly. The Task Force shall make a final written report to the Governor and General Assembly within the first week of the convening of the 1999 General Assembly. The final report shall include final conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, and policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State.~~

~~(c) After the Task Force provides its final report to the Governor and General Assembly, the Task Force shall cease to be in existence.~~"

Requested by: Senator Martin of Guilford

MATERNAL OUTREACH

Section 12.45. (a) The Department of Health and Human Services shall ensure that local communities who receive State funds for intensive home visiting programs, including the Olds and Healthy Families America models, collect and report data to the Department which will allow a valid and reliable evaluation of the long-term effectiveness of this intervention in improving maternal and child outcomes. The Department shall design a standard reporting system for local programs to use in supplying this data. At a minimum, the data should provide information on the effect of prenatal and infancy home visits by nurses on all of the following:

(1) Preterm delivery, low-birth weight, and infant morbidity/mortality.
(2) Childhood injuries.
(3) Childhood maltreatment.
(4) Immunizations.
(5) Mental development and behavioral problems.

The data shall also provide information on maternal life course, as measured by:

(6) Subsequent pregnancy.
(7) Educational achievement.
(8) Labor force participation.
(9) Use of public assistance programs.

(b) The Department shall report on its plans for developing and implementing a scientifically sound methodology for evaluating these programs by February 1, 1999, to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources and to the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Kinnaird

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

Section 12.46. (a) The Department of Health and Human Services shall develop and implement a cost-containment plan for the purpose of serving additional clients of the HIV Medications Program. In developing the Plan, the Department shall do the following:

(1) Explore the feasibility of obtaining a Medicaid expansion waiver;

(2) Estimate the potential cost savings to the State of participating in the 340B Drug Pricing Program by studying various ways of adhering to program requirements while also realizing cost savings;

(3) Examine, for possible adoption, ADAP and other similar program cost-saving strategies in other states, including, but not limited to, restrictive formularies, prescription limitations, insurance continuity, and insurance purchasing programs, and biannual or quarterly reauthorizations; and

(4) Conduct other activities that will assist in the development of a viable plan.

(b) The Department shall implement cost-containment programs or mechanisms, other than pharmaceutical rebates, by October 1, 1998, and shall report to the members of the Senate Appropriations Committee on Human Resources and the House of Representatives Appropriations Subcommittee on Human Resources not later than December 15, 1998, on the following:

(1) The realized and projected savings,

(2) Findings from subdivisions (1), (2), and (3) of subsection (a) of this section; and

(3) Recommendations for legislative action.

(c) Savings realized through cost-containment measures shall be used to serve additional ADAP participants in fiscal year 1998-99. Funds not expended for authorized program costs shall revert to the General Fund.

(d) The Department shall also develop a comprehensive information system on AIDS/HIV clients receiving services from the State. This system shall include information on program usage patterns of ADAP participants, including, but not limited to, frequency of prescription purchases, types of medications prescribed, and patient compliance with physician treatment recommendations.

Requested by: Senator Martin of Guilford

OSTEOPOROSIS TASK FORCE/CHANGE REPORT DATE

Section 12.47. Section 15.32 of S.L. 1997-443 reads as rewritten:

"Section 15.32. (a) Of the funds appropriated in this act to the Department of ~~Environment, Health, and Natural Resources, Division of Health Promotion,~~ Health and Human Services, Division of Community Health, the sum of two hundred thousand dollars ($200,000) for the 1997-98 fiscal year shall be allocated for the Osteoporosis Prevention Task Force created under this section.

(b) The North Carolina Osteoporosis Prevention Task Force is created in the ~~Division of Health Promotion, Department of Environment, Health, and Natural Resources.~~ Division of Community Health, Department of Health and Human Services.

(c) The Task Force shall have 25 members. The Governor shall appoint the Chair, and the Vice-Chair shall be elected by the Task Force. The Director of the ~~Division of Health Promotion in the Department of Environment, Health, and Natural Resources,~~ Division of Community Health, Department of Health and Human Services, the Director of the Division of Medical Assistance in the Department of ~~Human Resources,~~ Health and Human Services, and the Director of the Division of Aging in the Department of ~~Human Resources,~~ Health and Human

Services, or their designees, shall be members of the Task Force. Appointments to the Task Force shall be made as follows:

(1) By the President Pro Tempore of the Senate, as follows:
   a. Two members of the Senate;
   b. A representative of a women's health organization;
   c. A local health director;
   d. A certified health educator;
   e. A representative of the North Carolina Association of Area Agencies on Aging; and
   f. A person with osteoporosis.

(2) By the Speaker of the House of Representatives, as follows:
   a. Two members of the House of Representatives;
   b. A county commissioner;
   c. A licensed dietitian/nutritionist;
   d. A pharmacist;
   e. A registered nurse; and
   f. A person with osteoporosis.

(3) By the Governor, as follows:
   a. A practicing family physician, rheumatologist, or endocrinologist;
   b. A president or chief executive officer of a business upon recommendation of a North Carolina wellness council which is a member of the Wellness Councils of America;
   c. A news director of a newspaper or television or radio station;
   d. A representative of a North Carolina affiliate of the National Osteoporosis Foundation;
   e. A representative from the North Carolina Cooperative Extension Service;
   f. A representative of the Governor's Council on Physical Fitness and Health; and
   g. Two members at large.

(d) Each appointing authority shall assure insofar as possible that its appointees to the Task Force reflect the composition of the North Carolina population with regard to ethnic, racial, age, gender, and religious composition.

(e) The General Assembly and the Governor shall make their appointments to the Task Force not later than 30 days after the adjournment of the 1997 General Assembly, Regular Session 1998. A vacancy on the Task Force shall be filled by the original appointing authority, using the criteria set out in this section for the original appointment.

(f) The Task Force shall meet at least quarterly or more frequently at the call of the Chair.

(g) The Task Force Chair may establish committees for the purpose of making special studies pursuant to its duties and may appoint non-Task Force members to serve on each committee as resource persons. Resource persons shall be voting members of the committees and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to accomplish the purposes of this section.

(h) Members of the Task Force shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

(i) A majority of the Task Force shall constitute a quorum for the transaction of its business.

(j) The Task Force may use funds allocated to it to establish one full-time limited position and for other expenditures needed to assist the Task Force in carrying out its duties.

(k) The Osteoporosis Prevention Task Force has the following duties:

(1) To undertake a statistical and qualitative examination of the incidence of and causes of osteoporosis deaths and risks, including identification of subpopulations at highest risk for developing osteoporosis, and establish a profile of the osteoporosis burden in North Carolina.

(2) To raise public awareness on the causes and nature of osteoporosis, personal risk factors, value of prevention and early detection, and options for diagnosing and treating the disease.

(3) To identify priority strategies which are effective in preventing and controlling risks for osteoporosis, and in diagnosing and treating osteoporosis.

(4) To identify, examine limitations of, and recommend to the Governor and the General Assembly changes to existing laws, regulations, programs, services, and policies to enhance osteoporosis prevention, diagnosis, and treatment for the people of North Carolina.

(5) To determine and recommend to the Governor and the General Assembly the funding and strategies needed to enact new or to modify existing laws, regulations, programs, services, and policies to enhance osteoporosis prevention, diagnosis, and treatment for the people of North Carolina.

(6) To develop a statewide comprehensive Osteoporosis Prevention Plan and strategies for Plan implementation and for promoting the Plan to the general public, State and local elected officials, various public and private organizations and associations, businesses and industries, agencies, potential funding sources, and other community resources.

(7) To identify strategies to facilitate specific commitments to help implement the Plan from the entities listed in subdivision (6) above.

(8) To facilitate coordination of and communication among State and local agencies and organizations regarding current or future involvement in achieving the aims of the Osteoporosis Prevention Plan.

(9) To receive and consider reports and testimony from individuals, local health departments, community-based organizations, voluntary health organizations, and other public and private organizations statewide, to learn more about their contributions to osteoporosis diagnosis, prevention, and treatment, and their ideas for improving osteoporosis prevention, diagnosis, and treatment in North Carolina.

(l) The Task Force shall submit a progress report to the Joint Legislative Commission on Governmental Operations, the Governor, and the Fiscal Research Division not later than April 1, 1998. The progress report shall address:

(1) Progress being made in fulfilling the duties of the Task Force and in developing the Osteoporosis Prevention Plan,

(2) The anticipated time frame for completion of the Prevention Plan, and

(3) Recommended strategies or actions to reduce the occurrence of and burdens suffered from osteoporosis by citizens of this State.

The Task Force shall submit its final report to the 1999 General Assembly, the Governor, and the Fiscal Research Division not later than ~~October 1,~~ February 15, 1999.

(m) Upon submission of its final report to the Governor and the 1999 General Assembly, the Task Force shall expire."

Requested by: Senators Odom, Martin of Guilford

CANCER CONTROL ADVISORY COMMITTEE/ADDITIONAL MEMBERS

Section 12.48. (a) G.S. 130A-33.50 reads as rewritten:

"**§ 130A-33.50. Advisory Committee on Cancer Coordination and Control established; membership, compensation.**

(a) The Advisory Committee on Cancer Coordination and Control is established in the Department.

(b) The Committee shall have ~~24~~ up to 34 members, including the Secretary of the Department or the Secretary's designee. The members of the Committee shall elect a chair and vice-chair from among the Committee membership. The Committee shall meet at the call of the chair. Six of the members shall be legislators, three of whom shall be appointed by the Speaker of the House of Representatives, and three of whom shall be appointed by the President Pro Tempore of the Senate. ~~Two~~ Four of the members shall be cancer survivors, ~~one~~ two of whom shall be appointed by the Speaker of the House of Representatives, and ~~one~~ two of whom shall be appointed by the President Pro Tempore of the Senate. The remainder of the members shall be appointed by the Governor as follows:

(1) One member from the Department of Environment and Natural Resources;

(2) Three members, one from each of the following: the Department, the Department of Public Instruction, and the North Carolina Community College System;

(3) Four members representing the cancer control programs at North Carolina medical schools, one from each of the following: the University of North Carolina at Chapel Hill School of Medicine, the Bowman Gray School of Medicine, the Duke University School of Medicine, and the East Carolina University School of Medicine;

(4) One member who is an oncology nurse representing the North Carolina Nurses Association;

(5) One member representing the Cancer Committee of the North Carolina Medical Society;

(6) One member representing the Old North State Medical Society;

(7) One member representing the American Cancer Society, North Carolina Division, Inc.;

(8) One member representing the North Carolina Hospital Association;

(9) One member representing the North Carolina Association of Local Health Directors;

(10) One member who is a primary care physician licensed to practice medicine in North ~~Carolina.~~ Carolina;

(11) One member representing the American College of Surgeons;

(12) One member representing the North Carolina Oncology Society;

(13) One member representing the Association of North Carolina Cancer Registrars;

(14) One member representing the Medical Directors of the North Carolina Association of Health Plans; and

(15) Up to four additional members at large.

Except for the Secretary, the members shall be appointed for staggered four-year terms and until their successors are appointed and qualify. ~~However, the following appointees shall serve initial two-year terms: two of the legislators appointed by the Speaker of the House of Representatives; one of the legislators appointed by the President Pro Tempore of the Senate; the cancer survivor appointed by the President Pro Tempore of the Senate; and the members representing the Department, the Department of Public Instruction, the University of North Carolina at Chapel Hill School of Medicine, the Bowman Gray School of Medicine, the Cancer Committee of the North Carolina Medical Society, the Old North State Medical Society, the North Carolina Hospital Association, and the North Carolina Association of Local Health Directors.~~ The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-13. Members may succeed themselves for one term and may be appointed again after being off the Committee for one term.

(c) The Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor shall make their appointments to the Committee not later than 30 days after the adjournment of the 1993 Regular Session of the General Assembly. A vacancy on the Committee shall be filled by the original appointing authority, using the criteria set out in this section for the original appointment.

(d) To the extent that funds are made available, members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.

(e) A majority of the Committee shall constitute a quorum for the transaction of its business.

(f) The Committee may use funds allocated to it to employ an administrative staff person to assist the Committee in carrying out its duties. The Secretary shall provide clerical and other support staff services needed by the Committee."

(b) The following members appointed to the Committee under subsection (a) of this section shall serve initial two-year terms: the member representing the American College of Surgeons; the member representing the Medical Directors of the North Carolina Association of Health Plans; the additional cancer survivor appointed by the Speaker of the House of Representatives; and two of the four additional members at large.

Requested by: Senators Warren, Martin of Guilford, Plyler, Perdue, Odom

HEART DISEASE/STROKE PREVENTION FUNDS

Section 12.49. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Community Health, the sum of three hundred thousand dollars ($300,000) for the 1998-99 fiscal year shall be used for one or more of the following purposes:

(1) To establish the Be Active North Carolina (BANC) Initiative in the Governor's Council on Physical Fitness and Health as recommended by the Heart Disease and Stroke Prevention Task Force and proposed in Senate Bill 1309, first edition, 1997 General Assembly, Regular Session 1998.

(2) To establish a Cardiovascular Health Data Unit (CVD) in the Department of Health and Human Services as recommended by the Heart Disease and Stroke Prevention Task Force and proposed in Senate Bill 1310, first edition, 1997 General Assembly, Regular Session 1998.

(3) To establish and implement the North Carolina Strike Out Stroke Project as recommended by the Heart Disease and Stroke Prevention Task Force and proposed in Senate Bill 1308, first edition, 1997 General Assembly, Regular Session 1998.

PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Requested by: Senators Weinstein, Albertson, Phillips, Purcell, Dalton

FARMLAND PRESERVATION PILOT PROGRAM

Section 13. The five hundred thousand dollars ($500,000) appropriated in this act to the North Carolina Farmland Preservation Trust Fund, established in G.S. 106-744 and administered by the Commissioner of Agriculture and Consumer Services, for the 1998-99 fiscal year shall be used for a farmland preservation pilot program, whereby these funds shall be used to purchase agricultural conservation easements pursuant to The Farmland Preservation Enabling Act, Article 61 of Chapter 106 of the General Statutes. These funds may also be used for the reasonable costs of administering this pilot program. No later than March 15, 1999, the Department of Agriculture and Consumer Services shall report the results of this pilot program to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. This report shall include an itemized list of agricultural conservation easements purchased under the pilot program, the location of the farmland subject to the easement, and the acreage protected by the easement.

Requested by: Senators Martin of Pitt, Albertson

DUPLIN FAIR AND EXHIBITION CENTER FUNDS

Section 13.1. The one million dollars ($1,000,000) appropriated to the Department of Agriculture and Consumer Services for the 1997-98 fiscal year in S.L. 1997-443 for a Fair and Exhibition Center in Duplin County may be used for an agricultural center that includes fairgrounds, livestock exhibition facilities, multipurpose meeting facilities, and offices for allied federal and local agencies and may be used for professional services related to designing, financing, and procuring these facilities.

Requested by: Senators Martin of Pitt, Weinstein

SPECIAL RESERVE FUNDS FOR CERTAIN AGRICULTURAL CENTERS

Section 13.2. Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-6.2. Create special revenue funds for certain agricultural centers.**

(a) The Eastern North Carolina Agricultural Center Fund is created within the Department of Agriculture and Consumer Services as a special revenue fund. This Fund shall consist of receipts from the sale of naming rights to any facility located at the Eastern North Carolina Agricultural Center at Williamston, investments earnings on these moneys, and any gifts, bequests, or grants from any source for the benefit of the Eastern North Carolina Agricultural Center. All interest that accrues to this Fund shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to promote, improve, repair, maintain, or operate the Eastern North Carolina Agricultural Center.

(b) The Southeastern North Carolina Agricultural Center Fund is created within the Department of Agriculture and Consumer Services as a special revenue fund. This Fund shall consist of receipts from the sale of naming rights to any facility located at the Southeastern North Carolina Agricultural Center at Lumberton, investments earnings on these moneys, and any gifts, bequests, or grants from any source for the benefit of the Southeastern North Carolina Agricultural Center. All

interest that accrues to this Fund shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to promote, improve, repair, maintain, or operate the Southeastern North Carolina Agricultural Center."

Requested by: Senator Martin of Pitt

UMSTEAD ACT EXEMPTION FOR DEPARTMENT AGRICULTURAL CENTERS AND LIVESTOCK FACILITIES

Section 13.3. G.S. 66-58(b) is amended by inserting the following subdivision:

"(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services."

PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Requested by: Senator Martin of Pitt

CONSERVATION TAX CREDIT PROGRAM/REPORT REQUIREMENT

Section 14. Article 16 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-236. Report requirement.**

The Department shall report no later than January 15 of each year to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Environmental Review Commission. This report shall include the following information:

(1) An itemized list of all grants distributed since the last report, including the grant recipient, the grant amount, and the use of the grant funds under G.S. 113A-233.

(2) The total amount of grant funds distributed since the last report for each allowable use of grant funds listed under G.S. 113A-233(a).

(3) The program activities and accomplishments since the last report, including efforts by the Department to promote the program by providing information or educational offerings that explain conservation tax credits and conservation easements to landowners and land-related professionals.

(4) The number of interests in real property donated under the program and the total acreage donated under the program since the last report."

Requested by: Senator Soles

NORTH CAROLINA MUSEUM OF FORESTRY

Section 14.1. Part 29 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-344.22. North Carolina Museum of Forestry; satellite museum.**

The Department of Environment and Natural Resources shall establish and administer the North Carolina Museum of Forestry in Columbus County as a satellite museum of the North Carolina State Museum of Natural Sciences."

Requested by: Senators Martin of Pitt, Perdue

MARINE FISHERIES APPEALS PANEL/ROTATE MEETING LOCATIONS

Section 14.2. Section 3(a) of Chapter 576 of the 1993 Session Laws, Regular Session 1994, as amended by Section 3 of Chapter 675 of the 1993 Session Laws, Regular Session 1994; subsection (a) of Section 26.5 of Chapter 507 of the 1995 Session Laws; Section 7 of S.L. 1997-256; Section 3 of S.L. 1997-347; and Section 6.1 of S.L. 1997-400, reads as rewritten:

"(d) During the moratorium, there shall be an Appeals Panel to consider license applications for new licenses.

(1) The Appeals Panel shall consist of the Fisheries Director, the Chairman of the Marine Fisheries Commission, and one other person selected by the Cochairs of the Joint Legislative Commission on Seafood and Aquaculture to review hardship or emergency license cases.

(2) The Marine Fisheries Commission shall adopt temporary rules to govern the operation of the Appeals Panel. The Appeals Panel is exempt from the provisions of Article 3 of Chapter 150B of the General Statutes. Decisions of the Appeals Panel shall be subject to judicial review under the provisions of Article 4 of Chapter 150B of the General Statutes.

(3) The Appeals Panel may grant a license if it finds that the denial of the license application would create an emergency or hardship on the individual or the State. In no event shall the Appeals Panel grant a license when the total number of licenses in the specific category would exceed the number of licenses in effect on June 30, 1994.

(4) The Appeals Panel may grant an emergency temporary license due to death, illness, or incapacity, for a period not to exceed 30 days. Emergency temporary licenses shall be limited to vessel crab licenses authorized under G.S. 113-153.1(d).

(5) Beginning in July 1998, the Appeals Panel shall rotate the location of its meetings among the three districts of the State in the following order: Northeastern district, Central district, Southern district, Central district, Northeastern district, Central district, Southern district. The order of rotation is arranged so that the meeting location for every other meeting is in the Central district of the State. The meeting location for July 1998 shall be in the Northeastern district of the State and the rotation of the meeting locations shall continue as provided by this subdivision.

If an applicant who is appealing a licensing decision in accordance with this section requests in writing that the Appeals Panel schedule the person's hearing when it meets in that person's home district, the Appeals Panel shall calendar that person's hearing for his or her home district as requested."

Requested by: Senator Perdue

FISHERY MANAGEMENT PLANS/REGIONAL ADVISORY COMMITTEE

Section 14.3. G.S. 113-182.1(c) reads as rewritten:

"(c) ~~To assist in the development of each Fishery Management Plan, the~~ The Chair of the Marine Fisheries Commission shall appoint ~~an Advisory Council.~~ a fishery management plan advisory committee for each Fishery Management Plan that is being developed. Each ~~Advisory Council~~ fishery management plan advisory committee shall be composed of commercial fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the Fishery Management Plan is being developed. The fishery management plan advisory committees, along with the regional advisory committees established under G.S. 143B-289.57, shall assist the Department and the Marine Fisheries Commission in the development of all aspects of the Fishery Management Plans, including the development of preservation management measures."

Requested by: Senators Plyler, Perdue, Odom

GRASSROOTS SCIENCE PROGRAM

Section 14.4. Section 15.1 of S.L. 1997-443 reads as rewritten:

"Section 15.1. Funds appropriated in this act for the Grassroots Science Program shall be allocated as grants-in-aid as follows:

	1997-98	1998-99	
Iredell County Children's Museum	$56,500	~~$50,000~~	$58,271
Museum of Coastal Carolina	$66,750	~~$50,000~~	$69,994
Rocky Mount Children's Museum	$109,750	~~$50,000~~	$122,327
Imagination Station	$111,000	~~$50,000~~	$130,444
Western North Carolina Nature Center	$130,750	~~$15,000~~	$157,861
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$162,500	~~$35,000~~	$184,881
Cape Fear Museum	$188,500	~~$50,000~~	$221,984
Catawba Science Center	$190,500	~~$50,000~~	$187,900
Sci Works Science Center and Environmental Park of Forsyth County	$231,000	~~$50,000~~	$273,692
Natural Science Center of Greensboro	$333,000	~~$50,000~~	$386,759
Schiele Museum of Natural History	$383,750	~~$50,000~~	$472,046
North Carolina Museum of Life and Science	$398,750	~~$50,000~~	$521,559
Discovery Place	$887,250	~~$50,000~~	$1,062,282
TOTAL	$3,250,000	~~600,000~~	$3,850,000

Discovery Place may use up to one hundred thousand dollars ($100,000) of the funds allocated to it in the 1997-98 fiscal year and up to one hundred thousand dollars ($100,000) of the funds allocated to it in the 1998-99 fiscal year to study the feasibility of an expansion of Discovery Place."

Requested by: Senators Martin of Pitt, Perdue

ENVIRONMENTAL EDUCATION GRANTS

Section 14.5. (a) Of the two hundred thousand dollars ($200,000) appropriated in this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year for environmental education grants, up to fifty thousand dollars ($50,000) may be used by the Department for the 1998-99 fiscal year for the costs of administering the environmental education grants. The remainder of these funds shall be used to provide grants to promote environmental education throughout the State. Grants under this section may be awarded to:

(1) Schools, community organizations, and environmental education centers for the development of environmental education library collections; or

(2) School groups for field trips to environmental education centers across the State, provided the activities of the field trip are correlated with the Department of Public Instruction's curriculum objectives.

(b) The Department shall report to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division by January 1, 1999, and again by July 1, 1999, on the grant program. The report shall include a list of amounts awarded and project descriptions for each grant recipient.

Requested by: Senators Plyler, Perdue, Odom

PARKS AND RECREATION/NATURAL HERITAGE TRUST FUNDS REPORTING REQUIREMENTS

Section 14.6. (a) G.S. 113-44.15(c) reads as rewritten:

"(c) The North Carolina Parks and Recreation Authority shall report ~~on an annual basis~~ no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the ~~appropriations committees of the House of Representatives and the Senate, and~~ House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research ~~Division~~ Division, and the Environmental Review Commission on allocations from the Trust ~~Fund.~~ Fund from the prior fiscal year. The Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year."

(b) G.S. 113-77.9(e) reads as rewritten:

"(e) The Secretary shall maintain and ~~annually~~ revise twice each year a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each ~~Trustee and to each House of the General Assembly~~ Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission within 30 days after each revision."

Requested by: Senators Plyler, Perdue, Odom

LAND ACQUISITION PARITY FOR PARKS AND RECREATION/NATURAL HERITAGE TRUST FUNDS

Section 14.7. (a) G.S. 113-77.9(b1) reads as rewritten:

"(b1) In authorizing expenditures from the Fund to acquire land pursuant to this Article, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Trustees shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of this section. In authorizing expenditures from the Fund to acquire land pursuant to this Article, the Trustees shall consider geographic distribution across the State."

(b) G.S. 113-44.15(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition.

(2) Thirty percent (30%) to provide matching funds to local governmental units on a dollar-for-dollar basis for local park and recreation purposes. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall consider geographic distribution across the State to the extent practicable. Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs."

Requested by: Senator Jenkins

CULLASAJA RIVER STUDY FUNDS

Section 14.8. The Department of Environment and Natural Resources shall study the feasibility of including that portion of the Cullasaja River that borders Nantahala National Forest in the North Carolina natural and scenic river system pursuant to Article 3 of Chapter 113A of the General Statutes. No later than March 15, 1999, the Department shall report the results of this study and its recommendations to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Environmental Review Commission.

Requested by: Senator Perdue

EXTEND AND EXPAND ENVIRONMENTAL HEALTH PROGRAMS STUDY

Section 14.9. (a) Section 11A.127 of S.L. 1997-443 reads as rewritten:

"Section 11A.127. Pending ~~the results of~~ action by the General Assembly on the recommendations of the Environmental Review Commission resulting from the study to be undertaken by the Environmental Review Commission as provided in this Part, on-site wastewater functions, public drinking water programs, and environmental health programs shall remain in the Department of Environment and Natural Resources, the Division of Environmental Health, shall remain intact in the Department of Environment and Natural Resources, and the Department of Environment and Natural Resources shall not consolidate on-site wastewater functions or drinking water programs in the Division of Water Quality."

(b) Section 11A.128 of S.L. 1997-443 reads as rewritten:

"Section 11A.128. The Environmental Review Commission shall study the following issues and report its findings to the ~~1997 General Assembly, Regular Session 1998,~~ 1999 General Assembly, along with any legislation it proposes to address these issues:

(1) The appropriate roles and financing of local and state agencies in reviewing, permitting, inspecting, and monitoring private wells, community wells, municipal wells, and municipal surface water supplies;

(2) The appropriate roles and financing of local and State agencies in reviewing, permitting, inspecting, monitoring, and maintaining septic tanks, package wastewater treatment plants, municipal

wastewater treatment plants, industrial treatment plants, and animal waste operations;

(3) The appropriate roles and financing of local and State agencies in administering the various environmental health programs;

(4) The integration of State's review of the financial integrity of applicants for drinking water and wastewater discharge permits;

(5) Policies to monitor the quality and prevent and reduce pollution of groundwaters;

(6) Consistent State policies for cleaning up contaminated groundwater and soils;

(7) Coordination of adoption and development of policies by the Coastal Resources Commission, Environmental Management Commission, Commission on Health Services, Marine Fisheries Commission, and other commissions having roles in water quality or wastewater issues;

(8) Policies to monitor the quality and prevent and reduce pollution of surface waters;

(9) Organization of the State's water planning agencies;

(10) Technical and financial assistance to business, industry, local governments, and citizens;

(11) Policies to encourage water conservation;

(12) Policies to encourage regional water supply and wastewater treatment planning; ~~and~~

(13) The role of the North Carolina Cooperative Extension Services, North Carolina Department of Agriculture, and the North Carolina Department of Transportation in the protection of water ~~supplies.~~ supplies; and

(14) The organization, functions, powers, and duties of the various boards, commissions, and councils having jurisdiction over environmental, public health, and natural resources programs, including whether those functions, powers, and duties should be consolidated in a single commission."

(c) Section 11A.129 of S.L. 1997-443 reads as rewritten:

"Section 11A.129. The Secretary of Health and Human Services may reorganize the Department of Health and Human Services in accordance with G.S. 143B-10 and shall report as required by that section. In addition, the Department of Health and Human Services shall do the following:

(1) Report to the Joint Legislative Commission on Governmental Operations by December 31, 1997, on the Department's progress in incorporating health functions and agencies into the Department;

(2) Report to the General Assembly by ~~May 1, 1998,~~ 1 February 1999 on additional changes, including proposed legislation necessary to effectuate the purposes of this Part including the findings of the Environmental Review Commission's ~~study.~~ study;

(3) Report to the Joint Legislative Commission on Governmental Operations by ~~October 31, 1998,~~ 1 February 1999 on any proposed changes in the Department's structure of boards and commissions not already implemented as a result of the Environmental Review Commission's study or necessary to effectuate the purposes of this Part and to deliver services more efficiently; and

(4) Report to the General Assembly by February 1, 1999, on the Department's progress in adopting any rule changes necessary to effectuate the purposes of this Part and any proposed legislation

necessary to change the structure of any boards and commissions as reported to the Joint Legislative Commission on Governmental Operations."

Requested by: Senators Martin of Pitt, Perdue

TAR-PAMLICO AND NEUSE RIVERS RAPID RESPONSE TEAM

Section 14.10. The Department of Environment and Natural Resources shall direct members of the "Rapid Response Teams" for the Tar-Pamlico River Basin and the Neuse River Basin to assist other departmental personnel in routine water monitoring activities in the Tar-Pamlico River Basin or Neuse River Basin when the members of the "Rapid Response Teams" are not needed to respond to water quality emergencies or citizen complaints. The Department may also direct that personnel performing water quality monitoring activities assist with water quality monitoring in river basins to which the person has not been assigned if the person is not needed in the assigned basin.

The Department shall evaluate its use and assignment of the "Rapid Response Teams" and water quality monitoring personnel for the Tar-Pamlico River Basin and the Neuse River Basin to determine whether the most efficient use is being made of those personnel and resources. If the Department determines that assistance is needed in river basins other than those to which the "Rapid Response Teams" and water quality monitoring personnel have been assigned, the Department may direct that any appropriate member from the "Rapid Response Teams" or the water quality monitoring personnel assist in those basins where assistance is needed.

Requested by: Senator Martin of Pitt

TAR-PAMLICO RIVER BASIN/RULE CORRECTION

Section 14.11. The Environmental Management Commission may adopt a temporary rule pursuant to G.S. 150B-21.1 to provide that the boundaries of a WS-IV watershed protected area are measured by linear miles rather than "river miles" (as the river flows) if the Environmental Management Commission finds that the permanent rule being amended was approved by the Rules Review Commission in the 1997-98 fiscal year, the local governments affected by the rule inadvertently chose "river miles" rather than linear miles based on a misunderstanding of the different effects of the two measurement choices, and the public interest would be served by changing the method of measurement. The temporary rule shall become effective at the same time as the rule it amends.

Requested by: Senator Perdue

PARTNERSHIP FOR THE SOUNDS FUNDS

Section 14.12. Partnership for the Sounds, Inc., shall use a portion of the funds appropriated in this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year for Partnership for the Sounds, Inc., to expand their programs to include activities to promote nature-based tourism and environmental stewardship and education in Pamlico County.

Requested by: Senator Martin of Pitt

PROGRESS REPORTS/ALTERNATIVE ANIMAL WASTE TECHNOLOGIES STUDY

Section 14.13. The Primary Investigator or Researcher receiving funding from funds appropriated in this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year for the study of alternative animal waste technologies shall satisfy the same reporting requirements as those set forth in Section 15.10 of S.L. 1997-443 for all the agriculture waste research reports.

Requested by: Senator Martin of Pitt

PROGRESS REPORTS/NEUSE MODELING PROJECT FUNDS

Section 14.14. (a) The funds appropriated in this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year for the Neuse River Modeling and Monitoring Project shall be transferred to the Board of Governors of The University of North Carolina for the Water Resources Research Institute and shall be used to monitor and model the Neuse River and the Neuse estuary under the Modeling and Monitoring (MODMON) Project, to develop a hydrodynamic model of the Neuse watershed, and to link these models in order to provide the data needed to determine the effectiveness of current nutrient management strategies for the Neuse River Basin.

(b) The Primary Investigator or Researcher receiving funding pursuant to subsection (a) of this section shall provide progress reports to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, and the Fiscal Research Division on January 1 and July 1 of each year until the project or study is complete. Upon completion of the project or study, the Primary Investigator or Researcher shall provide a final report.

Requested by: Senators Martin of Pitt, Perdue, Lucas, Kinnaird, Gulley

UPPER NEUSE RIVER BASIN FUNDS/MODEL WATERSHED MANAGEMENT PLAN

Section 14.15. (a) The General Assembly finds that:

(1) The water resources of the Upper Neuse River Basin provide an essential and high quality supply of water needed to meet municipal, industrial, and agricultural needs.

(2) The water resources of the Upper Neuse River Basin are essential for wildlife habitat protection, water quality management, recreational activities, and other purposes.

(3) Management and protection of the quality and quantity of water in the Upper Neuse River Basin are essential to the future economic vitality of the several counties and municipalities that have planning and zoning jurisdiction in the Upper Neuse River Basin.

(4) As provided for under Part 1 of Article 21 of Chapter 143 of the General Statutes, comprehensive and coordinated State-local efforts are needed to develop and implement plans that provide adequate, long-term management and protection of water resources in river basins and segments of river basins, including the Upper Neuse River Basin.

(5) It would be beneficial for the State to support development of a model State-local watershed management approach in North Carolina, as envisioned in Part 1 of Article 21 of Chapter 143 of the General Statutes, enacted during the 1997 Session. The Upper Neuse River Basin Association proposes to develop such a model approach.

(b) Of the funds appropriated by this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year the sum of three hundred thousand dollars ($300,000) shall be allocated to the Upper Neuse River Basin Association, Inc., to develop a cooperative, comprehensive, and integrated State-local watershed management plan for the Upper Neuse River Basin to serve as a model watershed management approach for river basins and subbasins in North Carolina.

(c) The Upper Neuse Watershed Management Plan shall comply with the requirements of G.S. 143-214.14(g).

The Department of Environment and Natural Resources and other appropriate State agencies shall provide technical assistance to the Association during the development of the Association's plan. The Association shall actively solicit the input and assistance of the agencies during the identification of goals and objectives, development of performance indicators and benchmarks, and preparation of the plan.

(d) The funds allocated by this section are not adequate for the actual implementation of all or part of the recommendations included in the final watershed management plan. The Association and its member governments shall work with State and federal agencies and private and nonprofit organizations and individuals to obtain funding support for implementation of the plan.

(e) The Association shall report on all of its activities and programs to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on or before March 1 of each fiscal year, beginning in 1999, through completion of the final plan. The report shall include information on the Association's activities and accomplishments during the current fiscal year, itemized expenditures for development of the plan, major planned activities and accomplishments for at least the next 12 months, and anticipated expenditures with sources of funding for the next 12 months.

(f) For purposes of this section, "Upper Neuse River Basin" means all of the watershed area that drains that part of the Neuse River Basin and its tributary streams that are located above or terminate at the Falls Lake Reservoir Dam. The Upper Neuse River Basin is approximately 770 square miles in area and comprises all or part of six counties and eight municipalities. It comprises about thirteen percent (13%) of the entire Neuse River Basin.

Requested by: Senator Martin of Pitt

STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUNDS

Section 14.16. (a) Subsections (e) through (h) of Section 69 of Chapter 1044 of the 1991 Session Laws, as amended, are repealed.

(b) Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws, Section 27.3 of Chapter 769 of the 1993 Session Laws, Section 26.6 of Chapter 507 of the 1995 Session Laws, Section 27.15 of Chapter 18 of the Session Laws of the 1996 Second Extra Session, Section 15.44 of S.L. 1997-443, and subsection (a) of this section reads as rewritten:

"Sec. 69. (a) There is established the Beaver Damage Control Advisory Board. The Board shall consist of nine members, as follows:

(1) The Executive Director of the North Carolina Wildlife Resources Commission, or his designee, who shall serve as chair;

(2) The Commissioner of ~~Agriculture,~~ Agriculture and Consumer Services, or a designee;

(3) The Director of the Division of Forest Resources of the Department of ~~Environment, Health,~~ Environment and Natural Resources, or a designee;

(4) The Director of the Soil and Water Conservation Division of the Department of ~~Environment, Health,~~ Environment and Natural Resources, or a designee;

(5) The Director of the North Carolina Cooperative Extension Service, or a designee;

(6) The Secretary of Transportation, or a designee;

(7) The State Director of the Animal Damage Control Division of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or a designee;

(8) The President of the North Carolina Farm Bureau Federation, Inc., or a designee, representing private ~~landowners in the participating counties;~~ landowners; and

(9) A representative of the North Carolina Forestry Association.

(b) The Beaver Damage Control Advisory Board shall develop a statewide program to control beaver damage on private and public lands. ~~Anson, Bertie, Bladen, Brunswick, Carteret, Chatham, Chowan, Craven, Columbus, Cumberland, Duplin, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnett, Hertford, Hoke, Johnston, Jones, Lee, Lenoir, Lincoln, Martin, Nash, Northampton, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Scotland, Vance, Warren, Washington, Wayne, and Wilson Counties shall participate in the program.~~ The Beaver Damage Control Advisory Board shall act in an advisory capacity to the Wildlife Resources Commission in the implementation of the program. In developing the program, the Board shall:

(1) Orient the program primarily toward public health and safety and toward landowner assistance, providing some relief to landowners through beaver control and management rather than eradication;

(2) Develop a priority system for responding to complaints about beaver damage;

(3) Develop a system for documenting all activities associated with beaver damage control, so as to facilitate evaluation of the program;

(4) Provide educational activities as a part of the program, such as printed materials, on-site instructions, and local workshops; and

(5) Provide for the hiring of personnel necessary to implement beaver damage control activities, administer the program, and set salaries of ~~personnel;~~

~~(6) Evaluate the costs and benefits of the program that might be applicable elsewhere in North Carolina.~~ personnel.

No later than ~~January 15, 1998,~~ March 15 of each year, the Board shall issue a report to the Wildlife Resources ~~Commission~~ Commission, the Senate and House Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division on the ~~program to date, including recommendations on the feasibility of continuing the program in participating counties and the desirability of expanding the program into other counties.~~ results of the program during the preceding year. ~~The Wildlife Resources Commission shall prepare a plan to implement a statewide program to control beaver damage on private and public lands. No later than March 15, 1998, the Wildlife Resources Commission shall present its plan in a report to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division.~~

(c) The Wildlife Resources Commission shall implement the program, and may enter a cooperative agreement with the Animal Damage Control Division of the Animal and Plant Health Inspection Service, United States Department of Agriculture, to accomplish the program.

(d) Notwithstanding G.S. 113-291.6(d) or any other law, it is lawful to use snares when trapping beaver pursuant to the beaver damage control program developed pursuant to this section. The provisions of Chapter 218 of the 1975 Session Laws; Chapter 492 of the 1951 Session Laws, as amended by Chapter 506 of the 1955 Session Laws; and Chapter 1011 of the 1983 Session Laws do not apply to trapping

carried out in implementing the beaver damage control program developed pursuant to this section.

(d1) In case of any conflict between G.S. 113-291.6(a) and G.S. 113-291.6(b) and this section, this section prevails.

(d2) Each county that volunteers to participate in this program for a given fiscal year shall provide written notification of its wish to participate no later than September 30 of that year and shall commit the sum of four thousand dollars ($4,000) in local funds no later than September 30 of that year."

(c) The Revisor of Statutes shall codify in Chapter 113 of the General Statutes Section 69 of Chapter 1044 of the 1991 Session Laws as amended.

(d) Of the funds appropriated in this act to the Wildlife Resources Commission for the 1998-99 fiscal year, up to the sum of five hundred thousand dollars ($500,000) shall be used to provide the State share necessary to support the beaver damage control program as revised in this section, provided the sum of twenty-five thousand dollars ($25,000) in federal funds is available for the 1998-99 fiscal year to provide the federal share.

Requested by: Senators Lee, Kinnaird, Plyler, Perdue, Odom

CHATHAM FUNDS FOR LOW-LEVEL RADIOACTIVE WASTE SITING

Section 14.17. Of the funds appropriated to the Department of Environment and Natural Resources in this act, the sum of one hundred thousand dollars ($100,000) shall be used to reimburse Chatham County for the unreimbursed costs to Chatham County for providing technical assistance regarding the site selection of a low-level radioactive waste facility pursuant to Chapter 104G of the General Statutes and for other expenses incurred by Chatham County related to licensing and siting a low-level radioactive waste facility.

PART XV. DEPARTMENT OF COMMERCE

Requested by: Senator Martin of Pitt

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

Section 15. Section 16.11 of S.L. 1997-443 reads as rewritten:

"Section 16.11. (a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3;

(2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Zone the sum of two hundred ~~seventy-six thousand nine hundred twenty-three dollars ($276,923)~~ eighty thousand five hundred two dollars ($280,502) ~~in each fiscal~~

~~year,~~ in the 1998-99 fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of two hundred ~~seventy-six thousand nine hundred twenty-three dollars ($276,923)~~ eighty thousand five hundred two dollars ($280,502) ~~in each fiscal year~~ in the 1998-99 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

(4) In addition to the funds allocated under subdivisions (1) through (3) of this subsection, the Department shall allocate to each of the seven economic development commissions the sum of fifty thousand dollars ($50,000) for the 1998-99 fiscal year."

Requested by: Senators Cooper, Ballance

INDUSTRIAL RECRUITMENT COMPETITIVE FUND

Section 15.1. Of the funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund, the sum of up to two million dollars ($2,000,000) for the 1998-99 fiscal year shall be used to recruit a large recycling facility, as defined in G.S. 105-129.25, that meets all of the requirements of G.S. 105-129.26(b), as provided for in Senate Bill 1569, 1997 General Assembly.

Requested by: Senators Plyler, Perdue, Odom

MARKETING OF GLOBAL TRANSPARK BY DEPARTMENT OF COMMERCE

Section 15.2. The Division of Business and Industry of the Department of Commerce shall assume responsibility for the marketing of the North Carolina Global TransPark. Funds designated in the Department's budget for marketing of the North Carolina Global TransPark shall remain in the Department and shall be used by the Division to carry out this purpose.

Requested by: Senator Jenkins

RURAL TOURISM DEVELOPMENT GRANT PROGRAM

Section 15.3. Of the funds appropriated in this act to the Department of Commerce, the sum of three hundred thousand dollars ($300,000) for the 1998-99 fiscal year shall be allocated for the Rural Tourism Development Grant Program. The Department shall establish and implement this Program to provide grants to local governments and nonprofit organizations to encourage the development of new tourism projects and activities in rural areas of the State. The Department shall develop procedures for the administration and distribution of funds allocated to the Rural Tourism Development Program under the following guidelines:

(1) Eligible organizations shall make application under procedures established by the Department;

(2) Eligible organizations shall be nonprofit tourism-related organizations located in the State's rural regions;

(3) Priority shall be given to eligible organizations that have significant involvement of travel- and tourism-related businesses;

(4) Priority shall be given to eligible organizations serving economically distressed rural counties;
(5) Priority shall be given to eligible organizations that match funds; and
(6) Funds shall not be used for renting or purchasing land or buildings or for financing debt.

No recipient or new tourism project shall receive a total of more than fifty thousand dollars ($50,000) of these grant funds for the 1998-99 fiscal year.

Requested by: Senator Jenkins

GREAT SMOKY MOUNTAINS SPECIAL LICENSE PLATE

Section 15.4. (a) G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less.

A registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or ~~less~~ less, other than a Friends of the Great Smoky Mountains National Park special registration plate, shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right."

(b) The Great Smoky Mountains National Park special registration plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall be the full art, three-color design submitted to the Division by Friends of the Great Smoky Mountains National Park in camera-ready format. The background color and design shall allow numbers on the face of the plate to be readily distinguished. Submission to the Division of the background design authorized under this subsection shall be the final design and, upon acceptance by the Division, no further changes in the background design shall be made.

Requested by: Senators Plyler, Odom, Perdue, Lee, Martin of Pitt

NC SEAFOOD INDUSTRIAL PARK AUTHORITY REVISIONS

Section 15.5. (a) G.S. 113-315.28 reads as rewritten:

"**§ 113-315.28. Purposes of Authority.**

Through the Authority hereinbefore created, the State of North Carolina may engage in promoting, developing, constructing, equipping, maintaining and operating the seafood industrial parks within the State, or within the jurisdiction of the State, and works of internal improvements incident thereto, including the acquisition or construction, maintenance and operation as such seafood industrial parks of watercraft and facilities thereon or essential for the proper operation thereof. Said Authority is created as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

(1) To develop and improve the Wanchese Seafood Industrial Park, and such other places, including inland ports and facilities, as may be deemed feasible for a more expeditious and efficient handling of seafood commerce from and to any place or places in the State of North Carolina and other states and foreign countries;

(2) To acquire, construct, equip, maintain, develop and improve the port facilities at said parks and to improve such portions of the waterways thereat as are within the jurisdiction of the federal ~~government;~~ government and the waterways connecting the Wanchese Seafood Industrial Park with the channels of commerce of the Atlantic Ocean, consistent with the project designed by the United States Army Corps of Engineers pursuant to the Manteo (Shallowbag) Bay navigation project as authorized in the Rivers and Harbors Act of 1970 (P.L. 91-611);

(3) To foster and stimulate the shipment of seafood commerce through said ports, whether originating within or without the State of North Carolina, including the investigation and handling of matters pertaining to all transportation rates and rate structures affecting the same;

(4) To cooperate with the United States of America and any agency, department, corporation or instrumentality thereof in the maintenance, development, improvement and use of said seafood ~~harbors;~~ harbors and the waterways connecting the parks with the channels of commerce of the Atlantic Ocean;

(5) To accept funds from any of said counties or cities wherein said ports are located and to use the same in such manner, within the purposes of said Authority, as shall be stipulated by the said county or city, and to act as agent or instrumentality, of any of said counties or cities in any matter coming within the general purposes of said Authority;

(5a) To encourage and develop the general maritime and marine-related industries and activities at or in the vicinity of the seafood industrial parks;

(6) And in general to do and perform any act or function which may tend to be useful toward the development and improvement of seafood industrial parks of the State of North Carolina, and to increase the movement of waterborne seafood commerce, foreign and domestic, to, through, and from said seafood industrial parks.

The enumeration of the above purposes shall not limit or circumscribe the broad objective of developing to the utmost the seafood possibilities of the State of North Carolina."

(b) G.S. 113-315.32 reads as rewritten:

"**§ 113-315.32. Power of eminent domain.**

For the acquiring of rights-of-way and property necessary for the construction of wharves, piers, ships, docks, quays, elevators, compresses, refrigerator storage plants, warehouses and other riparian and littoral terminals and structures and approaches ~~thereto~~ thereto, including the navigation stabilization structures recommended by the United States Army Corps of Engineers pursuant to the authorization in United States Public Law 91-611, and transportation facilities needful for the convenient use of same, the Authority shall have the right and power to acquire the same by purchase, by negotiation, or by condemnation, and should it elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the Authority, and it may proceed in the manner provided ~~by the general laws of the State of North Carolina for the procedure by any county, municipality or authority organized under the laws of this State.~~ for the Board of Transportation by Article 9 of Chapter 136 of the General Statutes. The power of eminent domain shall not apply to property of persons, State agency or corporations already devoted to public ~~use.~~ use, other than lands subject to the power of eminent

domain by the State of North Carolina in the reservation clauses of a deed recorded in the Dare County Registry at Book 79 Page 548."

Requested by: Senator Martin of Pitt

WORKER TRAINING TRUST FUND APPROPRIATIONS

Section 15.6. Section 16(a) of Chapter 443 of the 1997 Session Laws reads as rewritten:

"Section 16. (a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of six million six hundred eighty-nine thousand nine hundred sixty-four dollars ($6,689,964) for the 1997-98 fiscal year and the sum of ~~six million six hundred eighty-nine thousand nine hundred sixty-four dollars ($6,689,964)~~ seven million twenty-one thousand three hundred seventy-four dollars ($7,021,374) for the 1998-99 fiscal year for the operation of local offices."

Requested by: Senators Martin of Pitt, Plyler, Perdue, Odom

YEAR 2000 CLARIFICATIONS

Section 15.7. Section 28.1 of S.L. 1997-443 reads as rewritten:

"Section 28.1. (a) ~~The Office of State Controller shall include in its charges for data processing services costs of converting computer applications to operate properly at the turn of the century.~~ The Department of Commerce shall not reduce rates for data processing services for the first six months of the 1998-99 fiscal year. If at the end of the first six months the Department determines that additional Year 2000 funds for the 1998-99 fiscal year are not needed from data processing services reserve funds, then the Department may reduce data processing services rates upon approval of the reduction by the Information Resources Management Commission. The ~~State Controller~~ Department shall develop and maintain procedures for managing the year 2000 conversion.

(b) The ~~State Controller~~ Department of Commerce shall analyze the needs of State agencies for funds to convert their systems. In the course of the analysis, the ~~State Controller~~ Department shall consider an agency's need for each system it wishes to convert and the most cost-effective manner in which to manage conversion. The ~~State Controller~~ Department shall certify to the Office of State Budget and Management the cost of each State agency for the year 2000 conversion.

~~(c) The Director of the Budget may use up to twenty-five million dollars ($25,000,000) of projected 1997-98 General Fund reversions to cover the cost of the year 2000 conversion in General Fund agencies during the 1997-98 fiscal year.~~

~~(d) Beginning October 1, 1997, and quarterly thereafter, the Office of State Controller shall report to the Joint Legislative Commission on Governmental Operations on the status of the conversion and cost projections.~~"

Requested by: Senator Martin of Pitt

NORTH CAROLINA INFORMATION HIGHWAY

Section 15.8. Section 28 of S.L. 1997-443 reads as rewritten:

"Section 28. (a) The funds appropriated in this act to the ~~Office of State Controller~~ Department of Commerce for the operation of the North Carolina Information Highway shall be used only for costs incurred by the ~~Office of State Controller~~ Department related to the operations and support of the North Carolina Information Highway. No funds appropriated in this act shall be expended to pay Minimum Monthly usage charges for North Carolina Information Highway Services.

(b) ~~The Office of State Controller may use the two hundred twenty-four thousand dollars ($224,000) in savings that accrued in fiscal year 1996-97 to fund new sites in fiscal year 1997-98.~~

~~(c) The Office of State Controller is encouraged to consider new technologies and capabilities as a means of providing NCIH users access to the existing ATM-SONET network. The Office of State Controller shall report to the General Assembly in 1998 before the reconvening of the regular session on its findings.~~

~~(d) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations regarding the costs incurred by the Office of State Controller related to the operations and support of the North Carolina Information Highway.~~

~~(e) Given the appropriations subcommittees meet in the interim, the House and Senate Appropriations Subcommittees on General Government will consider information leading to a recommendation to adopt an alternate approach to State funding of sites, effective in fiscal year 1998-99. The subcommittee is not limited to the information that may be considered and may include in the review cost-sharing measures that require sites to participate in the annual cost of network charges; the phasing-out of one hundred percent (100%) State funding of site network charges; and the cost of adding new sites with a specific period of time designated for State funding of network charges.~~ The Department of Commerce shall develop a Migration Plan for converting existing and proposed North Carolina Information Highway sites to the H.320 international telecommunications standard for delivering audio and video services to participating sites. The Department shall include at a minimum the following information in the Plan:

(1) A list of sites categorized by institutional purpose to be converted under the Plan;
(2) A timeline for converting each site;
(3) The cost of conversion for each site;
(4) The estimated operating cost savings for each site post conversion;
(5) The estimated monthly and annual operating cost subsidy for each site post conversion;
(6) The estimated total recurring dollar impact to the State's budget upon full implementation of the Plan; and
(7) A detailed plan for providing connectivity or bridging between the current DV-45 proprietary standard sites and the converted H.320 international standard sites.

The Plan shall also identify any participating information highway sites that utilize telecommunication standards other than the H.320 international standard offered by the Department along with the estimated costs for providing connectivity or bridging among these sites and between these sites and the converted H.320 international standard sites. The Plan shall be submitted by October 1, 1998, to the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division."

Requested by: Senator Martin of Pitt

FUNDS FOR TECHNOLOGICAL DEVELOPMENT AUTHORITY WET LAB AND OFFICE SPACE CONSTRUCTION

Section 15.9. Of the funds appropriated in this act to the Department of Commerce for the North Carolina Technological Development Authority, Inc., the sum of five hundred thousand dollars ($500,000) for the 1998-99 fiscal year shall be used to cover part of the cost of constructing a wet lab and office space. The Department shall place these funds in a reserve and shall not allocate any funds until the North Carolina Technological Development Authority, Inc., has secured all financing necessary to cover the total cost of constructing the wet lab and office space.

Requested by: Senator Martin of Pitt

NORTH CAROLINA GLOBAL CENTER REPORT

Section 15.10. The North Carolina Global Center shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by:. Senator Martin of Pitt

NORTH CAROLINA INSTITUTE OF MINORITY ECONOMIC DEVELOPMENT, INC., REPORT

Section 15.11. The North Carolina Institute of Minority Economic Development, Inc., shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt

LAND LOSS PREVENTION PROJECT, INC., REPORT

Section 15.12. The Land Loss Prevention Project, Inc., shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt

NORTH CAROLINA COALITION OF FARM AND RURAL FAMILIES, INC., REPORT

Section 15.13. The North Carolina Coalition of Farm and Rural Families, Inc., shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt

NORTH CAROLINA MINORITY SUPPORT CENTER REPORT

Section 15.14. The North Carolina Minority Support Center shall:

(1) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senators Martin of Pitt, Dannelly

COMMUNITY DEVELOPMENT INITIATIVE

Section 15.15. Of the funds appropriated in this act to the North Carolina Community Development Initiative, Inc., the sum of two hundred fifty thousand dollars ($250,000) for the 1998-99 fiscal year shall be allocated to the Northwest Corridor CDC.

Requested by: Senators Martin of Pitt, Dannelly

CENTER FOR COMMUNITY SELF-HELP FUNDS

Section 15.16. (a) Of the funds appropriated in this act to the Department of Commerce, the sum of one million dollars ($1,000,000) for the 1998-99 fiscal year shall be allocated to the Center for Community Self-Help to further a statewide program of lending for home ownership throughout North Carolina. These funds will be leveraged on a ten-to-one basis, generating at least ten dollars ($10.00) of nontraditional home loans for every one dollar ($1.00) of State funds. Payments of principal shall be available for further loans or loan guarantees.

(b) The Center for Community Self-Help shall submit, within 180 days after the close of its fiscal year, audited financial statements to the State Auditor. All records pertaining to the use of State funds shall be made available to the State Auditor upon request. The Center for Community Self-Help shall make quarterly reports on the use of State funds to the State Auditor in form and format prescribed by the State Auditor or his designee. The Center for Community Self-Help shall make a written report by May 1 of each year for the next three years to the General Assembly on the use of the funds allocated under this section.

(c) The Center for Community Self-Help shall report to the Joint Legislative Commission on Governmental Operations, the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Department of Commerce on a quarterly basis for the next three years.

(d) The Office of the State Auditor may conduct an annual end-of-year audit of the revolving fund for economic development lending created by this appropriation for each year of the life of the revolving fund.

(e) If the Center for Community Self-Help dissolves, the corporation shall transfer the remaining assets of the revolving fund to the State and shall refrain from disposing of the revolving fund assets without approval of the State Treasurer.

(f) The Department of Commerce shall disburse this appropriation within 15 working days of the receipt of a request for the funds from the Center for Community Self-Help. The request shall include a commitment of the leveraged funds by the Center for Community Self-Help or its affiliates.

Requested by: Senator Martin of Pitt

MCNC

Section 15.17. Section 16.21 of S.L. 1997-443 reads as rewritten:

"Section 16.21. (a) MCNC shall report on all of its programs including contractual services for the Supercomputer and the Research and Education Network. The reports shall:

(1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1996-97 program activities, objectives, and accomplishments;

b. State fiscal year 1996-97 itemized expenditures and fund sources;

c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997;

d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.

e. The users, major projects and benefits resulting from the activities of the Supercomputer and the Research and Education Network.

f. The organization's progress toward achieving self-sufficiency by July 1, 1999.

(2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998;

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

e. The users, major projects and benefits resulting from the activities of the Supercomputer and the Research and Education Network.

f. The organization's progress toward achieving self-sufficiency by July 1, 1999.

(3) Provide to the Fiscal Research Division a copy of MCNC's annual audited financial statement within 30 days of issuance of the statement.

(b) The funds appropriated in this act to MCNC shall be used as follows:

	FY 1997-98	FY 1998-99
Electronic and Information Technologies Programs	$4,500,000	~~$2,500,000~~ 4,500,000

(c) Of the funds appropriated for the Electronic and Information Technologies Programs, four million five hundred thousand dollars ($4,500,000) for the 1997-98 fiscal year and ~~two~~ four million five hundred thousand dollars ~~($2,500,000)~~ ($4,500,00) for the 1998-99 fiscal year is contingent upon a dollar-for-dollar match in non-State funds.

(d) It is the intent of the General Assembly that State funds shall not be appropriated for MCNC in fiscal years 1999-2000 and beyond."

Requested by: Senator Martin of Pitt

RURAL ECONOMIC DEVELOPMENT CENTER

Section 15.18. Section 16.24 of S.L. 1997-443 reads as rewritten:

"Section 16.24. (a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million two hundred seventy thousand dollars ($1,270,000) for the 1997-98 fiscal year and the sum of one million two hundred seventy thousand dollars ($1,270,000) for the 1998-99 fiscal year shall be allocated as follows:

	1997-98 FY	1998-99 FY

Research and Demonstration Grants	$475,864	$475,864
Technical Assistance and Center Administration of Research and Demonstration Grants	444,136	444,136
Center Administration, Oversight, and Other Programs	350,000	350,000

(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

(c) Not more than fifty percent (50%) of the interest earned on State funds appropriated to the Rural Economic Development Center, Inc., may be used by the Center for administrative purposes, including salaries and fringe benefits.

(d) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

(1) Chartered pursuant to Chapter 55A of the General Statutes;

(2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;

(3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;

(4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and

(5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

(e) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five million seven hundred fifty thousand dollars ($5,750,000) for the 1997-98 fiscal year and the sum of ~~two~~ six million four hundred twenty-five thousand dollars ~~($2,400,000)~~ ($6,425,000) for the 1998-99 fiscal year shall be allocated as follows:

(1) $1,400,000 in fiscal year 1997-98 and ~~$1,200,000~~ $1,400,000 in fiscal year 1998-99 for community development grants to support development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. Funding shall also be allocated to the North Carolina Association of Community Development Corporations, Inc. The Rural Economic Development Center, Inc., shall allocate these funds as follows:

a. $900,000 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;

b. $250,000 in each fiscal year for direct grants to local community development corporations that have not previously received State funds;

c. $200,000 in fiscal year ~~1997-98~~ 1998-99 to the North Carolina Association of Community Development

Corporations, Inc., to provide training, technical assistance, resource development, and support for local community development corporations statewide; and

d. $50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.

(2) $250,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and

(3) ~~$4,100,000 for the 1997-98 fiscal year and $950,000 for the 1998-99 fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subdivision. The Center shall use these funds to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:~~

~~a. Necessary economic development projects and activities in economically distressed areas, or~~

~~b. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low pressure pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar for dollar basis in the amount of the grant awarded.~~

~~The grant recipients in this subsection shall be selected on the basis of need.~~ $4,515,000 for the 1998-99 fiscal year to the Supplemental Grants Program for grants to local governments for necessary water and sewer projects in economically distressed communities. These funds shall supplement other project funding and shall not represent more than fifty percent (50%) of the project's total cost.

(4) $200,000 in the 1998-99 fiscal year to the Capacity Building Grants Program. Grants shall be awarded to units of local government to pay all or a portion of the cost associated with the planning and writing of a grant or loan application, a capital improvement plan, or other efforts that support growth and development of rural areas.

(5) $60,000 for the 1998-99 fiscal year to the Rural Economic Development Center, Inc., to be used for administration of the Supplemental Grants Program and the Capacity Building Grants Program.

(f) The Rural Economic Development Center, Inc., shall:

(1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1996-97 program activities, objectives, and accomplishments;

b. State fiscal year 1996-97 itemized expenditures and fund sources;

c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and

d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.

(2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 1997-98 program activities, objectives, and accomplishments;

b. State fiscal year 1997-98 itemized expenditures and fund sources;

c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

(3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement."

PART XVI. JUDICIAL DEPARTMENT

Requested by: Senator Gulley

IRMC REVIEW OF AOC INFORMATION TECHNOLOGY PLANS/LONG-RANGE REPORT

Section 16. (a) G.S. 143B-472.41 reads as rewritten:

"**§ 143B-472.41. Information Resource Management Commission.**

(a) Creation; Membership. -- The Information Resource Management Commission is created in the Department of Commerce. The Commission consists of the following members:

(1) Four members of the Council of State, appointed by the Governor.

(1a) The Secretary of State.

(2) The Secretary of Administration.

(3) The State Budget Officer.

(4) Two members of the Governor's cabinet, appointed by the Governor.

(5) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(6) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(7) The Chair of the Governor's Committee on Data Processing and Information Systems.

(8) The Chair of the State Information Processing Services Advisory Board.

(9) The Chair of the Criminal Justice Information Network Governing Board.

(10) The State Controller.

(11) The Director of the Administrative Office of the Courts or the Director's designee.

Members of the Commission shall not be employed by or serve on the board of directors or other corporate governing body of any information systems, computer hardware, computer software, or telecommunications vendor of goods and services to the State of North Carolina.

The two initial cabinet members appointed by the Governor and the two initial citizen members appointed by the General Assembly shall each serve a term beginning September 1, 1992, and expiring on June 30, 1995. Thereafter, their successors shall be appointed for four-year terms, commencing July 1. Members of the Governor's cabinet shall be disqualified from completing a term of service of the Commission if they are no longer cabinet members.

The appointees by the Governor from the Council of State shall each serve a term beginning on September 1, 1992, and expiring on June 30, 1993. Thereafter, their successors shall be appointed for four-year terms, commencing July 1. Members of the Council of State shall be disqualified from completing a term of service on the Commission if they are no longer members of the Council of State.

Vacancies in the two legislative appointments shall be filled as provided in G.S. 120-122.

The Commission chair shall be elected in the first meeting of each calendar year from among the appointees of the Governor from the Council of State and shall serve a term of one year. The Secretary of Commerce shall be secretary to the Commission.

No member of the Information Resource Management Commission shall vote on an action affecting solely his or her own State agency.

(b) Powers and Duties. -- The Commission has the following powers and duties:

(1) To develop, approve, and publish a statewide information technology strategy covering the current and following biennium that shall be updated annually and shall be submitted to the General Assembly on the first day of each regular session.

(2) To develop, approve, and sponsor statewide technology initiatives and to report on those initiatives in the annual update of the statewide information technology strategy.

(3) To review and approve biennially the information technology plans of the executive agencies and ~~to review and comment biennially on the information technology plans of~~ the Administrative Office of the Courts. This review shall include plans for the procurement and use of personal computers and workstations.

(4) To recommend to the Governor and the Office of State Budget and Management the relative priorities across executive agency information technology plans.

(5) To establish a quality assurance policy for all agency information technology projects, information systems training programs, and information systems documentation.

(6) To establish and enforce a quality review and expenditure review procedure for major agency information technology projects.

(7) To review and approve expenditures from appropriations made to the Office of State Budget and Management for the purpose of creating a Computer Reserve Fund.

(8) To develop and promote a policy and procedures for the fair and competitive procurement of information technology consistent with the rules of the Department of Administration and consistent with published industry standards for open systems that provide agencies with a vendor-neutral operating environment where

different information technology hardware, software, and networks operate together easily and reliably.

(c) Meetings. -- The Information Resources Management Commission shall adopt bylaws containing rules governing its meeting procedures. The Information Resources Management Commission shall meet at least monthly."

(b) The Administrative Office of the Courts shall develop a strategic information systems and technology plan to both serve the courts in the present and assist the courts in adapting to future changes. The plan shall:

(1) Identify and document the information technology goals and objectives of the Judicial Department;

(2) Review and evaluate the findings and recommendations outlined in the Maddox and Ferguson report completed in September 1996;

(3) Provide an inventory of existing hardware and software in the court system statewide, including the age of and proposed replacement schedules, for personal computers, laptop computers, mainframe and midrange computers, servers, terminals, printers, and communications infrastructure devices;

(4) Assess the effectiveness of existing computer-based applications, including the district attorney and public defender case management system, courtroom automation, the civil case processing system, and the financial management system, and outline any changes that may be needed to meet the future needs of the court system;

(5) Develop an architectural strategy and quality assurance review that is consistent with existing State standards;

(6) Identify areas where the use of information technology would improve the efficiency and effectiveness of the court system in providing services to the public;

(7) Develop a long-term implementation plan and cost analysis for the new Magistrates Criminal Information System; and

(8) Recommend alternative five-year proposals for implementing the court system's technology plan, including a cost analysis of each alternative that specifies the order of priority in which various projects should be implemented.

The Administrative Office of the Courts shall report on the strategic information systems and technology plan developed pursuant to this section to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety. The Administrative Office of the Courts shall make an interim report by April 1, 1999, and a final report by May 1, 1999.

(c) The Judicial Department may use up to the sum of five hundred thousand dollars ($500,000) in funds appropriated to the Department for the 1998-99 fiscal year to contract for consultant services in the development of the strategic information systems and technology plan required by this section. Prior to expending these funds, the Department shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Subcommittees on Justice and Public Safety on the consultant selected and the proposed uses of these funds.

Requested by: Senator Gulley

STUDY OF PUBLIC DEFENDER PROGRAMS

Section 16.1. The Administrative Office of the Courts shall study the efficiency and cost-effectiveness of the public defender programs established in 11 judicial districts. The report shall include:

(1) A comparison outlining the number of defendants in each district represented by public defenders and privately assigned counsel by type of offense;

(2) An analysis of the average cost per defendant or case for each public defender program and a comparison of that average to payments made to privately assigned counsel in those districts;

(3) An implementation plan for potential expansion of public defender programs to additional districts, including possible locations, a cost analysis of necessary personnel and equipment to operate the programs, and the estimate of savings to be realized in using those programs rather than providing for privately assigned counsel.

The Administrative Office of the Courts shall report the results of its study to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Indigent Fund Study Commission established in Section 16.5 of this act by January 1, 1999.

Requested by: Senator Gulley

REVISE RECIDIVISM REPORTING DATE

Section 16.2. G.S. 7A-675.3 reads as rewritten:

"**§ 7A-675.3. Juvenile recidivism rates.**

(a) On an annual basis, the Administrative Office of the Courts shall compute the recidivism rate of juveniles who are adjudicated delinquent for offenses that would be Class A, B1, B2, C, D, or E felonies if committed by adults and who subsequently are adjudicated delinquent or convicted and shall report the statistics to the Joint Legislative Commission on Governmental Operations by ~~December 31~~ February 15 each year.

(b) The Chief Court Counselor of each judicial district shall forward to the Administrative Office of the Courts relevant information, as determined by the Administrative Office of the Courts, regarding every juvenile who is adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult for the purpose of computing the statistics required by this section."

Requested by: Senator Gulley

EXTEND SUNSET ON BAD CHECK PROGRAM

Section 16.3. (a) Subsection (e) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(e) This ~~act~~ section becomes effective October 1, 1997, and expires June 30, ~~1998.~~ 1999."

(b) Subsection (c) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(c) Of the funds appropriated to the Judicial Department for the 1997-98 fiscal year, the sum of one hundred fifty thousand dollars ($150,000) shall be used to establish bad check collection pilot programs in Columbus, Durham, and Rockingham Counties.

The Administrative Office of the Courts shall report by ~~May 1, 1998,~~ April 1, 1999, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the implementation of the programs, including their effectiveness in assisting the

recipients of worthless checks in obtaining restitution and the amount of time saved in prosecuting worthless check cases."

(c) Subsection (a) of this section becomes effective June 30, 1998.

Requested by: Senator Gulley

TEEN COURT FUNDS DO NOT REVERT

Section 16.4. (a) The funds appropriated in S.L. 1997-443 to the Judicial Department for teen court programs throughout the State shall not revert at the end of the 1997-98 fiscal year and shall remain available to the Department for the 1998-99 fiscal year to be used for teen court programs.

(b) This section becomes effective June 30, 1998.

Requested by: Senator Gulley

INDIGENT FUND STUDY COMMISSION

Section 16.5. (a) The Administrative Office of the Courts shall establish a Study Commission on the Indigent Persons' Attorney Fee Fund. The Commission shall consist of seven voting members as follows:

(1) One member appointed by the Speaker of the House of Representatives;

(2) One member appointed by the President Pro Tempore of the Senate;

(3) One member appointed by the Chief Justice of the Supreme Court;

(4) One member appointed by the North Carolina Association of Public Defenders;

(5) One member appointed by the North Carolina State Bar;

(6) One member appointed by the North Carolina Bar Association; and

(7) One member appointed by the North Carolina Academy of Trial Lawyers.

The Commission shall elect a chair upon being convened at the call of the Chief Justice's appointee.

(b) The Commission shall study methods for improving the management and accountability of funds being expended to provide counsel to indigent defendants without compromising the quality of legal representation mandated by State and federal law. In conducting its study, the Commission shall:

(1) Evaluate the current procedures for determining the indigency of defendants and recommend any possible improvements in those procedures;

(2) Determine whether sufficient information is available when evaluating compensation requests from assigned private counsel and expert witnesses;

(3) Assess the effectiveness of the current management structure for the Indigent Persons' Attorney Fee Fund and outline any additional standards or guidelines that could be implemented to allow for greater accountability of the funds being expended;

(4) Evaluate whether establishing an Indigent Defense Council to oversee the State's expenditure of funds on a district, regional, or Statewide basis would make the functioning of the Indigent Persons' Attorney Fee Fund more efficient and economical;

(5) Evaluate the effectiveness of existing methods of providing legal representation to indigent defendants, including the use of public defenders, appointed counsel, and contract lawyers;

(6) Review methods used by other states to provide legal representation to indigent defendants;
(7) Assess the potential effectiveness of distributing funds in other ways, including the hiring of contract attorneys on a retainer basis and the expansion of public defender programs; and
(8) Outline additional suggestions that would improve the provision of legal representation to indigent defendants.

The Administrative Office of the Courts shall assign professional and clerical staff to assist in the work of the Commission. The Commission shall report its findings and recommendations to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety no later than May 1, 1999. The report shall include a cost analysis demonstrating the additional personnel and equipment necessary to implement the Commission's recommendations. The report shall also include any legislation necessary to implement the Commission's recommendations.

(c) The Administrative Office of the Courts may use up to the sum of one hundred thousand dollars ($100,000) from the Indigent Persons' Attorney Fee Fund to contract for consultant services to assist in meeting the Commission's responsibilities.

Requested by: Senator Rand

CUMBERLAND JUVENILE ASSESSMENT CENTER

Section 16.6. (a) Section 18.21 of S.L. 1997-443 reads as rewritten:

"Section 18.21. (a) Of the funds appropriated in this act to the Administrative Office of the Courts for the 1997-98 fiscal year, the sum of one hundred fifty thousand dollars ($150,000) shall be used to fund the Juvenile Assessment Project authorized by this section. These funds shall be matched by local funds on the basis of one dollar ($1.00) of local funds for every three dollars ($3.00) of State funds. These funds shall not revert at the end of the 1997-98 fiscal year, but shall remain in the Department during the 1998-99 fiscal year to implement this section.

(b) The Administrative Office of the Courts, in collaboration with the Chief Court Counselor of District Court District 12, the Cumberland County Department of Social Services, and the appropriate local school administrative units, shall develop and implement a Juvenile Assessment Center Project in District Court District 12 to operate from the effective date of this act to ~~June 30, 1998.~~ June 30, 1999. The purpose of the Project is to facilitate efficient prevention and intervention service delivery to juveniles who are (i) alleged to be delinquent or undisciplined and have been taken into custody or (ii) at risk of becoming delinquent or undisciplined because they have behavioral problems and have committed delinquent acts even though they have not been taken into custody. The Project shall assist these juveniles by providing a centralized point of intake and assessment for the juveniles, by addressing the educational, emotional, and physical needs of the juveniles, and by providing juveniles with an atmosphere for learning personal responsibility, self-respect, and respect for others. The Administrative Office of the Courts shall consider the recommendations of the Juvenile Assessment Advisory Board in developing and implementing the Project.

(c) The Project shall be modeled after the Juvenile Assessment Center in Hillsborough County, Florida, and shall:
(1) Identify those juveniles who are alleged to be delinquent or undisciplined or are at risk of becoming delinquent or undisciplined;
(2) Evaluate the educational, emotional, and physical needs of the juveniles identified and determine whether the juveniles have

problems related to substance abuse, depression, or other emotional conditions;

(3) Develop in-depth and comprehensive assessment plans for the juveniles identified that recommend appropriate treatment, counseling, and disposition of the juveniles; and

(4) Provide services to juveniles identified and their families through collaboration with public and private resources, including local law enforcement, parents' organizations, the Fayetteville Chamber of Commerce, and county and community programs and organizations that provide substance abuse treatment and child and family counseling.

(d) There is established the Juvenile Assessment Advisory Board to make recommendations to the Administrative Office of the Courts regarding the development and operations of the Project. The Board shall consist of 13 members, including:

(1) The director of the Department of Social Services of Cumberland County, or the director's designee.

(2) A representative from the local mental health area authority of Cumberland County.

(3) A member of the Cumberland County Board of Education.

(4) The sheriff of Cumberland County, or the sheriff's designee.

(5) The chief of police of the Fayetteville Police Department, or the designee of the chief of police.

(6) A judge of District Court District 12.

(7) A juvenile court counselor from District Court District 12.

(8) The director of the Guardian Ad Litem program in Cumberland County, or the director's designee.

(9) The director of the Health Department of Cumberland County, or the director's designee.

(10) Two public members appointed by the Fayetteville City Council.

(11) Two public members appointed by the Board of County Commissioners of Cumberland County.

The members of the Board shall, within 30 days after the initial appointment is made, meet and elect one member as chair. The Board shall meet at least once a month at the call of the chair, and a quorum of the Board shall consist of a majority of its members. The Board of County Commissioners of Cumberland County shall provide necessary clerical and professional assistance to the Board.

Initial appointments shall be made by October 1, 1997, and all terms shall expire ~~June 30, 1998.~~ June 30, 1999.

(e) The Administrative Office of the Courts, in consultation with the Department of ~~Human Resources,~~ Health and Human Services, shall evaluate the Project and report to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and ~~Human Resources,~~ Health and Human Services and the Fiscal Research Division of the General Assembly by ~~May 1, 1998,~~ May 1, 1999, on the progress of the development and implementation of the Project. In the report, the Administrative Office of the Courts, in consultation with the Department of ~~Human Resources,~~ Health and Human Services, shall evaluate the effectiveness of the Project, including the number of juveniles served or expected to be served, and shall recommend whether the Project should be continued. If the report recommends that the Project be continued, it shall also provide a cost analysis outlining the long-term staffing and operating needs of the Project."

(b) This section becomes effective June 30, 1998.

Requested by: Senator Gulley
N.C. STATE BAR FUNDS

Section 16.7. Of the nonrecurring funds appropriated in the expansion budget as a grant-in-aid to the North Carolina State Bar for the 1998-99 fiscal year, the North Carolina State Bar may in its discretion use up to the sum of five hundred thousand dollars ($500,000) for the 1998-99 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants.

Requested by: Senator Gulley
COMMUNITY PENALTIES PROGRAMS

Section 16.8. Subsection (a) of Section 18.4 of S.L. 1997-443 reads as rewritten:

"(a) Of the funds appropriated from the General Fund to the Judicial Department for the 1997-99 biennium to conduct the Community Penalties Program, the sum of four million three hundred fifty-five thousand three hundred eighty-two dollars ($4,355,382) for the 1997-98 fiscal year and the sum of ~~four million three hundred fifty-five thousand three hundred eighty-two dollars ($4,355,382)~~ four million four hundred sixty-four thousand five hundred twenty-one dollars ($4,464,521) for the 1998-99 fiscal year may be allocated by the Judicial Department in each year of the biennium in any amount among existing community penalties programs, including any State-operated programs, or may be used to establish new community penalties programs."

Requested by: Senator Gulley
DISTRICT COURT CIVIL CASE MANAGEMENT

Section 16.9. Section 18.23 of S.L. 1997-443 reads as rewritten:

"Section 18.23. The Administrative Office of the Courts shall report by ~~May 1, 1998,~~ April 1, 1999, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the civil case management pilot programs established in District Court Districts 13, 18, and 30. The report shall assess the success of these programs in reducing the backlog of civil court cases and in resolving new cases more quickly."

Requested by: Senator Gulley
CAPITAL CASE PILOT PROGRAM

Section 16.10. (a) The Administrative Office of the Courts shall establish a capital case pilot program to be incorporated into the Office of the Appellate Defender to provide assistance to districts experiencing difficulty in locating qualified private counsel to handle capital cases.

(b) The Administrative Office of the Courts may use up to the sum of one hundred eighty thousand forty dollars ($180,040) from the Indigent Persons' Attorney Fee Fund for the 1998-99 fiscal year for salaries, benefits, and related expenses to establish two new assistant public defender positions, one legal assistant position, and one investigator to work specifically on capital cases.

(c) The Administrative Office of the Courts shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by May 1, 1999, on the effectiveness of the program, including information on which districts have received assistance, the average cost per defendant served, and an estimate of the savings to be realized in using this program rather than privately assigned counsel.

Requested by: Senator Gulley

AUTHORIZE ADDITIONAL MAGISTRATES

Section 16.11. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.	Magistrates Max.	Additional Seats of Court
Camden	1	2	
Chowan	2	3	
Currituck	1	~~3~~ 4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	3	
Martin	5	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden
Craven	7	10	Havelock
Pamlico	2	~~3~~ 4	
Carteret	5	8	
Sampson	6	8	
Duplin	9	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	6	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	4	
Franklin	3	7	
Person	3	4	
Caswell	2	5	
Wake	12	~~20~~ 21	Apex, Wendell,

				Fuquay-Varina, Wake Forest
	Harnett	7	11	Dunn
	Johnston	10	12	Benson, Clayton, Selma
	Lee	4	6	
	Cumberland	10	18	
	Bladen	4	6	
	Brunswick	4	7	
	Columbus	6	9	Tabor City
	Durham	8	13	
	Alamance	7	10	Burlington
	Orange	4	11	Chapel Hill
	Chatham	3	8	Siler City
	Scotland	3	5	
	Hoke	4	5	
	Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
	Rockingham	4	9	Reidsville, Eden, Madison
	Stokes	2	5	
	Surry	5	9	Mt. Airy
	Guilford	20	26	High Point
	Cabarrus	5	9	Kannapolis
	Montgomery	2	4	
	Randolph	5	10	Liberty
	Rowan	5	10	
	Stanly	5	6	
	Union	4	6	
	Anson	4	5	
	Richmond	5	6	Hamlet
	Moore	5	8	Southern Pines
	Forsyth	3	15	Kernersville
	Alexander	2	3	
	Davidson	7	10	Thomasville
	Davie	2	3	
	Iredell	4	9	Mooresville
	Alleghany	1	2	
	Ashe	3	4	
	Wilkes	4	6	
	Yadkin	3	5	
	Avery	3	4	
	Madison	4	5	
	Mitchell	3	4	
	Watauga	4	6	

Yancey	2	4		
Burke	4	7		
Caldwell	4	7		
Catawba	6	10		Hickory
Mecklenburg	15	~~26~~ 28		
Gaston	11	21		
Cleveland	5	8		
Lincoln	4	7		
Buncombe	6	15		
Henderson	4	7		
McDowell	3	5		
Polk	3	4		
Rutherford	6	8		
Transylvania	2	4		
Cherokee	3	4		
Clay	1	2		
Graham	2	3		
Haywood	5	7		Canton
Jackson	3	4		
Macon	3	4		
Swain	2	3."		

Requested by: Senator Gulley

ASSISTANT PUBLIC DEFENDERS

Section 16.12. From funds appropriated to the Indigent Persons' Attorney Fee Fund for the 1998-99 fiscal year, the Administrative Office of the Courts may use up to one hundred seventy-nine thousand two hundred twenty dollars ($179,220) for salaries, benefits, equipment, and related expenses to establish up to four new assistant public defender positions.

Requested by: Senator Gulley

ELIMINATE REQUIREMENT OF CERTIFIED MAIL NOTICE IN BAIL BOND FORFEITURE CASES

Section 16.13. G.S. 15A-544(b) reads as rewritten:

"(b) If the principal does not comply with the conditions of the bail bond, the court having jurisdiction must enter an order declaring the bail to be forfeited. If forfeiture is ordered by the court, a copy of the order of forfeiture and notice that judgment will be entered upon the order after 60 days must be served on each obligor. Service is to be made by the clerk mailing by ~~certified mail, return receipt requested,~~ first-class mail a copy of the order of forfeiture and notice to each obligor at each obligor's address as noted on the bond and note on the original the date of mailing. Service is complete three days after the mailing."

Requested by: Senator Gulley

PROVIDE THAT THE CLERK OF SUPERIOR COURT DOES NOT HAVE TO INVENTORY A DECEDENT'S SAFE-DEPOSIT BOX IF A QUALIFIED PERSON IS PRESENT AT THE OPENING OF THE BOX

Section 16.14. (a) Article 15 of Chapter 28A of the General Statutes is amended by adding a new section to read:

"**§ 28A-15-13. Opening and inventory of decedent's safe-deposit box.**

(a) Definitions. -- The following definitions apply to this section:

(1) Institution. -- Any entity or person having supervision or possession of a safe-deposit box to which a decedent had access.

(2) Letter of authority. -- Letters of administration, letters testamentary, an affidavit of collection of personal property, an order of summary administration, or a letter directed to the institution designating a person entitled to receive the contents of a safe-deposit box to which the decedent had access. The letter of authority must be signed by the clerk of superior court or by the clerk's representative.

(3) Qualified person. -- A person possessing a letter of authority or a person named as a lessee or cotenant of the safe-deposit box to which the decedent had access.

(b) Presence of Clerk Required. -- Any safe-deposit box to which a decedent had access shall be sealed by the institution having supervision or possession of the box. Except as provided in subsection (c) of this section, the presence of the clerk of superior court of the county where the safe-deposit box is located or the presence of the clerk's representative is required before the box may be opened. The clerk or the clerk's representative shall open the safe-deposit box in the presence of the person possessing a key to the box and a representative of the institution having supervision or possession of the box. The clerk shall make an inventory of the contents of the box and furnish a copy to the institution and to the person possessing a key to the box.

(c) An Inventory and the Presence of Clerk Not Required. -- Neither an inventory nor the presence of the clerk of superior court or the clerk's representative is required when the person requesting the opening of the decedent's safe-deposit box is a qualified person.

(d) Testamentary Instrument in Box. -- If the safe-deposit box contains any writing that appears to be a will, codicil, or any other instrument of a testamentary nature, then the clerk of superior court or the qualified person shall file the instrument in the office of the clerk of superior court.

(e) Release of Contents. -- Except as provided in subsection (d) for testamentary instruments, the institution shall not release any contents of the safe-deposit box to anyone other than a qualified person.

(f) No Tax Waiver Required. -- Notwithstanding the provisions in G.S. 105-24(a), no tax waiver is required for the release of the contents of the decedent's safe-deposit box."

(b) G.S. 105-24(b), (c), and (e) are repealed.

(c) This section becomes effective October 1, 1998, and applies to estates of decedents who die on or after that date.

Requested by: Senator Gulley

CONTINUE DRUG TREATMENT COURT

Section 16.15. (a) Section 21.6(c) of Chapter 507 of the 1995 Session Laws reads as rewritten:

"(c) Subsection (a) of this section becomes effective ~~July 1, 1995, and expires June 30, 1998.~~ July 1, 1995. The remainder of this section becomes effective October 1, 1995."

(b) G.S. 7A-791 reads as rewritten:

"**§ 7A-791. Purpose.**

The General Assembly recognizes that a critical need exists in this State for criminal justice system programs that will reduce the incidence of drug use and drug addiction and crimes committed as a result of drug use and drug addiction. It is the intent of the General Assembly by this Article to create a program to facilitate the creation of local drug treatment court ~~pilot programs in a minimum of two judicial districts.~~ programs."

(c) G.S. 7A-793 reads as rewritten:

"**§ 7A-793. Establishment of Program.**

The North Carolina Drug Treatment Court Program is established in the Administrative Office of the Courts to facilitate the creation ~~of drug treatment court programs~~ and ~~the~~ funding of ~~pilot~~ local drug treatment court programs. The Director of the Administrative Office of the Courts shall provide any necessary staff for planning, organizing, and administering the program. ~~Drug~~ Local drug treatment court programs funded pursuant to this Article shall be operated ~~consistent~~ consistently with the guidelines ~~promulgated by the Director of the Administrative Office of the Courts in consultation with the State Drug Treatment Court Advisory Committee established in G.S. 7A-795. In promulgating the guidelines, the Director and the Advisory Committee shall consider the Substance Abuse and the Courts Action Plan and other recommendations of the Substance Abuse and the Courts State Task Force.~~ adopted pursuant to G.S. 7A-795."

(d) G.S. 7A-794 reads as rewritten:

"**§ 7A-794. Fund administration.**

The Drug Treatment Court Program Fund is created in the Administrative Office of the Courts and is administered by the Director of the Administrative Office of the Courts in consultation with the State Drug Treatment Court Advisory Committee. The Director of the Administrative Office of the Courts shall award grants from this Fund and implement local drug treatment court ~~programs in a minimum of two judicial districts.~~ programs. Grants shall be awarded based upon the general guidelines set forth by the Director of the Administrative Office of the Courts and the State Drug Treatment Court Advisory Committee."

(e) G.S. 7A-795 reads as rewritten:

"**§ 7A-795. State Drug Treatment Court Advisory Committee.**

The State Drug Treatment Court Advisory Committee is established to develop and recommend to the Director of the Administrative Office of the Courts guidelines for the drug treatment court program and to monitor local programs wherever they are implemented. The Committee shall be chaired by the Director ~~of the Administrative Office of the Courts~~ or the Director's designee and shall consist of not less than seven members appointed by the Director and broadly representative of the courts, law enforcement, corrections, and substance abuse treatment communities. In developing guidelines, the Advisory Committee shall consider the Substance Abuse and the Courts Action Plan and other recommendations of the Substance Abuse and the Courts State Task Force."

(f) G.S. 7A-796 reads as rewritten:

"**§ 7A-796. Local drug treatment court management committee.**

Each judicial district choosing to establish a drug treatment court ~~or applying to participate in a funded pilot program~~ shall form a local drug treatment court management committee, consisting of the following persons, appointed by the senior resident superior court judge with the concurrence of the district attorney for that district:

(1) A judge of the superior court;
(2) A judge of the district court;
(3) A district attorney or assistant district attorney;
(4) A public defender or assistant public defender in judicial districts served by a public defender;
(5) A member of the private criminal defense bar;
(6) A clerk of superior court;
(7) The trial court administrator in judicial districts served by a trial court administrator;
(8) A probation officer;

(9) A local law enforcement officer;
(10) A representative of the local community college;
(11) A representative of the treatment providers;
(12) The local program director provided for in G.S. 7A-798; and
(13) Any other persons selected by the local management committee.

The local drug treatment court management committee shall develop local guidelines and procedures, not inconsistent with the State guidelines, that are necessary for the operation and evaluation of the local drug treatment court."

(g) G.S. 7A-798 reads as rewritten:

"**§ 7A-798. Drug treatment court grant application; local program director.**

(a) ~~Grant applications for the pilot programs~~ Applications for funding to develop or implement local drug treatment court programs shall be submitted to the Director of the Administrative Office of the Courts, in such form and with such information as the Director may require consistent with the provisions of this Article. ~~Grants shall be awarded to two or more judicial districts that submit the most comprehensive and feasible plans for the implementation and operation of a drug treatment court.~~ The Director shall award and administer grants in accordance with any laws made for that purpose, including appropriations acts and provisions in appropriations acts, and may adopt rules for the implementation, operation, and monitoring of grant-funded programs.

(b) Grant applications shall specify a local program ~~director~~ administrator who shall be responsible for ~~local administration of the project.~~ the local program. Grant funds may be used to fund a full-time or part-time local program director ~~position.~~ position and other necessary staff. The ~~local program director~~ staff may be ~~an employee~~ employees of the grant recipient, ~~an employee~~ employees of the court, or ~~a~~ grant-established ~~position~~ positions under the senior resident superior court judge or chief district court judge."

(h) G.S. 7A-800 reads as rewritten:

"**§ 7A-800. Payment of costs of treatment program.**

Each defendant or offender shall contribute to the cost of the substance abuse treatment received in the drug treatment court program, based upon guidelines developed by the local drug treatment court management committee."

(i) G.S. 7A-801 reads as rewritten:

"**§ 7A-801. Plan for evaluation.**

~~Each grant application requesting funding for the pilot program shall include a method for evaluating the pilot program's effectiveness, based upon the goals stated in G.S. 7A-792.~~ The Administrative Office of the Courts shall develop a statewide model and conduct ongoing evaluations of all local drug treatment court programs. A report of these evaluations shall be submitted to the General Assembly by March 1 of each year. Each ~~funded~~ local drug treatment court program shall submit evaluation reports to the Administrative Office of the Courts as requested. ~~Additionally, the Administrative Office of the Courts shall be responsible for developing an evaluation model on the State level to compare the effectiveness of all pilot programs and shall submit a report to the General Assembly by May 1, 1998.~~"

(j) Subsection (a) of this section becomes effective June 30, 1998.

Requested by: Senator Gulley

ADDITIONAL DISTRICT COURT JUDGES

Section 16.16. (a) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	4	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	3	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	4	Pitt
3B	5	Craven
		Pamlico
		Carteret
4	~~6~~ 7	Sampson
		Duplin
		Jones
		Onslow
5	6	New Hanover
		Pender
6A	2	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	~~6~~ 7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance
		see subsection (b))
		Franklin
9A	2	Person
		Caswell
9B	1	Warren
		(part of Vance
		see subsection (b))
10	~~12~~ 13	Wake
11	~~6~~ 7	Harnett
		Johnston
		Lee
12	~~8~~ 9	Cumberland
13	5	Bladen
		Brunswick
		Columbus
14	~~5~~ 6	Durham
15A	3	Alamance

	15B	4	Orange
			Chatham
	16A	3	Scotland
			Hoke
	16B	5	Robeson
	17A	2	Rockingham
	17B	3	Stokes
			Surry
	18	11	Guilford
	19A	3	Cabarrus
	19B	5	Montgomery
			Moore
			Randolph
	19C	~~3~~ 4	Rowan
	20	7	Stanly
			Union
			Anson
			Richmond
	21	7	Forsyth
	22	8	Alexander
			Davidson
			Davie
			Iredell
	23	4	Alleghany
			Ashe
			Wilkes
			Yadkin
	24	4	Avery
			Madison
			Mitchell
			Watauga
			Yancey
	25	7	Burke
			Caldwell
			Catawba
	26	~~14~~ 15	Mecklenburg
	27A	5	Gaston
	27B	4	Cleveland
			Lincoln
	28	5	Buncombe
	29	5	Henderson
			McDowell
			Polk
			Rutherford
			Transylvania
	30	4	Cherokee
			Clay
			Graham
			Haywood
			Jackson
			Macon
			Swain."

(b) The Governor shall appoint additional district court judges for District Court Districts 4, 7, 10, 11, 12, 14, 19C, and 26 as authorized by subsection (a) of this section. Those judges' successors shall be elected in the 2002 election for four-year terms commencing on the first Monday in December 2002.

(c) Subsection (a) of this section becomes effective December 15, 1998, as to any district where no county is subject to section 5 of the Voting Rights Act of 1965. As to any district where any county is subject to section 5 of the Voting Rights Act of 1965, subsection (a) of this section becomes effective December 15, 1998, or 15 days after the date upon which that subsection is approved under section 5 of the Voting Rights Act.

Requested by: Senators Gulley, Odom

FAMILY COURT PILOT PROGRAMS

Section 16.17. (a) The Administrative Office of the Courts shall establish pilot programs for the holding of family court in District Court Districts 12, 14, and 26. Each pilot program shall be conducted following the guidelines for the establishment of family courts contained in the report of the Commission for the Future of Justice and the Courts in North Carolina and shall be assigned to hear all matters involving intrafamily rights, relationships, and obligations, and all juvenile justice matters, including:

(1) Child abuse, neglect, and dependency;
(2) Delinquent and undisciplined juvenile matters;
(3) Emancipation of minors and termination of parental rights;
(4) Divorce;
(5) Annulment;
(6) Equitable distribution;
(7) Alimony and postseparation support;
(8) Child custody;
(9) Child support;
(10) Paternity;
(11) Adoption;
(12) Domestic violence civil restraining orders;
(13) Abortion consent waivers; and
(14) Adult protective services.

(b) The Administrative Office of the Courts shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by April 1, 1999, on the implementation of these pilot programs, including the number of families served, the success in reducing the backlog of family cases and resolving new cases more quickly and efficiently, and the success in bringing consistency and fairness to the resolution of family matters.

(c) Of the funds appropriated to the Juvenile Justice Reserve Fund established in Section 8.1 of this act, up to the sum of five hundred six thousand seven hundred seventy-six dollars ($506,776) shall be used to establish the necessary personnel and operating support to implement these programs.

Requested by: Senator Gulley

EVALUATION OF CORRECTIONAL PROGRAMS

Section 16.18. (a) The Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission, and the Department of Correction shall jointly conduct ongoing evaluations of community corrections programs and in-prison treatment programs and make a biennial report to the General Assembly. The report

shall include composite measures of program effectiveness based on recidivism rates, other outcome measures, and costs of the programs.

During the 1998-99 fiscal year, the Sentencing and Policy Advisory Commission shall coordinate the collection of all data necessary to create an expanded database containing offender information on prior convictions, current conviction and sentence, program participation, and outcome measures. Each program to be evaluated shall assist the Commission in the development of systems and collection of data necessary to complete the evaluation process. The first evaluation report shall be presented to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by April 15, 2000, and future reports shall be made by April 15 of each even-numbered year.

The Judicial Department may use the sum of fifty thousand dollars ($50,000) in funds appropriated for the 1998-99 fiscal year to conduct the study provided for in this section.

(b) Section 22.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session is repealed.

Requested by: Senator Gulley

ESTABLISH PILOT PROGRAM OF SETTLEMENT PROCEDURES IN DISTRICT COURT ACTIONS INVOLVING FAMILY ISSUES

Section 16.19. (a) G.S. 7A-38.4 reads as rewritten:

"**§ 7A-38.4. ~~Mediated settlement conferences~~ Settlement procedures in district court actions.**

(a) The purpose of this section is to authorize the design, implementation, and evaluation of a pilot program in which parties to district court actions involving equitable distribution, alimony, and support may be required to attend a pretrial mediated settlement conference or other settlement procedure.

~~(b) The Dispute Resolution Commission established under the Judicial Department shall, with the advice of the Director of the Administrative Office of the Courts, design the pilot program and its coordination with existing settlement programs. The planning and design phase of the program shall include representatives from the Conference of Chief District Court Judges, the AOC Child Custody Mediation Advisory Committee, the Court Ordered Arbitration Subcommittee of the Supreme Court's Dispute Resolution Committee, the North Carolina Mediation Network, the North Carolina Association of Professional Family Mediators, the North Carolina Association of Clerks of Superior Court, the North Carolina Association of Trial Court Administrators, the Family Law Section of the North Carolina Bar Association, and the Dispute Resolution Section of the North Carolina Bar Association.~~

(c) The Supreme Court may adopt rules to implement this section. The definitions in G.S. 7A-38.1(b)(2) and (b)(3) apply to this section.

(d) ~~The chief district court judge~~ District court judges of any participating district may order a mediated settlement conference or another settlement procedure for any action pending in the district involving issues of equitable distribution, alimony, or child or spousal ~~support.~~ support, pursuant to rules adopted by the Supreme Court. The chief district court judge may by local rule order all such cases, not otherwise exempted by Supreme Court rule, to mediated settlement conference.

(e) The parties to a district court action in which a mediated settlement conference is ordered, their attorneys, and other persons or entities with authority, by law or by contract, to settle the parties' claims shall attend the mediated settlement conference, or other settlement procedure ordered by ~~the court,~~ a district court judge pursuant to rules of the Supreme Court, unless excused by ~~the rules of the Supreme~~

~~Court or by order of the chief district court judge.~~ those rules. Nothing in this section shall require any party or other participant in the conference to make a settlement offer or demand which it deems is contrary to its best interests.

(f) Any person required to attend a mediated settlement conference or other settlement procedure ordered by the court who, without good cause, fails to attend in compliance with this section and the rules adopted under this section, shall be subject to any appropriate monetary sanction imposed by a ~~chief or presiding~~ district court ~~judge,~~ judge pursuant to rules of the Supreme Court, including the payment of attorneys' fees, mediator fees, and expenses incurred in attending the ~~conference.~~ settlement procedure. If the court imposes sanctions, it shall do so, after notice and hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions shall be reviewable upon appeal where the entire record as submitted shall be reviewed to determine whether the order is supported by substantial evidence.

(g) The parties to a district court action in which a mediated settlement conference is to be held pursuant to this section shall have the right to designate a mediator. Upon failure of the parties to designate within the time established by the rules of the Supreme Court, a mediator shall be appointed by ~~the chief~~ a district court judge ~~or its designee.~~ pursuant to rules of the Supreme Court.

(h) ~~The~~ Pursuant to rules of the Supreme Court, a chief district court judge, at the request of a party and with the consent of ~~the~~ all parties, may order the parties to attend and participate in any other settlement procedure authorized by rules ~~of~~ adopted by the Supreme Court or adopted by local district court rules, in lieu of attending a mediated settlement conference. ~~Neutral third parties~~ Neutrals acting pursuant to this section shall be selected and compensated in accordance with ~~the~~ rules of the Supreme Court or pursuant to agreement of the parties. Nothing herein shall prohibit the parties from participating in other dispute resolution procedures, including arbitration, to the extent authorized under State or federal law.

(i) Mediators and other neutrals acting pursuant to this section shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice, except that mediators and other neutrals may be disciplined in accordance with enforcement procedures adopted by the Supreme Court pursuant to G.S. 7A-38.2.

(j) Costs of mediated settlement conferences and other settlement procedures shall be borne by the parties. Unless otherwise ordered by the court or agreed to by the parties, the mediator's fees shall be paid in equal shares by the parties. The rules adopted by the Supreme Court implementing this section shall set out a method whereby parties found by the court to be unable to pay the costs of settlement procedures are afforded an opportunity to participate without cost to an indigent party and without expenditure of State funds.

(k) Evidence of statements made and conduct occurring in a ~~mediated settlement conference~~ settlement proceeding conducted pursuant to this section shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other actions on the same claim. However, no evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a ~~mediated settlement conference.~~ settlement proceeding.

No mediator, or other neutral conducting a settlement procedure pursuant to this section, shall be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediated settlement conference or other settlement procedure in any civil proceeding for any purpose, except proceedings for sanctions under this section, disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators, and proceedings to enforce laws concerning juvenile or elder abuse.

(l) The Supreme Court may adopt standards for the certification and conduct of mediators and other neutrals who participate ~~in the mediated settlement conference program established~~ settlement procedures conducted pursuant to this section. The standards may also regulate mediator training programs. The Supreme Court may adopt procedures for the enforcement of those standards. The administration of mediator certification, regulation of mediator conduct, and decertification shall be conducted through the Dispute Resolution Commission.

(m) An administrative fee not to exceed two hundred dollars ($200.00) may be charged by the Administrative Office of the Courts to applicants for certification and annual renewal of certification for mediators and mediator training programs operation under this section. The fees collected may be used by the Director of the Administrative Office of the Courts to establish and maintain the operations of the Commission and its staff. The administrative fee shall be set by the Director of the Administrative Office of the Courts in consultation with the Dispute Resolution Commission.

(n) The Administrative Office of the Courts, in consultation with the Dispute Resolution Commission, may require the chief district court judge of any participating district to report statistical data about settlement procedures conducted pursuant to this section for administrative purposes.

~~(m)~~ (o) Nothing in this section or rules adopted pursuant to it shall restrict the right to jury trial."

(b) G.S. 7A-38.2(c) reads as rewritten:

"(c) The Dispute Resolution Commission shall consist of ~~nine~~ 14 members: ~~two~~ five judges appointed by the Chief Justice of the Supreme ~~Court;~~ Court, at least two of whom shall be superior court judges, and at least two of whom shall be district court judges; two mediators certified to conduct superior court mediated settlement conferences and two mediators certified to conduct equitable distribution mediated settlement conferences appointed by the Chief Justice of the Supreme Court; two practicing attorneys who are not certified as mediators appointed by the President of the North Carolina State ~~Bar;~~ Bar, one of whom shall be a certified family law specialist; and three citizens knowledgeable about mediation, one of whom shall be appointed by the Governor, one by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Members shall initially serve four-year terms, except that one judge, one mediator, one attorney, and the citizen member appointed by the Governor, shall be appointed for an initial term of two years. ~~Members may serve no more than two consecutive terms.~~ The Chief Justice shall designate one of the judge members to serve as chair for a two-year term. Members of the Commission shall be compensated pursuant to G.S. 138-5.

Vacancies shall be filled for unexpired terms and full terms in the same manner as incumbents were appointed. Appointing authorities may receive and consider suggestions and recommendations of persons for appointment from the Dispute Resolution Commission, the Family Law, Litigation, and Dispute Resolution Sections of the North Carolina Bar Association, the North Carolina Association of Professional Family Mediators, the North Carolina Association of Clerks of Superior Court, the North Carolina Conference of Court Administrators, the Mediation Network of North Carolina, the Dispute Resolution Committee of the Supreme Court, the Conference of Chief District Court Judges, the Conference of Superior Court Judges, the Director of the Administrative Office of the Courts, and the Child Custody Mediation Advisory Committee of the Administrative Office of the Courts."

(c) The Administrative Office of the Courts may solicit and accept funds from private sources to evaluate the pilot program conducted pursuant to this section.

The Administrative Office of the Courts shall report its findings and recommendations to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2001.

(d) Of the funds appropriated to the Judicial Department for the 1998-99 fiscal year, the sum of fifty thousand dollars ($50,000) shall be used to fund the activities of the Dispute Resolution Commission in association with the pilot program authorized by this section. No such funds shall be expended for the payment of mediator fees.

Requested by: Senator Gulley

ADDITIONAL ASSISTANT DISTRICT ATTORNEY

Section 16.20. (a) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	9
2	Beaufort, Hyde, Martin, Tyrrell, Washington	5
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10
4	Duplin, Jones, Onslow, Sampson	14
5	New Hanover, Pender	13
6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	15
8	Greene, Lenoir, Wayne	11
9	Franklin, Granville, Vance, Warren	10
9A	Person, Caswell	4
10	Wake	28
11	Harnett, Johnston, Lee	14
12	Cumberland	17
13	Bladen, Brunswick, Columbus	9
14	Durham	12
15A	Alamance	7
15B	Orange, Chatham	7
16A	Scotland, Hoke	5
16B	Robeson	9
17A	Rockingham	5
17B	Stokes, Surry	5
18	Guilford	26
19A	Cabarrus	5
19B	Montgomery, Moore, Randolph	11
19C	Rowan	5

20	Anson, Richmond, Stanly, Union	14
21	Forsyth	15
22	Alexander, Davidson, Davie, Iredell	16
23	Alleghany, Ashe, Wilkes, Yadkin	5
24	Avery, Madison, Mitchell, Watauga, Yancey	4
25	Burke, Caldwell, Catawba	14
26	Mecklenburg	32
27A	Gaston	12
27B	Cleveland, Lincoln	8
28	Buncombe	10
29	Henderson, McDowell, Polk, Rutherford, Transylvania	11
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	~~7~~ 8

(b) This section becomes effective December 1, 1998.

PART XVII. DEPARTMENT OF CORRECTION

Requested by: Senator Gulley

REALLOCATE LAND TO NC STATE UNIVERSITY

Section 17. (a) The 17.4-acre tract of State-owned land adjacent to Schenck Forest that is described in the Memorandum of Agreement made in October 1992, by and between the North Carolina Department of Correction and North Carolina State University, is reallocated to North Carolina State University. The land shall be used for the purpose of teaching, research, and extension, including timber management practices, and forestry demonstration purposes associated with the North Carolina State University College of Forest Resources. North Carolina State University shall maintain this land in good condition according to current timber management practices, excluding commercial timber harvesting.

(b) The provisions of G.S. 143-341(4)g. do not apply to the reallocation of land set out in this section.

Requested by: Senators Gulley, Ballance

REPORT ON BOOT CAMPS

Section 17.1. Subsection (c) of Section 19 of Chapter 24 of the Session Laws of the 1994 Extra Session, as amended by Section 19.3 of Chapter 324 of the 1995 Session Laws, reads as rewritten:

"(c) The Department of Correction shall evaluate the IMPACT program and the post-Boot Camp probation program funded under this section and report by ~~January 1~~ March 1 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections and Crime Control Oversight Committee, and the Fiscal Research Division. The evaluation of the IMPACT program and the post-Boot Camp probation program shall ~~include a comparison of that program's effectiveness, cost, and recidivism rate to other corrections programs for offenders in the same age group and similar offense classes as that covered by the IMPACT program.~~ focus on the performance, behavior, and attitudes of the offenders while in the program. Specific topics shall include measures of participation and completion, data on completion of educational, substance abuse treatment, and

community service programs, drug testing and probation revocation statistics, and the current status of IMPACT graduates. The evaluation shall also include any available information on the difference in outcome among offenders who attend the IMPACT program only, offenders who attend both the IMPACT program and aftercare, and similar offenders who receive other intermediate sanctions."

Requested by: Senator Gulley

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

Section 17.2. Section 19(b) of S.L. 1997-443 reads as rewritten:

"(b) The Department of Correction may use funds appropriated to the Department for the 1997-99 biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates and parolees and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

Prior to the expenditure of more than the sum of six million five hundred thousand dollars ($6,500,000) for the 1997-98 fiscal year or more than the sum of ~~four million dollars ($4,000,000)~~ two million dollars ($2,000,000) for the 1998-99 fiscal year to reimburse counties for prisoners awaiting transfer, the Department of Correction and the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental ~~Operations~~ Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the necessity of that expenditure."

Requested by: Senator Gulley

INMATE HOUSING FUNDS

Section 17.3. (a) The Department of Correction may use funds available to the Department for the 1998-99 fiscal year to contract for prison beds to house inmates in local jails. Prior to the expenditure of more than the sum of three million dollars ($3,000,000) in additional funds authorized by this section to contract for local jail beds, the Department of Correction and the Office of State Budget and Management shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the necessity of that expenditure.

(b) The Department of Correction and the Office of State Budget and Management shall report by December 1, 1998, to the Chairs of the Senate and House Appropriations Committee and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the status of contracts to house inmates in local jails, including the amount expended to date, the anticipated amount to be expended, and the dates each contract is expected to terminate.

Requested by: Senator Gulley

USE OF FACILITIES CLOSED UNDER GPAC

Section 17.4. Subsection (a) of Section 19.4 of S.L. 1997-443 reads as rewritten:

"(a) In conjunction with the closing of small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is ~~located or any private for-profit or nonprofit firm~~ located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. Consistent with existing law and ~~its future needs, the Department~~ the future needs of the Department of Correction, the State may provide for the transfer or the lease ~~for 20 years or more~~ of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from medium security to minimum security, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Human Resources pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee. The Department of Correction shall also provide quarterly summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section."

Requested by: Senator Gulley

MODIFICATION OF FUNDING FORMULA FOR THE NORTH CAROLINA STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP ACT

Section 17.5. Subsection (a) of Section 19.8 of S.L. 1997-443 reads as rewritten:

"(a) Notwithstanding the funding formula set forth in G.S. 143B-273.15, ~~grants~~ appropriations made to the Department of Correction through the North Carolina State-County Criminal Justice Partnership Act for the ~~1997-98 fiscal year~~ 1997-99 biennium shall be distributed to the counties as specified in G.S. 143B-273.15(2) only, and not as discretionary funds. The Department may also use funds from the State-County Criminal Justice Partnership Account in order to maintain the counties' allocations of nine million six hundred thousand dollars ($9,600,000) as provided in previous fiscal years. Appropriations not claimed or expended by the counties during the 1997-99 biennium shall be distributed as specified in G.S. 143B-273.15(1)."

Requested by: Senator Gulley

PROGRESS REPORT/PERFORMANCE AUDIT OF DIVISION OF ADULT PROBATION AND PAROLE

Section 17.6. The Division of Adult Probation and Parole shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and the Fiscal Research Division by January 1, 1999, on any actions taken or planned in response to the June 1, 1998, performance audit of the Division. The report shall include details on any changes in funding, classification, staffing levels, or organization structure that have occurred since the June 1 audit and should highlight those changes that are directly related to issues raised in the audit.

Requested by: Senator Gulley

FUNDING OF PRISON ROAD SQUADS

Section 17.7. In preparing the continuation budget, the Office of State Budget and Management shall adjust the estimated receipts from the Highway Fund to the Department of Correction for the use of prison road squads to reflect only those costs authorized for reimbursement by G.S. 148-26.5.

Requested by: Senator Gulley

INMATE COSTS

Section 17.8. Section 19.20 of S.L. 1997-443 reads as rewritten:

"Section 19.20. The Department of Correction may use funds available to the Department for the 1997-99 biennium to pay the cost of providing food and health care to inmates housed in the Division of Prisons ~~if:~~

~~(1) The prison population exceeds the December 1996 population projections of the North Carolina Sentencing and Policy Advisory Commission; and~~

~~(2) The~~ if the cost of providing food and health care to inmates is anticipated to exceed the continuation budget amounts provided for that purpose in this act.

Prior to making any expenditure authorized by this section, the Department of Correction shall report on its need to use these additional funds to the Joint Legislative Commission on Governmental Operations, ~~the Joint Legislative Corrections Oversight Committee, and~~ the Chairs of the House and Senate Appropriations ~~Committees.~~ Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety.

The Office of State Budget and Management, in consultation with the Department of Correction, shall (i) analyze the basis for increases in the cost of providing food service and health care to inmates since the 1994-95 fiscal year, including an analysis of the major areas of expenditure growth, and an identification of major areas where cost-efficient actions have been taken, and (ii) determine future actions that will improve efficiency in the delivery of food service and health care to inmates. The Office of State Budget and Management shall report on the results of this study to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by February 15, 1999."

Requested by: Senator Gulley

TITLE VII FUNDS/REPORT

Section 17.9. Section 19.18 of S.L. 1997-443 reads as rewritten:

"Section 19.18. The Department of Correction may use funds available to the Department during the ~~1997-98 fiscal year~~ 1997-99 biennium for payment to claimants as part of the settlement of the Title VII lawsuit over the recruitment, hiring, and promotion of females in the Department. Prior to final settlement of the lawsuit, the Department shall report on the proposed settlement to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety."

Requested by: Senator Gulley

DIRECT CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION TO REVISE HIRING AND RECORD-KEEPING PROCEDURES FOR EMPLOYEES OF DEPARTMENT OF CORRECTION

Section 17.10. (a) Section 19.28 of S.L. 1997-443 reads as rewritten:

"Section 19.28. No later than ~~June 30, 1998,~~ October 1, 1998, the Criminal Justice Education and Training Standards Commission shall reestablish the hiring and record-keeping procedures for the employment of certified positions in the Department of Correction."

(b) The Criminal Justice Education and Training Standards Commission shall report by October 1, 1998, to the Joint Legislative Corrections and Crime Control Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, on its progress in complying with the provisions of this section.

(c) This section becomes effective June 30, 1998.

Requested by: Senator Gulley

FEDERAL GRANT MATCHING FUNDS

Section 17.11. Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of eight hundred seventy-five thousand dollars ($875,000) from funds remaining in the Corrections Enterprises Fund, after the application of capital and operating expenditures and the credit to the Crime Victims' Compensation Fund, to provide the State match needed in order to receive federal grant funds.

Requested by: Senators Plyler, Kerr, Gulley, Ballance

SUBSTANCE ABUSE FUNDS

Section 17.12. (a) The balance of the four hundred sixty-seven thousand eight hundred six dollars ($467,806) appropriated in S.L. 1997-443 to the Department of Correction for the 1997-98 fiscal year to be allocated to the DART/DWI aftercare program at Cherry Hospital shall not revert at the end of the fiscal year but shall remain available to the Department during the 1998-99 fiscal year to be used as authorized in this section.

(b) Of the funds appropriated to the Department of Correction for the 1998-99 fiscal year and the funds available pursuant to subsection (a) of this section:

(1) The Department may use up to the sum of four hundred thousand dollars ($400,000) for DART/DWI aftercare;

(2) The Department may use up to the sum of one hundred twenty-five thousand dollars ($125,000) for contractual services for the Substance Abuse Program (i) to assist in identifying the type of program and management information that should be collected to allow for offender and inmate tracking and program evaluation; (ii) for staff training related to the tracking and evaluation system described in this subsection; and (iii) for other staff training, with priority given to training in proper screening and assessment procedures for identifying inmates with substance abuse problems.

(3) The sum of one hundred thousand dollars ($100,000) shall be placed in a reserve for the purchase of hardware and software needed to implement the offender and inmate tracking and program evaluation system for the Substance Abuse Program developed pursuant to subdivision (b)(2) of this section.

The Department shall report by September 15, 1998, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on their progress in identifying and retaining consultants to assist in developing a plan for an offender and inmate tracking and program evaluation system. Funds in the reserve established in subdivision (3) of this section may not be allocated for this purpose until the

Department has submitted a plan for an offender and inmate tracking and program evaluation system. If the Department has presented its final plan in writing to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by the convening of the 1999 General Assembly, funds in the reserve may be allocated for implementation of the plan. If the Department has not submitted its plan by the convening of the 1999 General Assembly, the funds shall be allocated by the 1999 General Assembly.

(c) Any funds remaining after the Department of Correction has used the authorized funds for the purposes provided by subsection (b) of this section may be used for innovative pilot projects for offenders with substance abuse problems and for the expansion of program evaluation of the Substance Abuse Program.

(d) The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on their efforts to provide effective treatment to offenders with substance abuse problems. The report shall include:

(1) Details of any new initiatives and expansion or reduction of programs;

(2) Details on any treatment efforts conducted in conjunction with other departments;

(3) Utilization of the DART/DWI program, including its aftercare program;

(4) Progress in the development of an offender and inmate tracking and program evaluation system; and

(5) A report on the number of current inmates with substance abuse problems, the numbers currently receiving treatment, and the numbers who have completed treatment.

Requested by: Senator Gulley

POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION

Section 17.13. The Post-Release Supervision and Parole Commission shall report by March 1, 1999, to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on:

(1) The Commission's progress in reviewing cases requiring review in light of the decision of the North Carolina Supreme Court in **Robbins v. Freeman**; and

(2) An updated transition plan for implementing staff reductions through the 2002-2003 fiscal year, including a minimum ten percent (10%) reduction in staff positions in the 1999-2000 fiscal year over the 1998-99 fiscal year.

Requested by: Senator Gulley

PRIVATE PRISON CONTRACTS

Section 17.14. If the Department of Correction determines, in consultation with the Attorney General's Office, the Office of State Budget and Management, and the Corrections Corporation of America, that it is appropriate to modify the terms of the contracts for the leasing and operation of one or both of the two private confinement facilities in Pamlico and Avery/Mitchell, the Department may use funds available to the Department for the 1998-99 fiscal year to modify the lease contract and the operating agreement as necessary. Prior to taking actions or obligating funds as authorized by this section, the Department of Correction shall

report to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the justification for modifying the contracts.

Requested by: Senator Gulley

STUDY SPECIAL EDUCATION OBLIGATIONS OF DEPARTMENT OF CORRECTION

Section 17.15. The Joint Legislative Education Oversight Committee shall study the issue of limiting the obligations of the Department of Correction to provide special education and related services to incarcerated youth ages 18 through 21. The Committee shall consider the recent amendment to the federal Individuals with Disabilities Education Act (IDEA) that allows states to reduce the responsibility of their prisons to identify and serve inmates not previously identified and served in the public schools. The Committee shall report its findings and recommendations to the 1999 General Assembly.

Requested by: Senators Gulley, Cooper

ADDITIONAL PRISON BEDS/PROVIDE THAT A SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE SHALL BE IMPOSED FOR A SECOND OR SUBSEQUENT CONVICTION OF A CLASS B1 FELONY IF THERE ARE NO MITIGATING CIRCUMSTANCES AND THE VICTIM IS THIRTEEN YEARS OF AGE OR YOUNGER/ENHANCE THE PUNISHMENT IMPOSED FOR INJURING A PREGNANT WOMAN IN THE COMMISSION OF A FELONY OR ACT OF DOMESTIC VIOLENCE, CAUSING A MISCARRIAGE OR STILLBIRTH/INCREASE THE PENALTY FOR CRUELTY TO ANIMALS AND PROHIBIT GREYHOUND RACING IN NORTH CAROLINA/CLARIFY A LANDLORD'S OBLIGATION TO INSTALL SMOKE DETECTORS, REQUIRE A TENANT TO NOTIFY A LANDLORD IN WRITING IF A SMOKE DETECTOR NEEDS TO BE REPLACED OR REPAIRED, IMPOSE A CIVIL PENALTY IF A LANDLORD FAILS TO PROVIDE, INSTALL, REPLACE, OR REPAIR A SMOKE DETECTOR IN A RESIDENTIAL RENTAL DWELLING, AND IMPOSE A CIVIL PENALTY IF A TENANT INTERFERES OR MAKES INOPERATIVE A SMOKE DETECTOR IN A RESIDENTIAL RENTAL DWELLING

Section 17.16. (a) Article 81B of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-1340.16B. Life imprisonment without parole for a second or subsequent conviction of a Class B1 felony.**

(a) Notwithstanding the sentencing dispositions in G.S. 15A-1340.17, a person convicted of a Class B1 felony shall be sentenced to life imprisonment without parole if:

(1) The offense was committed against a victim who was 13 years of age or younger at the time of the offense;

(2) The person has one or more prior convictions of a Class B1 felony; and

(3) The court finds that there are no mitigating factors in accordance with G.S. 15A-1340.16(e).

(b) If the sentencing court finds that there are mitigating circumstances, then the court shall sentence the person in accordance with G.S. 15A-1340.17.

(c) A prior conviction of a Class B1 felony shall be proved in accordance with G.S. 15A-1340.14."

(b) Article 6 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-18.2. Injury to pregnant woman.**

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

(1) Miscarriage. -- The interruption of the normal development of the fetus, other than by a live birth, and which is not a procedure performed in accordance with G.S. 14-45.1 or other provisions of law, resulting in the complete expulsion or extraction of the fetus from a pregnant woman.

(2) Stillbirth. -- The death of a fetus prior to the complete expulsion or extraction from a woman irrespective of the duration of pregnancy and which is not a procedure performed in accordance with G.S. 14-45.1 or other provisions of law.

(b) A person who in the commission of a felony causes injury to a woman, knowing the woman to be pregnant, which injury results in a miscarriage or stillbirth by the woman is guilty of a felony that is one class higher than the felony committed.

(c) A person who in the commission of a misdemeanor that is an act of domestic violence as defined in Chapter 50B of the General Statutes causes injury to a woman, knowing the woman to be pregnant, which results in miscarriage or stillbirth by the woman is guilty of a misdemeanor that is one class higher than the misdemeanor committed. If the offense was a Class A1 misdemeanor, the defendant is guilty of a Class I felony.

(d) This section shall not apply to acts committed by a pregnant woman which result in a miscarriage or stillbirth by the woman herself."

(c) G.S. 14-360 reads as rewritten:

"**§ 14-360. Cruelty to animals; construction of section.**

(a) If any person shall willfully overdrive, overload, wound, injure, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill or cause or procure to be overdriven, overloaded, wounded, injured, tortured, tormented, deprived of necessary sustenance, cruelly beaten, needlessly mutilated or killed as aforesaid, ~~any useful beast, fowl or~~ any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor. In this section, and in every law which may be enacted relating to animals, the words "animal" and "dumb animal" shall be held to include every living creature; the words "torture," "torment" or "cruelty" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. ~~Such terms shall not be construed to prohibit the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.~~

(b) If any person shall maliciously torture, torment, mutilate, maim, cruelly beat, disfigure, poison or kill, or cause to be tortured, tormented, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any equine animal, bovine animal, sheep, goat, swine or other livestock, dogs, cats, and other animals kept as pets or mascots, every such offender shall for every such offense be guilty of a Class I felony. The word 'maliciously' as used in this subsection, shall mean an act done with bad motive, without justifiable excuse, and with the intent to cause physical pain, suffering, or death.

(c) This section does not apply to the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission."

(d) Article 37 of Chapter 14 of the General Statutes is amended by adding a new Part to read:

"Part 3. Greyhound Racing.

"**§ 14-309.20. Greyhound racing prohibited.**

(a) No person shall hold, conduct, or operate any greyhound races for public exhibition in this State for monetary remuneration.

(b) No person shall transmit or receive interstate or intrastate simulcasting of greyhound races for commercial purposes in this State.

(c) Any person who violates this section shall be guilty of a Class 1 misdemeanor."

(e) G.S. 42-42(a) reads as rewritten:

"(a) The landlord shall:

(1) Comply with the current applicable building and housing codes, whether enacted before or after October 1, 1977, to the extent required by the operation of such codes; no new requirement is imposed by this subdivision (a)(1) if a structure is exempt from a current building ~~code;~~ code.

(2) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable ~~condition;~~ condition.

(3) Keep all common areas of the premises in safe ~~condition;~~ condition.

(4) Maintain in good and safe working order and promptly repair all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by ~~him~~ the landlord provided that notification of needed repairs is made to the landlord in writing by the ~~tenant~~ tenant, except in emergency ~~situations; and~~ situations.

(5) Provide operable smoke detectors, either battery-operated or electrical, having an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, ~~that are installed~~ and install the smoke detectors in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. The landlord ~~must~~ shall replace or repair the smoke detectors within 15 days of receipt of notification ~~provided~~ if the landlord is notified of needed replacement or repairs in writing by the tenant. The landlord shall ensure that a smoke detector is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord ~~must~~ shall place new batteries in a battery-operated smoke detector at the beginning of a tenancy and the tenant ~~must~~ shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord."

(f) G.S. 42-43(a) reads as rewritten:

"(a) The tenant shall:

(1) Keep that part of the premises ~~which he~~ that the tenant occupies and uses as clean and safe as the conditions of the premises permit and cause no unsafe or unsanitary conditions in the common areas and remainder of the premises ~~which he uses;~~ that the tenant uses.

(2) Dispose of all ashes, rubbish, garbage, and other waste in a clean and safe ~~manner;~~ manner.

(3) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition ~~permits;~~ permits.

(4) Not deliberately or negligently destroy, deface, damage, or remove any part of the premises, nor render inoperable the smoke detector provided by the landlord, or knowingly permit any person to do ~~so;~~ so.

(5) Comply with any and all obligations imposed upon the tenant by current applicable building and housing ~~codes;~~ codes.

(6) Be responsible for all damage, defacement, or removal of any property inside a dwelling unit in ~~his~~ the tenant's exclusive control unless ~~said~~ the damage, defacement or removal was due to ordinary wear and tear, acts of the landlord or ~~his~~ the landlord's agent, defective products supplied or repairs authorized by the landlord, acts of third parties not invitees of the tenant, or natural ~~forces; and~~ forces.

(7) Notify the ~~landlord~~ landlord, in writing, of the need for replacement of or repairs to a smoke detector. ~~Nothing in this bill shall prohibit an individual landlord in a written agreement with the tenant from requiring the tenant to provide notice in writing of the need for replacement of or repairs to a smoke detector.~~ The landlord shall ensure that a smoke detector is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord ~~must~~ shall place new batteries in a battery-operated smoke detector at the beginning of a tenancy and the tenant ~~must~~ shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord."

(g) G.S. 42-44 reads as rewritten:

"**§ 42-44. General ~~remedies~~ remedies, penalties, and limitations.**

(a) Any right or obligation declared by this Chapter is enforceable by civil action, in addition to other remedies of law and in equity.

(a1) If a landlord fails to provide, install, replace, or repair a smoke detector under the provisions of G.S. 42-42(a)(5) within 30 days of having received written notice from the tenant or any agent of State or local government of the landlord's failure to do so, the landlord shall be responsible for an infraction and shall be subject to a fine of not more than two hundred fifty dollars ($250.00) for each violation. The landlord may temporarily disconnect a smoke detector in a dwelling unit or common area for construction or rehabilitation activities, when such activities are likely to activate the smoke detector or make it inactive.

(a2) If a smoke detector is disabled or damaged, other than through actions of the landlord, the landlord's agents, or acts of God, the tenant shall reimburse the landlord ten dollars ($10.00) for repairing or replacing the smoke detector within 30 days of having received written notice from the landlord or any agent of State or local government of the need for the tenant to make such reimbursement. If the tenant fails to make reimbursement within 30 days, the tenant shall be responsible for an infraction and subject to a fine of not more than one hundred dollars ($100.00) for each violation. The tenant may temporarily disconnect a smoke detector in a dwelling unit to replace the batteries or when it has been inadvertently activated.

(b) Repealed by Session Laws 1979, c. 820, s. 8.

(c) The tenant may not unilaterally withhold rent prior to a judicial determination of a right to do so.

(d) A violation of this Article shall not constitute negligence per se."

(h) This section becomes effective December 1, 1998, and applies to offenses committed on or after that date.

Requested by: Senators Gulley, Martin of Guilford, Miller, Reeves, Dannelly, Winner, Odom

SUMMIT HOUSE FUNDS

Section 17.17. Of the funds appropriated to the Department of Correction, the sum of six hundred twenty-five thousand dollars ($625,000) shall be used for Summit House as follows:

(1) $235,000 for renovations at the three residential facilities to meet safety requirements for licensure;

(2) $385,000 to pay off existing mortgages for the Charlotte and Wake County facilities; and

(3) $5,000 for repairs to the Guilford County facility.

Requested by: Senators Gulley, Plyler, Odom

USE OF FEDERAL PRISON CONSTRUCTION GRANT FUNDS

Section 17.18. Section 19.22 of S.L. 1997-443 reads as rewritten:

"Section 19.22. The Department of Correction shall use federal grant funds received from the U.S. Justice Department as part of the Violent Offender Incarceration Program and the Truth-In-Sentencing Incentive Grant Program and any State funds appropriated for the further planning and design and construction of the following State prison facilities, provided that the project meets the criteria of the federal grant program:

Facility	Location	Number of Beds	Custody
Central Prison Diagnostic Center	Wake	196	Close
Warren Correctional Institution	Warren	168	Med/Close
Improvements to NCCIW	Wake	208	Med/Close
Scotland Facility	Scotland	712	Close
Alexander Facility (or replacement site)	Alexander	520	Close
Metro Facility	Charlotte Area	520	Close

~~No more than the sum of seventeen million five hundred thousand dollars ($17,500,000) in federal funds may be allocated to the Central Prison Diagnostic Center Project, the proposed revised Phase I of the Central Prison Master Plan, or the planning and design of the Warren, NCCIW, or Metro projects until federal funds have been allocated to complete the working drawings phase of planning and design for the Alexander and Scotland Close Custody Prison Facilities.~~

If the Department of Correction identifies a replacement for the Alexander Facility, the Department of Correction shall report on the site selected to the Chairs of the Senate and House Appropriations Committees, the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections and Crime Control Oversight Committee.

Prior to major redesign or expansion of plans for Scotland, Alexander, and Metro, the Department of Correction shall report to the Chairs of the Senate and House Appropriations Committees, the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections and Crime Control Oversight Committee.

The Department of Correction shall not initiate further construction on any of the projects listed in this section until the Department reports to the Chairs of the Senate and House Appropriations Committees, the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections and Crime Control Oversight Committee on the proposed construction plans and the short-term and long-term costs of the projects.

The Department of Correction shall report ~~quarterly~~ by November 1, 1998, to the Chairs of the Senate and House Appropriations Committees, the Senate and House Appropriations Subcommittees on Justice and Public Safety, ~~to the Joint Legislative Commission on Governmental Operations and~~ the Joint Legislative Corrections and Crime Control Oversight Committee on the allocation of any federal funds received and of anticipated future federal grant funds."

PART XVIII. DEPARTMENT OF JUSTICE

Requested by: Senator Gulley

SALARY EQUITY FOR SBI LAW ENFORCEMENT

Section 18. Subsection (a) of Section 20.9 of S.L. 1997-443 reads as rewritten:

"(a) Of the funds appropriated in this act to the Department of Justice for the State Bureau of Investigation, the sum of two million seven hundred thousand dollars ($2,700,000) for the 1997-98 fiscal year and the sum of ~~two million seven hundred thousand dollars ($2,700,000)~~ two million six hundred sixty-six thousand dollars ($2,666,000) for the 1998-99 fiscal year shall be used to adjust the salaries of law enforcement positions in the State Bureau of Investigation. These adjustments shall be based on factors, such as employee salary, position class title, position grade, and credible years of sworn service with the State Bureau of Investigation. No salary adjustment shall result in an increase beyond the maximum salary set for an officer's pay grade. If an officer's salary is near or at the top of the officer's pay grade, the officer shall be eligible to receive a salary adjustment up to the top of the officer's pay grade. If an officer is at the top of the officer's pay grade, then the officer is not eligible to receive a salary adjustment. Sworn officers holding the following management positions are not eligible to receive the salary adjustment: SBI Director, SBI Assistant Directors of Support Services, SBI Assistant Director, SBI Assistant Directors of Field Services, SBI Assistant Director of Crime Laboratory, Deputy Director of Medicaid Fraud."

Requested by: Senator Gulley

LIMITS ON COMPUTER SYSTEM UPGRADE

Section 18.1. Section 20.4 of S.L. 1997-443 reads as rewritten:

"Section 20.4. Any ~~proposed increase in mainframe computer capacity or~~ major new computer system or major computer system upgrade for the Judicial Department, the Department of Correction, the Department of Justice, or the Department of Crime Control and Public Safety, to be funded all or in part from the Continuation Budget, shall be reported to the Joint Legislative Commission on Governmental Operations, to the Chairs of the Senate and House of Representatives Appropriations Committees, and to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety before the department enters into any contractual agreement. A major computer system upgrade includes any proposed enhancement, modification, or capacity increase to the computing and telecommunications infrastructure or to program applications where the total cost is anticipated to exceed five hundred thousand dollars ($500,000). This report is to be made jointly by the Information Resource Management Commission, the Office of State Budget and Management, and the requesting department."

Requested by: Senator Gulley

CRIMINAL JUSTICE INFORMATION NETWORK REPORT

Section 18.2. (a) The Criminal Justice Information Network Governing Board created pursuant to Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session shall report by March 1, 1999, to the Chairs of the Senate and

House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on:

(1) The operations of the Board, including the Board's progress in developing data-sharing standards in cooperation with State and local agencies and the estimated time of completion of the standards.

(2) The operating budget of the Board, the expenditures of the Board as of the date of the report, and the amount of funds in reserve for the operation of the Board.

(3) A long-term strategic plan and cost analysis for statewide implementation of the Criminal Justice Information Network. For each component of the Network, the initial cost estimate of the component, the amount of funds spent to date on the component, the source of funds for expenditures to date, and a timetable for completion of that component, including additional resources needed at each point.

(b) G.S. 143-661(b) reads as rewritten:

"(b) The Board shall consist of ~~15~~ 19 members, appointed as follows:

(1) Three members appointed by the Governor, including one member who is a director or employee of a State correction agency for a term to begin September 1, 1996 and to expire on June 30, 1997, one member who is an employee of the North Carolina Department of Crime Control and Public Safety for a term beginning September 1, 1996 and to expire on June 30, 1997, and one member selected from the North Carolina Association of Chiefs of Police for a term to begin September 1, 1996 and to expire on June 30, 1999.

(2) Six members appointed by the General Assembly in accordance with G.S. 120-121, as follows:

a. Three members recommended by the President Pro Tempore of the Senate, including two members of the general public for terms to begin on September 1, 1996 and to expire on June 30, 1997, and one member selected from the North Carolina League of Municipalities who is a member of, or an employee working directly for, the governing board of a North Carolina municipality for a term to begin on September 1, 1996 and to expire on June 30, 1999; and

b. Three members recommended by the Speaker of the House of Representatives, including two members of the general public for terms to begin on September 1, 1996 and to expire on June 30, 1999, and one member selected from the North Carolina Association of County Commissioners who is a member of, or an employee working directly for, the governing board of a North Carolina county for a term to begin on September 1, 1996 and to expire on June 30, 1997.

(3) Two members appointed by the Attorney General, including one member who is an employee of the Attorney General for a term to begin on September 1, 1996 and to expire on June 30, 1997, and one member from the North Carolina Sheriffs' Association for a term to begin on September 1, 1996 and to expire on June 30, 1999.

(4) ~~Two~~ Six members appointed by the Chief Justice of the North Carolina Supreme ~~Court, including the Director or an employee of the Administrative Office of the Courts for a term to begin on September 1, 1996 and to expire on June 30, 1997, and one member who is either a clerk of the superior court or a district attorney, or employee of a district attorney, for a term to begin on September 1, 1996 and to expire on June 30, 1999.~~ Court, as follows:

a. The Director of the Administrative Office of the Courts, or an employee of the Administrative Office of the Courts, for a term beginning July 1, 1997, and expiring June 30, 2001.

b. One member who is a district attorney or an assistant district attorney, for a term beginning July 1, 1998, and expiring June 30, 1999.

c. Two members who are superior court or district court judges for terms beginning July 1, 1998, and expiring June 30, 2001.

d. One member who is a magistrate for a term beginning July 1, 1998, and expiring June 30, 1999.

e. One member who is a clerk of superior court for a term beginning July 1, 1998, and expiring June 30, 1999.

(5) One member appointed by the Chair of the Information Resource Management Commission, who is the Chair or a member of that Commission, for a term to begin on September 1, 1996 and to expire on June 30, 1999.

(6) One member appointed by the President of the North Carolina Chapter of the Association of Public Communications Officials International, who is an active member of the Association, for a term to begin on September 1, 1996 and to expire on June 30, 1999.

The respective appointing authorities are encouraged to appoint persons having a background in and familiarity with criminal information systems and networks generally and with the criminal information needs and capacities of the constituency from which the member is appointed.

As the initial terms expire, subsequent members of the Board shall be appointed to serve four-year terms. At the end of a term, a member shall continue to serve on the Board until a successor is appointed. A member who is appointed after a term is begun serves only for the remainder of the term and until a successor is appointed. Any vacancy in the membership of the Board shall be filled by the same appointing authority that made the appointment, except that vacancies among members appointed by the General Assembly shall be filled in accordance with G.S. 120-122."

Requested by: Senator Gulley

STUDY FEE ADJUSTMENT FOR CRIMINAL RECORDS CHECKS

Section 18.3. The Office of State Budget and Management, in consultation with the Department of Justice, shall study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal Information of the Department of Justice as a result of the increase in receipts from criminal records checks. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to providing criminal records checks and how those costs have changed since the 1995-96 fiscal year. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate

and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on or before March 1, 1999.

Requested by: Senators Plyler, Odom

STUDY RECIPROCITY OF CONCEALED HANDGUN PERMITS

Section 18.4. (a) The Joint Legislative Corrections and Crime Control Oversight Committee shall study the issue of providing that a nonresident who has been issued a valid handgun permit in a reciprocal state may carry a concealed handgun in accordance with Article 54B of Chapter 14 of the General Statutes as if the permit were issued by this State. The Committee shall report its findings and recommendations to the 1999 General Assembly.

(b) The Attorney General shall prepare a list of those states that provide for concealed handgun permits that are equal to or more stringent than those required by North Carolina in order to assist the Joint Legislative Corrections and Crime Control Oversight Committee in its study.

Requested by: Senator Gulley

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

Section 18.5. Section 20.7(a) of S.L. 1997-443 reads as rewritten:

"(a) Assets transferred to the Department of Justice during the 1997-99 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an increase of law enforcement resources for the Department. Assets transferred to the Department of Crime Control and Public Safety during the 1997-99 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an increase of law enforcement resources for the Department. The Departments of Justice and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

The General Assembly finds that the use of assets transferred pursuant to 19 U.S.C. § 1616a for new personnel positions, new projects, the acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly, except during the ~~1997-98~~ 1998-99 fiscal year, the Department of Justice may:

(1) Use an amount not to exceed the sum of twenty-five thousand dollars ($25,000) of the funds to extend the lease of space in the Town of Salemburg for SBI training; and

(2) Use an amount not to exceed fifty thousand dollars ($50,000) of the funds to lease space for its technical operations unit, storage of its equipment and vehicles, and command post vehicle."

PART XIX. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Senator Gulley

ACTIVATION OF NATIONAL GUARD FOR SPECIAL OLYMPICS

Section 19. With funds available, the Governor may place units or portions of units of the North Carolina National Guard on State Active Duty during the period from January 1, 1999, to September 30, 1999, to assist with the planning, support, and execution of events associated with the International Special Olympic Games.

Requested by: Senator Gulley

STUDY TARHEEL CHALLENGE PROGRAM

Section 19.1. From the Juvenile Justice Reserve Fund established in Section 8.1 of this act, the Department of Crime Control and Public Safety shall use up to twenty-five thousand dollars ($25,000) for the 1998-99 fiscal year to contract with an external consultant to study the effectiveness of the National Guard Tarheel Challenge Program as an intervention method for preventing delinquent or criminal behavior and improving individual skills and employment potential of the participants in the Program. The consultant selected shall have substantial professional experience in program evaluation, but shall have no current or prior association, direct or indirect, with the Department of Crime Control and Public Safety, the National Guard Tarheel Challenge Program, or the staff of either. The study shall include:

(1) An evaluation of the goals of the Program and long-term effects of participation in the Program;

(2) A comparison of the Program to (i) other similar programs that offer job training and behavior modification and (ii) a control group of students not participating in intervention programs; and

(3) A cost-benefit analysis of the Program.

The Department shall report the results of the study, including any recommendations, to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by March 1, 1999.

Requested by: Senator Gulley

VICTIMS ASSISTANCE NETWORK REPORT

Section 19.2. The Department of Crime Control and Public Safety shall report on the expenditure of funds allocated in Section 21.1 of S.L. 1997-443 for the Victims Assistance Network. The Department shall also report on the Network's efforts to gather data on crime victims and their needs, act as a clearinghouse for crime victims' services, provide an automated crime victims' bulletin board for subscribers, coordinate and support activities of other crime victims' advocacy groups, identify the training needs of crime victims' services providers and criminal justice personnel, and coordinate training for these personnel. The Department shall submit its report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by October 1, 1998.

Requested by: Senator Plyler

HIGHWAY PATROL SALARIES

Section 19.3. There is appropriated from the Highway Fund to the Reserve for Compensation Increases the sum of one hundred sixty-two thousand nine hundred fifty-six dollars ($162,956) for the 1998-99 fiscal year to implement a salary range revision for the State Highway Patrol that makes the difference between the salary of a first sergeant and a lieutenant ten percent (10%) instead of five percent (5%). In implementing this range revision, the State Highway Patrol shall, to the extent that funds are available to do so, consider individual salary increases in any amount up to a total amount that does not exceed the difference between the maximum salaries of the old range and the new range.

Requested by: Senators Wellons, Plyler, Perdue, Odom, Gulley, Lucas, Cooper

VICTIMS' RIGHTS ACT SHALL INCLUDE VICTIMS OF CERTAIN DOMESTIC VIOLENCE MISDEMEANORS

Section 19.4. House Bill 665, Senate Bill 763, or any other legislation enacted by the 1997 General Assembly to implement the Victims' Rights

Amendment, Section 37 of Article I of the North Carolina Constitution, shall include within the definition of "victim", effective no later than July 1, 1999, a person against whom there is probable cause to believe that an offense has been committed that is a violation of G.S. 14-33(c)(1), 14-33(c)(2), 14-33(a), 14-34, 14-134.3, or 14-277.3, if that offense constitutes domestic violence.

Requested by: Senators Plyler, Perdue, Odom, Gulley

CRIME COMMISSION GRANTS/REPORT TO GOVERNMENTAL OPERATIONS

Section 19.5. G.S. 143B-476 is amended by adding a new subsection to read:

"(h) Prior to any notification of proposed grant awards to State agencies for use in pursuing the objectives of the Governor's Crime Commission pursuant to subsection (a) of this section, the Secretary shall report to the Joint Legislative Commission on Governmental Operations for its review of the proposed grant awards."

Requested by: Senators Gulley, Plyler, Odom

USE OF HIGHWAY PATROL AIRCRAFT

Section 19.6. (a) G.S. 20-196.1 is repealed.

(b) G.S. 20-196.2 reads as rewritten:

"**§ 20-196.2. Use of ~~airplanes~~ aircraft to discover certain motor vehicle ~~violations of §§ 20-138 to 20-171; testimony of pilots and observers;~~ violations; declaration of policy.**

The State Highway Patrol is hereby permitted the use of ~~airplanes~~ aircraft to discover violations of Part 10 of Article 3 of Chapter 20 of the General Statutes relating to operation of motor vehicles and rules of the ~~road; provided, however, neither the observer nor the pilot shall be competent to testify in any court of law in a criminal action charging violations of G.S. 20-141, 20-141.1, and 20-144.~~ road. It is hereby declared the public policy of North Carolina that the ~~airplanes~~ aircraft should be used primarily for accident prevention and should also be used incident to the issuance of warning citations in accordance with the provisions of G.S. 20-183."

Requested by: Senators Plyler, Perdue, Odom

STUDY EMERGENCY MANAGEMENT POSITIONS

Section 19.7. (a) The Joint Legislative Corrections and Crime Control Oversight Committee shall study the State and local assistance funding eligibility criteria of the Division of Emergency Management of the Department of Crime Control and Public Safety that requires local governments to have a full-time or part-time Emergency Program Manager. In its deliberations, the Committee shall consider:

(1) The burden placed on local governments to maintain a full-time or part-time position pursuant to the funding eligibility requirements.

(2) The feasibility and advisability of revising the funding eligibility criteria of the Division of Emergency Management to allow small local governments to meet the requirements of the Division in alternative ways, including sharing an Emergency Program Manager or adding the responsibilities of an Emergency Program Manager to an appropriate official or employee of the local government.

(b) The Committee shall report its findings and recommendations to the 1999 General Assembly.

PART XX. DEPARTMENT OF ADMINISTRATION

Requested by: Senators Warren, Plyler, Perdue, Odom

PROCUREMENT CARD PILOT PROGRAM

Section 20. (a) Except as provided by this section, no State agency, community college, constituent institution of The University of North Carolina, or local school administrative unit may use procurement cards for the purchase of equipment or supplies before March 31, 1999.

(b) The Secretary of Administration shall designate no more than 15 governmental entities to participate in a pilot program on the purchase of supplies and equipment by procurement card. Those designated shall represent a cross section of governmental entities and shall include at least one State agency, one community college, two constituent institutions of The University of North Carolina, and one local school administrative unit.

(c) The Division of Purchase and Contract and the State Controller shall report to the Joint Legislative Commission on Governmental Operations and the Joint Appropriations Subcommittee on General Government on November 1, 1998, on this pilot program.

The report shall include all of the following:

(1) Estimates from the pilot program of:
   a. How many purchasing and accounts payable personnel hours could be saved or redirected or both as a result of the procurement card.
   b. The impact of the procurement card on accounting and budgeting records and on purchasing history records.

(2) A discussion of the effect of the procurement card on the State's ability to track both:
   a. Out-of-state sales taxes.
   b. North Carolina State and local sales tax payments by county.

(3) A discussion of any other costs and benefits of the procurement card.

(d) This section does not affect contracts for procurement cards entered into prior to March 31, 1997.

Requested by: Senators Warren, Plyler, Perdue, Odom

DOMESTIC VIOLENCE PREVENTION FUNDS

Section 20.1. There is appropriated from the General Fund to the Department of Administration the sum of one million dollars ($1,000,000) for the 1998-99 fiscal year for the North Carolina Council for Women for the prevention of domestic violence and the continuation of domestic violence programs within the State. The Council for Women shall provide grants from these funds to existing domestic violence programs, including the North Carolina Coalition Against Domestic Violence, Inc., and for the development of new domestic violence programs. The Department of Administration or the Council for Women shall not use any of the funds for operating expenses.

PART XXI. DEPARTMENT OF CULTURAL RESOURCES

Requested by: Senator Warren

MARITIME MUSEUM/DISPOSITION OF OBJECTS

Section 21. (a) G.S. 106-22.2 is recodified as G.S. 143B-344.2 and reads as rewritten:

"**§ ~~106-22.2.~~ 143B-344.22. Museum of Natural Sciences; ~~Maritime Museum;~~ disposition of objects.**

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of ~~Agriculture and Consumer Services~~ Environment and Natural Resources may sell or exchange any object from the ~~collections~~ collection of the Museum of Natural Sciences ~~and the~~

~~Maritime Museum~~ when it would be in the best ~~interests~~ interest of the ~~Museums~~ Museum to do so. Sales or exchanges shall be conducted in accordance with generally accepted practices for accredited museums. If an object is sold, the net proceeds of the sale shall be deposited in the State treasury to the credit of a special fund to be used for the improvement of the ~~Museums'~~ Museum's collections or exhibits."

(b) Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-7.1. Maritime Museum; disposition of artifacts.**

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of Cultural Resources, with the approval of the North Carolina Historical Commission, may sell, trade, or place on permanent loan any artifact from the collection of the North Carolina Maritime Museum unless the sale, trade, or loan would be contrary to the terms of the acquisition. Sales or exchanges shall be conducted in accordance with generally accepted practices for accredited museums. If an artifact is sold, the net proceeds of the sale shall be deposited in the State treasury to the credit of a special fund to be used for the improvement of the Museum's collections or exhibits."

Requested by: Senators Warren, Plyler, Odom, Perdue

ROANOKE ISLAND COMMISSION CHANGES

Section 21.1. (a) G.S. 143B-131.2(b)(10) reads as rewritten:

"(10) To establish and maintain a separate fund composed of moneys which may come into its hands from gifts, donations, grants, or bequests, which funds will be used by the Commission for purposes of carrying out its duties and purposes herein set forth. The Commission may also establish a reserve fund to be maintained and used for contingencies and emergencies. Funds appropriated to the Commission may be transferred to the Friends of Elizabeth II, Inc., a private, nonprofit corporation. The Friends of Elizabeth II, Inc., shall use the funds transferred to it to carry out the purposes of this Part."

(b) G.S. 143B-131.2(b)(15) reads as rewritten:

"(15) To procure supplies, services, and property as appropriate and to enter into contracts, leases, or other legal agreements ~~consistent with State laws and Department rules~~ to carry out the purposes of this Part and duties of the Commission. The provisions of G.S. 143-129 and Article 3 of Chapter 143 of the General Statutes do not apply to purchases by the Roanoke Island Commission of equipment, supplies, and services."

Requested by: Senators Warren, Plyler, Perdue, Odom

UNITED ARTS COUNCIL FUNDS

Section 21.2. Of the funds appropriated in this act to the Department of Cultural Resources, the sum of sixty-eight thousand two hundred dollars ($68,200) may be allocated to the United Arts Council of Greensboro, Inc. The funds allocated pursuant to this section shall only be used for construction and renovation of facilities and for production costs associated with performing arts programs.

Requested by: Senators Plyler, Perdue, Odom

GRANTS FOR SMALL LIBRARIES AND LIBRARIES IN ECONOMICALLY DISTRESSED COUNTIES

Section 21.3. The one million dollars ($1,000,000) appropriated by this act to the Department of Cultural Resources for aid to small libraries and libraries in economically distressed counties shall be allocated by the Secretary of that department to support capital improvements, including renovations, to public libraries in small, economically distressed counties only.

Requested by: Senators Warren, Plyler, Odom, Perdue

PROCEDURE FOR AWARD OF CULTURAL RESOURCES GRANTS

Section 21.4. Of the funds appropriated to the Department of Cultural Resources, the sum of eight million dollars ($8,000,000) for the 1998-99 fiscal year shall be used for grants to nonprofit organizations or local governmental entities throughout the State for cultural, historical, or artistic organizations, for cultural, historical, or artistic projects, and for museums. The Secretary of the Department of Cultural Resources shall follow the established process for the review, evaluation, and consideration of applications for these grants.

In awarding grants, the Secretary shall consider the merits of the project, the cultural, historical, or artistic significance of the project, the benefit to the State and local communities of the project, and the cost of the project. These grants are not subject to review by the Historical Commission.

Requested by: Senator Rand

STUDY RECLASSIFICATION OF STATE MUSEUM BRANCH DIRECTORS

Section 21.5. The Office of State Personnel shall study whether to reclassify the Branch Museum Administrators at the Mountain Gateway Museum, the Museum of the Albemarle, and the Museum of the Cape Fear. The Office of State Personnel shall report its findings and recommendations to the 1999 General Assembly.

PART XXII. OFFICE OF ADMINISTRATIVE HEARINGS

Requested by: Senator Warren

EEOC DEFERRED CASES TO OAH/REPEAL SUNSET

Section 22. Section 5 of S.L. 1997-513 reads as rewritten:

"Section 5. Section 1 of this act is effective when it becomes law, applies to charges pending or filed on and after that ~~date, and expires December 31, 1998.~~ date. The remainder of this act becomes effective July 1, 1997, and applies to all suggestions and innovations pending on that date that were submitted under the former State Employee Suggestion Program as authorized by G.S. 143-340(1) on or before June 30, 1997."

PART XXIII. OFFICE OF SECRETARY OF STATE

Requested by: Senators Warren, Plyler, Perdue, Odom

TRANSFER BOXING COMMISSION TO DEPARTMENT OF COMMERCE

Section 23. (a) The statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the North Carolina State Boxing Commission are transferred from the Department of the Secretary of State to the Department of Commerce. This transfer has all of the elements of a Type I transfer as defined by G.S. 143A-6.

(b) G.S. 143-652 reads as rewritten:

"**§ 143-652. State Boxing Commission.**

(a) Creation. -- The North Carolina State Boxing Commission is created within the Department of ~~the Secretary of State~~ Commerce to regulate in North Carolina live boxing and kickboxing matches, whether professional, amateur, sanctioned amateur, or toughman events, in which admission is charged for viewing, or the

contestants compete for a purse or prize of value greater than twenty-five dollars ($25.00). The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina and shall meet requirements for membership under the Professional Boxing Safety Act of 1996. The members shall be appointed as follows:

(1) One voting member shall be appointed by the Governor for an initial term of two years.

(2) One voting member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121.

(3) One voting member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year.

(4) Two voting members shall be appointed by the Secretary of ~~State.~~ Commerce. One shall serve for an initial term of three years, and the other shall serve for an initial term of two years.

(4a) One member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.

(5) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(6) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

The member appointed pursuant to subdivision (5) of subsection (a) of this section may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (6) and (7) of subsection (a) of this section shall advise the Commission on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of ~~State~~ Commerce shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of ~~State~~ Commerce for cause. Each member before entering upon the duties of a member shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of ~~the Secretary of State.~~ Commerce.

(b) Vacancies. -- Members shall serve until their successors are appointed and have been qualified. Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment. Vacancies for members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. A vacancy in the membership of the Commission other than by expiration of term shall be filled for the unexpired term only.

(c) Meetings. -- Meetings of the Commission shall be called by the chair or by any two members of the Commission, and meetings shall be held at least quarterly. Any three voting members of the Commission shall constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the Commission at any meeting by the affirmative vote of a majority of the members of the Commission present at a meeting at which a quorum exists. Any or all members may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all members participating may simultaneously hear each other during the meeting. A member participating in the meeting by this means is deemed to be present in person at the meeting.

(d) Rule-Making Authority of the Commission. -- The Commission shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, sanctioned amateur, amateur, and toughman matches and exhibitions in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

(1) Requirements for issuance of licenses and permits required by this Article.
(2) Regulation of ticket sales.
(3) Physical requirements for contestants, including classification by weight and skill.
(4) Supervision of matches and exhibitions by licensed physicians and referees.
(5) Insurance and bonding requirements.
(6) Compensation of participants and licensees.
(7) Contracts and financial arrangements.
(8) Prohibition of dishonest, unethical, and injurious practices.
(9) Facilities.
(10) Approval of sanctioning amateur sports organizations.
(11) Procedures and requirements for compliance with the Professional Boxing Safety Act of 1996.

(e) Compensation. -- None of the members of the Commission shall receive compensation for serving on the Commission. However, members of the Commission may be reimbursed for their expenses in accordance with the provisions of Chapter 138 of the General Statutes.

(f) Staff Assistance. -- The Secretary of ~~State~~ Commerce shall hire a person to serve as Executive Director of the Commission and shall provide staff assistance to the Executive Director. The Executive Director may train and contract with independent contractors for the purpose of regulating and monitoring events, issuing licenses, collecting fees, and enforcing rules of the Commission. The Executive Director may initiate criminal background checks on persons requesting to work as independent contractors for the Commission or persons applying to be licensed by the Commission."

(c) G.S. 143-654 (c) reads as rewritten:

"(c) Surety Bond. -- An applicant for a promoter's license must submit, in addition to any other forms, documents, or exhibits requested by the Commission, a surety bond payable to the Commission for the benefit of any person injured or

damaged by (i) the promoter's failure to comply with any provision of this Article or any rules adopted by the Commission or (ii) the promoter's failure to fulfill the obligations of any contract between or among licensees related to the holding of a boxing event. The surety bond shall be issued in an amount to be no less than five thousand dollars ($5,000). The amount of the surety bond shall be negotiable upon the sole discretion of the Commission. All surety bonds shall be upon forms approved by the Secretary of ~~State~~ Commerce and supplied by the Commission."

(d) G.S. 143-655 (c) reads as rewritten:

"(c) State Boxing Commission Revenue Account. -- There is created the State Boxing Commission Revenue Account within the Department of ~~the Secretary of State.~~ Commerce. Monies collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article."

(e) G.S. 143-658 reads as rewritten:

"**§ 143-658. Violations.**

(a) Civil Penalties. -- The Secretary of ~~State~~ Commerce may issue an order against a licensee or other person who willfully violates any provision of this Article, imposing a civil penalty of up to five thousand dollars ($5,000) for a single violation or of up to twenty-five thousand dollars ($25,000) for multiple violations in a single proceeding or a series of related proceedings. No order under this subsection may be entered without giving the licensee or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

(b) Criminal Penalties. -- A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of ~~State~~ Commerce may refer any available evidence concerning violations of this Article to the proper district attorney, who may, with or without such a reference, institute the appropriate criminal proceedings.

~~The attorneys employed by the Secretary of State shall be available to prosecute or assist in the prosecution of criminal cases when requested to do so by a district attorney and the Secretary of State approves.~~

(c) Injunction. -- Whenever it appears to the Secretary of ~~State~~ Commerce that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule or order hereunder, the Secretary of ~~State~~ Commerce ~~may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.~~ shall refer the matter to the Attorney General's Office for appropriate action.

~~(d) Enforcement. -- For purposes of enforcing this Article, the Department of the Secretary of State's law enforcement agents have statewide jurisdiction. These law enforcement agents may assist local law enforcement agencies in their investigations and may initiate and carry out, in coordination with local law enforcement agencies, investigations of violations of this Article. These law enforcement agents have all the powers and authority of law enforcement officers when executing arrest warrants.~~"

(f) Section 9 of S.L. 1997-504 reads as rewritten:

"Section 9. Except as otherwise specified herein, this act is effective when it becomes law. ~~This act expires August 1, 1998.~~"

PART XXIV. STATE BOARD OF ELECTIONS

Requested by: Senators Warren, Plyler, Perdue, Odom

EXTEND STATEWIDE DATA ELECTIONS MANAGEMENT SYSTEM

Section 24. Section 31(a) of S.L. 1997-443 reads as rewritten:

"(a) The State Board of Elections shall establish a statewide data elections management system. The system shall prescribe data format standards, data

communication standards, and data content standards. The State Board of Elections shall establish the system no later than November 1, 1997. Counties shall adhere to the standards prescribed by the system no later than ~~August 31, 1998.~~ December 31, 1998. The State Board of Elections may adopt rules to implement this section. Chapter 150B of the General Statutes governs the adoption of rules by the State Board of Elections."

PART XXV. OFFICE OF STATE BUDGET AND MANAGEMENT

Requested by: Senators Warren, Plyler, Perdue, Odom, Kerr

FIRE PROTECTION AND RESCUE GRANT FUNDS

Section 25. (a) Article 85A of Chapter 58 of the General Statutes reads as rewritten:

"ARTICLE 85A.

"State Fire Protection and Rescue Grant Fund.

"§ 58-85A-1. Creation of Fund; allocation to local fire ~~districts and political subdivisions of the State.~~ districts, political subdivisions of the State, volunteer fire departments, and volunteer rescue squads.

(a) There is created in the Office of State Budget and Management the State Fire Protection and Rescue Grant Fund. The ~~purpose~~ purposes of the Fund ~~is to~~ are to:

(1) ~~compensate~~ Compensate local fire districts and political subdivisions of the State for providing local fire protection to State-owned buildings and their contents.

(2) Reimburse volunteer fire departments and volunteer rescue squads for highway use tax they pay on their fire trucks and emergency services vehicles.

(b) The Office of State Budget and Management shall develop and implement an equitable and uniform statewide method for distributing any funds to the State's local fire ~~districts and political subdivisions.~~ districts, political subdivisions, and volunteer fire departments and volunteer rescue squads.

Upon the request of the Director of the Budget, the Department of Insurance shall provide the Office of State Budget and Management all information necessary to develop and implement the formula.

(b1) Definitions. -- The following definitions apply in this section:

(1) Fire truck. -- A fire truck, a pump truck, a tanker truck, or a ladder truck used to suppress fire; or a four-wheel drive vehicle intended to be mounted with a water tank and hose and used for forest fire fighting.

(2) Highway use tax. -- The tax imposed in Article 5A of Chapter 105 of the General Statutes.

(3) Volunteer fire department. -- A fire department that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11.

(4) Volunteer rescue squad. -- An organization that provides rescue services, emergency medical services, or both, is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11.

(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection and Rescue Grant Fund at least three million eighty thousand dollars ($3,080,000) from the General Fund, one hundred fifty thousand dollars ($150,000) from the Highway Fund, and nine hundred seventy thousand dollars ($970,000) from University of North Carolina receipts. Funds received from the General Fund shall be allocated only for (i) providing local fire protection for State-owned property supported by the General Fund; and (ii) grants to volunteer fire departments and

volunteer rescue squads to reimburse them for highway use tax they pay on their fire trucks and emergency services vehicles; funds received from the Highway Fund shall be allocated only for providing local fire protection for State-owned property supported by the Highway Fund; and funds received from University of North Carolina receipts shall be allocated only for providing local fire protection for State-owned property supported by University of North Carolina receipts."

(b) The Appropriations Subcommittees on General Government shall study the need for additional Highway Fund appropriations to fund subsection (a) of this section for the 1999-2001 biennium and shall report to the 1999 General Assembly.

PART XXVI. OFFICE OF STATE CONTROLLER

Requested by: Senators Warren, Plyler, Perdue, Odom

PILOT PROGRAM ON REPORTING ON COLLECTION OF BAD DEBTS BY STATE AGENCIES

Section 26. (a) The General Assembly finds that a significant number of bad debts are owed to State agencies, and even expansion of the Debt Collection Setoff act scheduled for 2000 may still leave room for improvement. The General Assembly has been presented information on the extent of the debts, but lacks sufficient information to determine if the lack of collection in some cases relates to inability to the debtor to pay, contractual discharges that may have been taken to receive partial recovery from third parties, or need to improve collection procedures within State agencies. Focusing on health care institutions within State government will allow maximum information without disrupting other agencies which have small amounts of bad debts.

(b) The Office of State Controller shall establish a procedure by which health care institutions under or affiliated with the Department of Health and Human Services or The University of North Carolina shall report on collection of bad debts. This pilot program is intended to concentrate on agencies that have a large amount of bad debts, in order to determine the extent to which those debts may be better collected both in those agencies and in the whole of State Government.

(c) The procedures shall require that in the case of each bad debt, that debt is reported to the Office of State Controller with its total amount and with standardized codes indicating the type of debt, the actions taken to collect the debt, and the estimate of the agency on the likelihood of being able to collect the bad debt.

(d) The Office of State Controller shall report the results of the pilot study to the General Assembly no later than April 1, 1999, along with recommendations on changes in law or procedure to better collect the bad debts.

PART XXVII. DEPARTMENT OF TRANSPORTATION

Requested by: Senator Jordan

DESIGN-BUILD TRANSPORTATION CONSTRUCTION CONTRACTS AUTHORIZED

Section 27. Notwithstanding any other provision of law, the Board of Transportation may award up to three contracts annually for construction of transportation projects on a design-build basis. These contracts may be awarded after a determination by the Department of Transportation that delivery of the projects must be expedited and that it is not in the public interest to comply with normal design and construction contracting procedures. Prior to the award of a design-build contract, the Secretary of Transportation shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Commission on Governmental Operations on the nature and scope of the project and the reasons an award on a design-build basis will best serve the public interest.

Requested by: Senator Jordan
DISCONTINUE DEPARTMENT OF TRANSPORTATION SALES TAX REIMBURSEMENT FROM HIGHWAY FUND TO GENERAL FUND FOR ONE YEAR

Section 27.1. (a) G.S. 105-164.44D is suspended from June 30, 1998, to June 29, 1999.

(b) This section becomes effective June 30, 1998.

Requested by: Senator Jordan
DISCONTINUE BOND RETIREMENT TRANSFER FROM HIGHWAY FUND TO HIGHWAY TRUST FUND FOR ONE YEAR

Section 27.2. G.S. 136-176(a)(4) and G.S. 136-183 are suspended from July 1, 1998, to June 30, 1999.

Requested by: Senator Jordan
FEDERAL FUNDS FOR PUBLIC TRANSPORTATION IMPROVEMENTS

Section 27.3. Section 32.18 of S.L. 1997-443 reads as rewritten:

"Section 32.18. To the extent allowable by federal law, the Department of Transportation shall use ten million dollars ($10,000,000) of federal highway funds during each year of the 1997-99 biennium for improvements to public transportation."

Requested by: Senator Jordan
CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

Section 27.4. Section 32.13 of S.L. 1997-443 reads as rewritten:

"Section 32.13. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

FY 1999-2000	~~$1,182.2~~ $1,190.8 million
FY 2000-2001	~~$1,211.2~~ $1,225.7 million
FY 2001-2002	~~$1,241.2~~ $1,265.4 million
FY 2002-2003	~~$1,271.9~~ $1,301.0 million

The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

FY 1999-2000	~~$861.7~~ $871.4 million
FY 2000-2001	~~$891.0~~ $901.8 million
FY 2001-2002	~~$921.6~~ $934.7 million
FY 2002-2003	~~$953.3~~ $967.2 million."

Requested by: Senator Jordan
OUTDOOR ADVERTISING JUST COMPENSATION SUNSET EXTENDED

Section 27.5. (a) Section 2 of Chapter 1147 of the 1981 Session Laws, as amended by all of the following:

Chapter 318 of the 1983 Session Laws
Chapter 1024 of the 1987 Session Laws
Section 1 of Chapter 166 of the 1989 Session Laws
Section 1 of Chapter 725 of the 1993 Session Laws

reads as rewritten:

"Sec. 2. This act is effective upon ratification, but shall expire ~~June 30, 1998,~~ June 30, 2004, and shall have no force or effect after that date."

(b) This section becomes effective June 30, 1998.

Requested by: Senator Jordan

PAYMENTS TO CONTRACT AGENTS FOR COLLECTING EMISSION CONTROL CIVIL PENALTIES AND FOR MAKING SALES OF INSPECTION STICKERS TO LICENSED INSPECTION STATIONS, AND A TECHNICAL CHANGE TO A RELATED STATUTE.

Section 27.6. (a) G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. -- All registration plates, registration certificates and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the said Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of such plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina and the Division shall make a reasonable effort in every locality, except as hereinbefore noted, to enter into a commission contract for the issuance of such plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts as hereinbefore set out it shall then issue said plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of such distribution. Commission contracts entered under this subsection shall provide for the payment of compensation for all transactions as set forth below. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.

(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.

(9) Collection of the highway use tax.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through ~~(8)~~ (8b) of this section is a single transaction for which a dollar and thirty-five cent ($1.35) compensation shall be paid. Performance of the item listed in subdivision (9) of this subsection in combination with any other items listed in this subsection is a separate

transaction for which a one dollar and twenty cent ($1.20) compensation shall be paid."

(b) G.S. 20-183.8A reads as rewritten:

"**§ 20-183.8A. Civil penalties against motorists for emissions violations.**

The Division ~~must~~ shall assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of penalty is one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and two hundred fifty dollars ($250.00) if the vehicle is a 1981 or newer model vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this ~~subsection~~ section has been paid."

Requested by: Senator Ballance

REOPEN STATE HIGHWAY IN BERTIE COUNTY

Section 27.7. (a) The Department of Transportation may use available funds to reopen S.R. 1109 in Bertie County.

(b) If a court determines that reopening the road requires compensation, then the Department of Transportation may expend funds from the Highway Fund in fiscal year 1998-99 for that purpose.

Requested by: Senator Plyler

BRANDED TITLE CLARIFICATION

Section 27.8. (a) G.S. 20-71.3 reads as rewritten:

"**§ 20-71.3. Titles and registration cards to be branded.**

(a) Motor Vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 ~~shall~~ may be branded.

As used ~~herein~~ in this section, 'branded' means that the title and registration card shall contain a designation that discloses if the vehicle is classified as any of the following:

(1) ~~(a)~~ Flood ~~Vehicle,~~ Vehicle.

(2) ~~(b)~~ Non-U.S.A. ~~Vehicle,~~ Vehicle.

(3) ~~(c)~~ Reconstructed ~~Vehicle,~~ Vehicle.

(4) ~~(d)~~ Salvage Motor ~~Vehicle, or~~ Vehicle.

(5) ~~(e)~~ Salvage Rebuilt ~~Vehicle or~~ Vehicle.

(6) Any other classification authorized by law.

(b) Any motor vehicle up ~~to six~~ to, and including, five model years old damaged by collision or other ~~occurrence~~ occurrence, which requires a disclosure pursuant to G.S. 20-71.4, and ~~which~~ which, as a result of such damage, is to be retitled in this State shall be subject to preliminary and final inspections by the Enforcement Section of the ~~Division, and~~ Division. ~~the~~ The Division shall ~~refuse to~~ not ~~issue a title to~~ retitle a vehicle ~~up to six model years old~~ described in the first sentence of this subsection which has not undergone a preliminary ~~inspection.~~ inspection required by this subsection.

These inspections serve as antitheft measures and do not certify the safety or roadworthiness of a vehicle.

(c) Any motor vehicle more than five model years old damaged by collision or other occurrence which requires a disclosure pursuant to G.S. 20-71.4 and which, as a

result of such damage, is to be retitled by the State shall, without inspection, be retitled with an unbranded or branded title, as appropriate, based upon a title application by the rebuilder with a supporting affidavit disclosing all of the following:

(1) The parts used or replaced.

(2) The major components replaced.

(3) The total cost of repair, including labor costs.

The Division shall maintain these affidavits and make them available for review and copying by persons researching the salvage and repair history of the vehicle.

~~These inspections serve as an antitheft measure and do not certify the safety or roadworthiness of a vehicle.~~

(d) Any motor vehicle which has been branded in another state shall be branded with the nearest applicable brand specified in this section, except that no junk vehicle or vehicle that has been branded junk in another state shall be titled or registered.

(e) A motor vehicle titled in another state and damaged by collision or other occurrence may be repaired and an unbranded title issued in North Carolina only if the cost of repairs, including parts and labor, does not exceed seventy-five percent (75%) of its fair market retail value.

(f) Once a branded title has been issued for a motor vehicle, subsequent titles shall continue to reflect the branding until the title for that motor vehicle is either surrendered to the Division or cancelled by the Division.

(g) The ~~Commissioner~~ Division shall prepare necessary forms and may adopt ~~regulations~~ rules required to carry out the provisions of this ~~Part 3A.~~ Part. ~~The title shall reflect the branding until surrendered to or cancelled by the Commissioner.~~

All title and title application forms shall contain a notice that indicates that the complete repair or salvage history of the vehicle might not be disclosed on the face of the title."

(b) This section is effective when it becomes law.

Requested by: Senator Jordan

DMV ENFORCEMENT SECTION PAY EQUITY PLAN LIMITATIONS

Section 27.9. Of the funds appropriated in this act to the Department of Transportation, up to three million three hundred ninety thousand seven hundred eight dollars ($3,390,708) may be used to adjust the salaries and benefits of the enforcement officers assigned to the Enforcement Section of the Division of Motor Vehicles.

These adjustments shall be based on factors such as: employee salary, position class title, position grade, and creditable years of sworn service with the Enforcement Section.

No salary adjustment shall result in an increase beyond the maximum salary set for an officer's pay grade. If an officer's salary is near or at the top of the officer's pay grade, the officer shall be eligible to receive a salary adjustment up to the top of the officer's pay grade. If an officer is at the top of the officer's pay grade, then the officer is not eligible to receive a salary adjustment.

Before adjusting salaries or benefits pursuant to this section, the Department of Transportation shall do all of the following:

(1) Consult with and get approval of the Office of State Personnel.

(2) Report to the Joint Legislative Transportation Oversight Committee.

(3) Report to the Joint Legislative Commission on Governmental Operations.

PART XXVIII SALARIES AND BENEFITS

Requested by: Senators Plyler, Perdue, Odom

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

Section 28. (a) G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred seven thousand one hundred thirty-two dollars ($107,132)~~ one hundred ten thousand three hundred forty-six dollars ($110,346) annually, payable monthly."

(b) Section 33(b) of Chapter 443 of the 1997 Session Laws reads as rewritten:

"(b) The annual salaries for the members of the Council of State, payable monthly, for the ~~1997-98 and~~ 1998-99 fiscal ~~years,~~ year, beginning ~~July 1, 1997,~~ July 1, 1998, are:

Council of State		Annual Salary
Lieutenant Governor	~~$94,552~~	$97,388
Attorney General	~~94,552~~	97,388
Secretary of State	~~94,552~~	97,388
State Treasurer	~~94,552~~	97,388
State Auditor	~~94,552~~	97,388
Superintendent of Public Instruction	~~94,552~~	97,388
Agriculture Commissioner	~~94,552~~	97,388
Insurance Commissioner	~~94,552~~	97,388
Labor Commissioner	~~94,552.~~	97,388."

Requested by: Senators Plyler, Perdue, Odom

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

Section 28.1. Section 33.1 of Chapter 443 of the 1997 Session Laws reads as rewritten:

"Section 33.1. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the ~~1997-98 and~~ 1998-99 fiscal ~~years,~~ year, beginning ~~July 1, 1997,~~ July 1, 1998, are:

Nonelected Department Heads		Annual Salary
Secretary of Administration	~~$92,378~~	$95,149
Secretary of Correction	~~92,378~~	95,149
Secretary of Cultural Resources	~~92,378~~	95,149
Secretary of Commerce	~~92,378~~	95,149
Secretary of ~~Environment, Health,~~ Environment and Natural Resources	~~92,378~~	95,149
Secretary of Health and Human ~~Resources~~ Services	~~92,378~~	95,149
Secretary of Revenue	~~92,378~~	95,149
Secretary of Transportation	~~92,378~~	95,149
Secretary of Crime Control and Public Safety	~~92,378.~~	95,149."

Requested by: Senators Plyler, Perdue, Odom

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

Section 28.2. Section 33.2 of Chapter 443 of the 1997 Session Laws reads as rewritten:

"Section 33.2. The annual salaries, payable monthly, for the ~~1997-98 and~~ 1998-99 fiscal ~~years,~~ year, beginning ~~July 1, 1997,~~ July 1, 1998, for the following executive branch officials are:

Executive Branch Officials		Annual Salary
Chairman, Alcoholic Beverage Control Commission	~~$ 84,080~~	$86,602
State Controller	~~117,669~~	121,199
Commissioner of Motor Vehicles	~~84,080~~	86,602
Commissioner of Banks	~~94,552~~	97,389
Chairman, Employment Security Commission	~~117,520~~	121,046
State Personnel Director	~~92,378~~	95,149
Chairman, Parole Commission	~~76,775~~	79,078
Members of the Parole Commission	~~70,881~~	73,008
Chairman of the Utilities Commission	~~95,592~~	108,459
Commissioners of the Utilities Commission	~~94,552~~	97,388
Executive Director, Agency for Public Telecommunications	~~70,881~~	73,008
General Manager, Ports Railway Commission	~~64,005~~	65,925
Director, Museum of Art	~~86,155~~	88,739
~~Executive Director, Wildlife Resources Commission~~	~~72,569~~	
Executive Director, North Carolina Housing Finance Agency	~~104,057~~	107,179
Executive Director, North Carolina Agricultural Finance Authority	~~81,839~~	84,294
~~Director, Office of Administrative Hearings~~	~~83,141~~".	

Requested by: Senators Plyler, Perdue, Odom

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

Section 28.3. (a) Section 33.7 of Chapter 443 of the 1997 Session Laws reads as rewritten:

"Section 33.7. (a) The annual salaries, payable monthly, for specified judicial branch officials for the ~~1997-98 and~~ 1998-99 fiscal ~~years,~~ year, beginning ~~July 1, 1997,~~ July 1, 1998, are:

Judicial Branch Officials		Annual Salary
Chief Justice, Supreme Court		$107,132
Associate Justice, Supreme Court		104,333
Chief Judge, Court of Appeals		101,724
Judge, Court of Appeals		99,986
Judge, Senior Regular Resident Superior Court	~~97,269~~	99,900
Judge, Superior Court	~~94,552~~	97,388
Chief Judge, District Court	~~85,857~~	88,433
Judge, District Court	~~83,141~~	85,635
District Attorney	~~87,596~~	90,224
Administrative Officer of the Courts	~~97,269~~	100,187
Assistant Administrative Officer of the Courts	~~81,684~~	84,134
Public Defender	~~87,596.~~	90,224.

~~(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed fifty-three thousand eight hundred eighty-three dollars ($53,883) and the minimum salary of any assistant district attorney or assistant public~~

~~defender is at least twenty-seven thousand five hundred nine dollars ($27,509), effective July 1, 1997.~~

~~(c) The salaries in effect for the 1996-97 fiscal year on June 30, 1997, for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by four percent (4%), commencing July 1, 1997.~~

~~(d) The salaries in effect on June 30, 1997,~~ June 30, 1998, ~~for all permanent, part-time employees of the Judicial Department shall be increased on and after July 1, 1997, by pro rata amounts of four percent (4%).~~"

(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed fifty-five thousand five hundred dollars ($55,500) and the minimum salary of any assistant district attorney or assistant public defender is at least twenty-eight thousand three hundred thirty-four dollars ($28,334), effective July 1, 1998.

(c) The salaries in effect for the 1997-98 fiscal year on June 30, 1998, for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by three percent (3%), commencing July 1, 1998.

(d) The salaries in effect on June 30, 1998, for all permanent, part-time employees of the Judicial Department shall be increased on and after July 1, 1998, by pro rata amounts of three percent (3%).

Requested by: Senators Plyler, Perdue, Odom

CLERKS OF SUPERIOR COURT/SALARY INCREASES

Section 28.4. G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population		Annual Salary
Less than 100,000	~~$62,676~~	$64,556
100,000 to 149,999	~~70,403~~	72,515
150,000 to 249,999	~~78,130~~	80,474
250,000 and above	~~85,857.~~	88,433.

The salary schedule in this subsection is intended to represent the following percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

Requested by: Senators Plyler, Perdue, Odom

ASSISTANT AND DEPUTY CLERKS OF SUPERIOR COURT/SALARY INCREASES

Section 28.5. (a) Effective July 1, 1998, those State employees whose salaries are determined by G.S. 7A-102 shall receive across-the-board salary increases in the amount of three percent (3%) in addition to step increases associated with their respective pay plans.

(b) G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper		Annual Salary
Minimum	~~$23,420~~	$24,122
Maximum	~~41,466~~	42,710

Deputy Clerks		Annual Salary
Minimum	~~$18,724~~	$19,286
Maximum	~~31,940.~~	32,899."

Requested by: Senators Plyler, Perdue, Odom

MAGISTRATES/SALARY INCREASES

Section 28.6. (a) G.S. 7A-171.1 reads as rewritten:

"**§ 7A-171.1. Duty hours, salary, and travel expenses within county.**

(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level		Annual Salary
Entry Rate	~~$24,471~~	$26,213
Step 1	~~26,927~~	28,844
Step 2	~~29,600~~	31,708
Step 3	~~32,516~~	34,831
Step 4	~~35,711~~	38,254
Step 5	~~39,922~~	42,015
Step 6	~~43,083.~~	46,151.

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is

included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, an individual who, when initially appointed as a full-time magistrate, is licensed to practice law in North Carolina, shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(a1) **(Effective until June 30, 1999)** Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

~~1 or more but less than 3 years of service~~	~~20,279~~
3 or more but less than 5 years of service	~~22,373.~~ 23,859.

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

(2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3.

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(4) The salaries of 'part-time magistrates' shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

(b) Any magistrate who received a step increase during the 1997-98 fiscal year shall also receive a four percent (4%) salary adjustment effective July 1, 1997, in addition to whatever step increase the person may be eligible to receive pursuant to subsection (a) of this section. The Administrative Office of the Courts may use any available funds to make the retroactive salary adjustment for certain magistrates pursuant to this subsection.

Requested by: Senators Plyler, Perdue, Odom

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

Section 28.7. G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~fifty-nine thousand eight hundred sixty-one dollars ($59,861)~~ sixty-one thousand six hundred fifty-seven dollars ($61,657) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

Requested by: Senators Plyler, Perdue, Odom

SERGEANT-AT-ARMS AND READING CLERKS/SALARY INCREASES

Section 28.8. G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred fifty-eight dollars ($258.00)~~ two hundred sixty-six ($266.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions

as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

Requested by: Senators Plyler, Perdue, Odom

LEGISLATIVE EMPLOYEES/SALARY INCREASES

Section 28.9. The Legislative Administrative Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 1997-98 by three percent (3%). Nothing in this act limits any of the provisions of G.S. 120-32.

Requested by: Senators Plyler, Perdue, Odom

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Section 28.10. The Director of the Budget shall transfer from the Reserve for Salary Increases created in this act for fiscal year 1998-99 funds to the Department of Community Colleges necessary to provide an average annual salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all permanent full-time community college institutional personnel supported by State funds. The State Board of Community Colleges shall establish guidelines for providing their salary increases to community college institutional personnel to include consideration of increases based on performance. Salary funds shall be used to provide an average annual salary increase of three percent (3%) to all full-time employees and part-time employees on a pro rata basis.

Requested by: Senators Plyler, Perdue, Odom

UNIVERSITY OF NORTH CAROLINA SYSTEM - EPA SALARY INCREASES

Section 28.11. (a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increase created in this act for fiscal year 1998-99 to provide an annual average salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and shall not be used for any purpose other than for salary increases and necessary employer contributions provided by this section. The Board of Governors shall include consideration of increases based on performance in its adoption of rules for the allocation of funds for salary increases.

(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Salary Increases created in this act for fiscal year 1998-99 to provide an annual average salary increase comparable to that provided in this act for public school teachers, including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and shall not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Requested by: Senators Plyler, Perdue, Odom, Winner, Lee

SCHOOL CENTRAL OFFICE SALARIES

Section 28.12. (a) The following monthly salary ranges apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 1998-99 fiscal year, beginning July 1, 1998:

(1)	School Administrator I:	$2,846 - $4,857
(2)	School Administrator II:	$3,021 - $5,155
(3)	School Administrator III:	$3,206 - $5,471
(4)	School Administrator IV:	$3,335 - $5,692
(5)	School Administrator V:	$3,469 - $5,923
(6)	School Administrator VI:	$3,681 - $6,286
(7)	School Administrator VII:	$3,830 - $6,540

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 1998.

(b) The following monthly salary ranges apply to public school superintendents for the 1998-99 fiscal year, beginning July 1, 1998:

(1)	Superintendent I (Up to 2,500 ADM):	$4,065 - $6,941
(2)	Superintendent II (2,501 - 5,000 ADM):	$4,315 - $7,364
(3)	Superintendent III (5,001 - 10,000 ADM):	$4,578 - $7,815
(4)	Superintendent IV (10,001 - 25,000 ADM):	$4,859 - $8,293
(5)	Superintendent V (Over 25,000 ADM):	$5,157 - $8,801

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

Notwithstanding the provisions of this subsection, a local board of education may pay an amount in excess of the applicable range to a superintendent who is entitled to receive the higher amount under Section 9.6 of this act.

(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees.

(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

(e) The State Board shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

(f) The Director of the Budget shall transfer from the Reserve for Salary Increases created in this act for fiscal year 1998-99, beginning July 1, 1998, funds necessary to provide an average annual salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all permanent full-time personnel paid from the Central Office Allotment. The State Board of Education shall allocate these funds to local

school administrative units. The local boards of education shall establish guidelines for providing their salary increases to these personnel.

Requested by: Senators Plyler, Perdue, Odom, Winner, Lee

NONCERTIFIED PERSONNEL SALARY FUNDS/TEACHER ASSISTANT SALARY FUNDS

Section 28.13. (a) The Director of the Budget may transfer from the Reserve for Compensation Increase created in this act for fiscal year 1998-99, commencing July 1, 1998, funds necessary to provide a salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all noncertified public school employees whose salaries are supported from the State's General Fund. Local boards of education shall increase the rates of pay for all such employees who were employed during fiscal year 1997-98 and who continue their employment for fiscal year 1998-99 by at least three percent (3%), commencing July 1, 1998. These funds shall not be used for any purpose other than for the salary increases and necessary employer contributions provided by this section.

The Director of the Budget may transfer from the Reserve for Compensation Increase created in this act for fiscal year 1998-99, beginning July 1, 1998, funds necessary to provide the salary increases for noncertified public school employees whose salaries are supported from the State's General Fund in accordance with the provisions of this section.

The State Board of Education may enact or create salary ranges for noncertified personnel to support increases of three percent (3%) for the 1998-99 fiscal year.

(b) G.S. 115C-12(16)b. reads as rewritten:

"b. Salary schedules for the following public school support personnel shall be adopted by the State Board of Education: school finance officer, office support personnel, teacher assistants, maintenance supervisors, custodial personnel, and transportation personnel. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission.

By the end of the third payroll period of the 1995-96 fiscal year, local boards of education shall place State-allotted office support personnel, teacher assistants, and custodial personnel on the salary schedule adopted by the State Board of Education so that the average salary paid is the State-allotted amount for the category. In placing employees on the salary schedule, the local board shall consider the education, training, and experience of each ~~employee.~~ employee, including experience in other local school administrative units. It is the intent of the General Assembly that a local school administrative unit not fail to employ an employee who was employed for the prior school year in order to implement the provisions of this sub-subdivision. A local board of education is in compliance with this sub-subdivision if the average salary paid is at least ninety-five percent (95%) of the State-allotted amount for the category at the end of the third payroll period of the 1995-96 fiscal year, and at least ninety-eight percent (98%) of the State-allotted amount for the category at the end of the third payroll period of each subsequent fiscal year. The

Department of Public Instruction shall provide technical assistance to local school administrative units regarding the implementation of this sub-subdivision."

(c) Subsection (b) of this section applies beginning with the 1999-2000 school year.

Requested by: Senators Plyler, Perdue, Odom

COMPENSATION BONUS/STATE EMPLOYEES/SCHOOL PERSONNEL

Section 28.14. (a) Any person:

(1) Whose salary is set by or under this Part, other than Sections 28, 28.1, 28.2, 28.3(a), 28.4, 28.15(a); and 28.15(c), 28.15(d), 28.15(e), except that the exclusion of those under 28.15(c), 28.15(d), and 28.15(e) only applies to those whose salaries are set by the State Personnel Act; and

(2) Who was, on July 1, 1998, a permanent officer or permanent employee whose salary is set by or under this Part shall receive not later than September of 1998 a compensation bonus of one percent (1%), except that:

a. The compensation bonus for persons subject to Section 28.10 of this act shall be an average of one percent (1%) per year and shall be allocated in accordance with guidelines adopted by the State Board of Community Colleges;

b. The compensation bonus for persons subject to Section 28.11 of this act shall be an average of one percent (1%) per year and shall be allocated to individuals according to the rules adopted by the Board of Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate; and

c. The guidelines and rules adopted under sub-subdivisions a. and b. of this subdivision may cover employees of those institutions whose first day of employment for the 1998-99 academic year came after July 1, 1998.

(a1) Any person:

(1) Who did not receive a compensation bonus under subsection (a) of this section; and

(2) Who was employed on the first day of the 1998-99 school year as a permanent public school employee whose salary is set by or under this Part

shall receive in the third payroll period of the 1998-99 school year a compensation bonus of one percent (1%) of the annual salary for that position.

(b) The annual salary on which the percentage compensation bonus is based is the annual salary in effect during the pay period in which the bonus is paid.

(c) The Director of the Budget shall transfer from the Reserve for Compensation Bonus provided by this act sufficient funds to implement this section.

Requested by: Senators Plyler, Perdue, Odom

MOST STATE EMPLOYEES/SALARY INCREASES

Section 28.15. (a) The salaries in effect June 30, 1998, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall be increased, on or after July 1, 1998, unless otherwise provided by this act, pursuant to the Comprehensive Compensation System set forth in G.S. 126-7 and rules adopted by the State Personnel Commission, as follows:

(1) Career growth recognition awards in the amount of two percent (2%);
(2) A cost-of-living adjustment in the amount of one percent (1%); and
(3) A performance bonus in the amount of one percent (1%).

Notwithstanding G.S. 126-7(4a), any permanent full-time State employee whose salary is set in accordance with the State Personnel Act and whose salary is at the top of the salary range or within two percent (2%) of the top of the salary range shall receive a one-time bonus of two percent (2%) less the career growth recognition award the employee receives. The employee shall receive the career growth bonus at the time the employee is eligible for the career growth recognition award, but not earlier than July 1, 1998.

(a1) It is the intent of the General Assembly that the annual career growth recognition award in the amount of two percent (2%) provided by G.S. 126-7(c)(4a) shall be part of the continuation budget for each fiscal year of the 1999-2001 biennium.

(b) Except as otherwise provided in this act, salaries in effect June 30, 1998, for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by three percent (3%), commencing July 1, 1998.

(c) The salaries in effect June 30, 1998, for all permanent part-time State employees shall be increased on and after July 1, 1998, by pro rata amounts of the salary increases provided for permanent full-time employees covered under subsection (a) of this section.

(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase on and after July 1, 1998, in accordance with subsections (a), (b), or (c) of this section, including funds for the employer's retirement and social security contributions, of the permanent full-time and part-time employees of the agency.

(e) Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts the salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 1998.

(f) Except as provided by subsection (a) of this section, no person may receive a salary increase under G.S. 126-7 during the 1998-99 fiscal year, and no State employee or officer shall receive a merit increment during the 1998-99 fiscal year except as otherwise provided by this act.

Requested by: Senators Plyler, Perdue, Odom

ALL STATE-SUPPORTED PERSONNEL

Section 28.16. (a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

(c) The salary increases provided in this Part are to be effective July 1, 1998, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, whose last workday is prior to July 1, 1998, or to employees involved in final written disciplinary procedures. The employee shall receive the increase on a current basis when the final written disciplinary procedure is resolved.

Payroll checks issued to employees after July 1, 1998, which represent payment of services provided prior to July 1, 1998, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

(d) The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 1998-99 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

Requested by: Senators Plyler, Perdue, Odom

SALARY ADJUSTMENT FUND

Section 28.17. Any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund. These funds shall first be used to provide reclassifications of those positions already approved by the Office of State Personnel. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations prior to the allocation of these funds.

Requested by: Senators Plyler, Perdue, Odom, Rand

SALARIES OF THE ADMINISTRATOR AND THE EXECUTIVE SECRETARY OF THE INDUSTRIAL COMMISSION SET BY STATUTE

Section 28.18.(a) G.S. 97-78 reads as rewritten:

"**§ 97-78. Salaries and expenses; ~~secretary and other clerical~~ administrator, executive secretary, and other staff assistance; annual report.**

(a) The salary of each commissioner shall be the same as that fixed from time to time for district attorneys except that the commissioner designated as chair shall receive one thousand five hundred dollars ($1,500) additional per annum.

(b) The Commission may appoint an administrator whose duties shall be prescribed by the Commission, and who shall be subject to the State Personnel System, and who may be removed at the will of the Commission. The Commission may appoint ~~a~~ an executive secretary whose duties shall be prescribed by the Commission, and who shall be subject to the State Personnel System and who, upon entering upon his duties, shall give bond in such sum as may be fixed by the Commission, and who may be removed at the will of the Commission. The Commission may also employ such clerical or other assistance as it may deem necessary, and fix the compensation of ~~all persons so employed, such compensation to~~ its staff, except that the salaries of the administrator and the executive secretary shall be fixed by subsection (b1) of this section. The compensation of Commission staff shall be in keeping with the compensation paid to the persons employed to do similar work in other State departments.

(b1) The salary of the administrator shall be ninety percent (90%) of the salary of a commissioner. The salary of the executive secretary shall be eighty percent (80%) of the salary of a commissioner. In lieu of merit and other incremental raises, the

administrator and the executive secretary shall receive longevity pay on the same basis as is provided to other employees subject to the State Personnel Act.

(c) The members of the Commission and its assistants shall be entitled to receive from the State their actual and necessary expenses while traveling on the business of the Commission, but such expenses shall be certified by the person who incurred the same, and shall be approved by the chairman of the Commission before payment is made.

(d) All salaries and expenses of the Commission shall be audited and paid out of the State treasury, in the manner prescribed for similar expenses in other departments or branches of the State service, and to defray such salaries and expenses a sufficient appropriation shall be made under the General Appropriation Act as made to other departments, commissions and agencies of the State government.

(e) The Commission shall publish annually for free distribution a report of the administration of this Article, together with such recommendations as the Commission deems advisable."

(b) Of the funds appropriated from the General Fund to the Department of Commerce, the sum of thirty-six thousand seven hundred fifty-four dollars ($36,754) for the 1998-99 fiscal year shall be used to implement the Industrial Commission staff salaries authorized by subsection (a) of this section.

Requested by: Senators Plyler, Perdue, Odom, Martin of Pitt

WILDLIFE RESOURCES COMMISSION DIRECTOR SALARY

Section 28.19. G.S. 143-246 reads as rewritten:

"**§ 143-246. Executive Director; appointment, qualifications and duties.**

The North Carolina Wildlife Resources Commission as soon as practicable after its organization shall select and appoint a competent person qualified as hereinafter set forth as Executive Director of the North Carolina Wildlife Resources Commission. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Commission and shall serve as the chief administrative officer of the said Commission. Subject to the approval of the Commission and the Director of the Budget, he is hereby authorized to employ such clerical and other assistants as may be deemed necessary. The person selected as Executive Director shall have had training and experience in conservation, protection and management of wildlife resources. The salary of such Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act, and said~~ Wildlife Resources Commission, in an amount at least equal to the salary of the Director of the Division of Marine Fisheries. The Director shall be allowed actual expenses incurred while on official duties away from resident ~~headquarters; said~~ headquarters. The salary and expenses ~~to~~ of the Director shall be paid from the Wildlife Resources Fund subject to the provisions of the Executive Budget Act. The term of office of the Executive Director shall be at the pleasure of the Commission. Such bond shall be made as part of the blanket bond of State officers and employees provided for in G.S. 128-8."

Requested by: Senators Plyler, Perdue, Odom

TRAVEL RATES FOR STATE EMPLOYEES

Section 28.20. (a) G.S. 138-6(a) reads as rewritten:

"(a) Travel on official business by the officers and employees of State departments, institutions and agencies which operate from funds deposited with the State Treasurer shall be reimbursed at the following rates:

(1) For transportation by privately owned automobile, the business standard mileage rate set by the Internal Revenue Service per mile of travel and the actual cost of tolls paid. Any other law which sets a mileage rate by referring to the rate set herein, instead establishes

a rate of twenty-five cents (25¢) per mile. No reimbursement shall be made for the use of a personal car in commuting from an employee's home to his duty station in connection with regularly scheduled work hours. Any designation of an employee's home as his duty station by a department head shall require prior approval by the Office of State Budget and Management on an annual basis.

(2) For bus, railroad, Pullman, or other conveyance, actual fare.

(3) For expenses incurred for subsistence, payment of ~~seventy-one dollars ($71.00)~~ eighty-one dollars ($81.00) per day when traveling in-state or ~~eighty-three dollars ($83.00)~~ ninety-three dollars ($93.00) per day when traveling out-of-state. Payment of sales tax, lodging tax, local tax, or service fees applied to the cost of lodging are to be paid in addition to the daily subsistence amount. The employee may exceed the part of the ceiling allocated for lodging without approval for overexpenditure provided that the total lodging and food reimbursement does not exceed the maximum provided by this subdivision. When travel involves less than a full day (24-hour period), a reasonable prorated amount shall be paid in accordance with regulations and criteria which shall be promulgated and published by the Director of the Budget. Reimbursement to State employees for lunches eaten while on official business may be made only in the following circumstances:

a. When an overnight stay is required reimbursement is allowed while an employee is in travel status;

b. When the cost of the lunch is included as part of a registration fee for a formal congress, conference, assembly, or convocation, by whatever name called. Such assembly must involve the active participation of persons other than the employees of a single State department, institution, or agency and must be necessary for conducting official State business; or

c. When the State employee is a member ~~of~~ of, or providing staff assistance to, a State board, commission, committee, or council which operates from funds deposited with the State Treasurer, and the lunch is preplanned as part of the meeting for the entire board, commission, committee, or council.

(4) For convention registration fees not to exceed ~~thirty dollars ($30.00) per convention.~~ the actual amount expended as shown by a valid receipt or invoice.

(5) Effective on July 1, 2001, and effective on July 1 of each odd-numbered year thereafter, the Director of the Budget shall revise the amounts of payment of subsistence per day when traveling in-state and out-of-state by an amount equal to the percent increase in the Consumer Price Index for All Urban Consumers for the most recent 24-month period."

(b) The Office of State Budget and Management shall revise the schedule used for reporting allowable subsistence expenses incurred by State officers and employees while traveling on State business by allocating to lodging the increase provided in subsection (a) of this section.

Requested by: Senators Warren, Kerr, Plyler, Perdue, Odom

INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

Section 28.21. (a) G.S. 58-86-55 reads as rewritten:

"**§ 58-86-55. Monthly pensions upon retirement.**

Any member who has served 20 years as an 'eligible fireman' or 'eligible rescue squad worker' in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred forty-one dollars ($141.00)~~ one hundred forty-six dollars ($146.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 1997,~~ July 1, 1998, receive a pension of ~~one hundred forty-one dollars ($141.00)~~ one hundred forty-six dollars ($146.00) per month.

Members shall pay ten dollars ($10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No 'eligible rescue squad member' shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred forty-one dollars ($141.00)~~ one hundred forty-six dollars ($146.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars ($10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, and because of such annexation is unable to perform as a fireman of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States,

notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

(b) This section becomes effective July 1, 1998.

Requested by: Senators Jenkins, Plyler, Perdue, Odom

RETIREE COLAS AND FORMULA INCREASE

Section 28.22. (a) G.S. 135-5 is amended by adding a new subsection to read:

"(eee) From and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1997, shall be increased by two and one-half percent (2.5%) of the allowance payable on June 1, 1998, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1997, but before June 30, 1998, shall be increased by a prorated amount of two and one-half percent (2.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1997, and June 30, 1998."

(b) G.S. 135-65 is amended by adding a new subsection to read:

"(s) From and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1997, shall be increased by two and one-half percent (2.5%) of the allowance payable on June 1, 1998. Furthermore, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1997, but before June 30, 1998, shall be increased by a prorated amount of two and one-half percent (2.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1997, and June 30, 1998."

(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(m) In accordance with subsection (a) of this section, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1998, shall be increased by two and one-half percent (2.5%) of the allowance payable on June 1, 1998. Furthermore, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1998, but before June 30, 1998, shall be increased by a prorated amount of two and one-half percent (2.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1998, and June 30, 1998."

(d) G.S. 128-27 is amended by adding a new subsection to read:

"(uu) From and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1997, shall be increased by two and one-half percent (2.5%) of the allowance payable on June 1, 1998, in accordance with subsection (k) of this section. Furthermore, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1997, but before June 30, 1998, shall be increased by a prorated amount of two and one-half percent (2.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1997, and June 30, 1998."

(e) G.S. 128-27(b16) reads as rewritten:

"(b16) Service Retirement Allowance of Member Retiring on or after July 1, ~~1997.~~ 1997, but before July 1, 1998. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1997, but before July 1, 1998, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-six hundredths percent (1.76%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b16)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b16)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-six hundredths percent (1.76%) of average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b16)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 128-27(b16)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first

day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b16)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b16)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

(f) G.S. 128-27 is amended by adding a new subsection to read:

"(b17) Service Retirement Allowance of Member Retiring on or After July 1, 1998. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1998, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-seven hundredths percent (1.77%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b17)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b17)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-seven hundredths percent (1.77%) of average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b17)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 128-27(b17)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b17)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b17)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

(g) G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. -- Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all three of the following conditions apply:

(1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or

b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 128-27(b16)(1)b.~~ G.S. 128-27(b17)(1)b. or ~~G.S. 128-27(b16)(2)c.,~~ G.S. 128-27(b17)(2)c., notwithstanding the requirement of obtaining age 50.

(2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.

(3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase."

(h) G.S. 128-27 is amended by adding a new subsection to read:

"(vv) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1998. -- From and after July 1, 1998, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1998, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 1998. This allowance shall be calculated on the allowance payable and in effect on June 30, 1998, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1997 General Assembly."

(i) This section becomes effective July 1, 1998.

Requested by: Senators Jenkins, Plyler, Perdue, Odom

EMPLOYER CONTRIBUTION RATES

Section 28.23. (a) Section 33.23(c) of S.L. 1997-443 reads as rewritten:

"(c) Effective July 1, 1998, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 1998-99 fiscal year are (i) ~~ten and eighty-three hundredths percent (10.83%)~~ ten and one-tenth percent (10.10%) - Teachers and State Employees; (ii) ~~fifteen and eighty-three hundredths percent (15.83%)~~ fifteen and one-tenth percent (15.10%) - State Law Enforcement Officers; (iii) nine and thirty-six hundredths percent (9.36%) - University Employees' Optional Retirement Program; (iv) ~~twenty-two and sixty-five hundredths percent (22.65%)~~ eighteen and ninety-seven hundredths percent (18.97%) - Consolidated Judicial Retirement System; and (v) twenty-four and fifty-eight hundredths percent (24.58%) - Legislative Retirement System. Each of the foregoing contribution rates includes two percent (2%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program include fifty-two hundredths percent (0.52%) for the Disability Income Plan."

(b) The change provided by subsection (a) of this section is for the 1998-99 fiscal year only. It is the intent of the General Assembly that the rates provided by Section 33.23(b) of S.L. 1997-443 shall apply for the 1999-2001 biennium.

(c) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income and disability salary continuation benefits.

Requested by: Senators Lee, Plyler, Perdue, Odom

PERMIT RETIRED TEACHERS TO WORK AS SUBSTITUTE TEACHERS IN PUBLIC SCHOOLS OR AS TEACHERS IN LOW-PERFORMING PUBLIC SCHOOLS WITHOUT LOSING RETIREMENT BENEFITS

Section 28.24. (a) G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S 135-3(8)c., who is or has been certified to teach in North Carolina, shall not include earnings while:

1. The beneficiary is employed as a substitute or interim teacher in a public school identified by the State Board of Education as low-performing; or
2. A beneficiary who has been retired for at least 12 months who is employed to teach in a public school identified by the State Board of Education as low-performing, until the school is no longer identified as low-performing; or

3. A beneficiary who has been retired for at least 12 months who is employed to teach in a public school that qualifies for 'low-wealth supplemental funding'; or

4. A beneficiary who has been retired for at least 12 months who is employed to teach in a subject area and a geographical area in which the State Board of Education finds that there is a shortage of teachers, until the local board of education locates and hires a teacher certified to teach in the subject area.

A beneficiary subject to the provisions of G.S. 135-3(8)c. 1, 2, 3, or 4 shall notify the retirement system when the beneficiary is hired by a local school administrative unit."

(b) This section is effective when it becomes law.

Requested by: Senators Cooper, Rand, Plyler, Perdue, Odom. Lee

SALARY CONTINUATION BENEFITS FOR UNIVERSITY SYSTEM CAMPUS LAW ENFORCEMENT OFFICERS

Section 28.25. (a) G.S. 143-166.13(a) is amended by adding a new subdivision to read:

"(19) Sworn State Law-Enforcement Officers with the power of arrest, University System."

(b) This section becomes effective July 1, 1998, and applies to incapacities that occur on or after that date.

Requested by: Senators Jenkins, Plyler, Perdue, Odom

ALLOW MEMBERS OF THE LEGISLATIVE, LOCAL GOVERNMENTAL EMPLOYEES', AND TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEMS TO CHANGE THEIR DESIGNATED BENEFICIARIES AFTER RETIREMENT HAS BECOME EFFECTIVE UNDER CERTAIN CIRCUMSTANCES

Section 28.26. (a) G.S. 120-4.26 reads as rewritten:

"**§ 120-4.26. Benefit payment options.**

Any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of the retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth below. No election may be made after the first payment becomes due, or the first retirement check cashed, nor may an election be revoked or a nomination changed. The election of Option 2 or Option 3 or the nomination of the person thereunder shall be revoked if the person nominated dies prior to the date the first payment becomes normally due or until the first retirement check has been cashed. The election may be revoked by the member prior to the date the first payment becomes normally due or until his first retirement check has been cashed. Provided, however, in the event a member has elected Option 2 or Option 3 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. ~~Provided, however, any~~ Any member having elected Options 2 or 3 and nominated his or her spouse to receive a retirement allowance upon the member's death may,

after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent to the retirement allowance in effect immediately prior to the effective date of the new option.

Option 1. For Members Retiring Prior to July 1, 1993. -- If a member dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less one-one hundred twentieth (1/120) for each month for which he has received a retirement allowance payment, shall be paid to his legal representative or to the person he nominates by written designation acknowledged and filed with the Board of Trustees;

Option 2. -- Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement. If the person selected is other than his spouse, the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option 3. -- Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement."

(b) G.S. 128-27(g) reads as rewritten:

"(g) Election of Optional Allowance. -- With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such retirement allowance in a reduced allowance payable throughout life under the provisions of one of the Options set forth below. The election of Option two or Option three or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or his first retirement check has been cashed. Provided, however, in the event a member has elected Option 2 or Option 3 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. ~~Provided, however, any~~ Any member having elected Options two, three, or six and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option.

Option one. (a) In the Case of a Member Who Retires prior to July 1, 1965. -- If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative.

(b) In the Case of a Member Who Retires on or after July 1, 1965, but prior to July 1, 1993. -- If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less one one-hundred-twentieth thereof for each month for which he has received a retirement allowance payment, shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative; or

Option two. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option three. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option four. Adjustment of Retirement Allowance for Social Security Benefits. -- Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Table II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option five. For Members Retiring prior to July 1, 1993. -- The member may elect to receive a reduced retirement allowance under the conditions of Option two or Option three, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120th thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option six. A member may elect either Option two or Option three with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option."

(c) G.S. 135-5(g) reads as rewritten:

"(g) Election of Optional Allowance. -- With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth below. The election of Option 2 or Option 3 or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or until the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or until his first retirement check has been cashed. Provided, however, in the event a member has elected Option 2 or Option 3 and nominated his or her spouse to receive a retirement allowance

upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. ~~Provided, however, any~~ Any member having elected Options 2, 3, or 6 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option.

Option 1. (a) In the Case of a Member Who Retires prior to July 1, 1963. -- If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

(b) In the Case of a Member Who Retires on or after July 1, 1963, but prior to July 1, 1993. -- If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which he has received a retirement allowance payment, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees; or

Option 2. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option 4. Adjustment of Retirement Allowance for Social Security Benefits. -- Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Title II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option 5. For Members Retiring Prior to July 1, 1993. -- The member may elect to receive a reduced retirement allowance under the conditions of Option 2 or Option 3, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to

such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option 6. A member may elect either Option 2 or Option 3 with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option."

(d) This section is effective when it becomes law, and its provisions shall apply to all persons who are retired from the Legislative Retirement System, the Local Governmental Employees' Retirement System, or the Teachers' and State Employees' Retirement System on that date or who retire from any of those retirement systems after that date. In the case of retired members who designated a spouse as survivor under one of the options specified in this act, whose designated spouses predeceased them, and who remarried prior to the effective date of this act, such members may nominate the new spouse to receive the survivor retirement benefits in accordance with this act, provided that such nomination is made within 90 days of the effective date of this section.

Requested by: Senators Jenkins, Plyler, Perdue, Odom

INCREASE RETIREE DEATH BENEFIT

Section 28.27. (a) G.S. 135-5(l) reads as rewritten:

"(l) Death Benefit Plan. -- There is hereby created a Group Life Insurance Plan (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

(1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or

(2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of service ending on the last day of the month preceding the month in which his last day of actual service occurs;

(3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2.

subject to a minimum of twenty-five thousand dollars ($25,000) and to a maximum of fifty thousand dollars ($50,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be deemed to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service.

The death benefit provided in this subsection (l) shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

(1) After December 31, 1968 and after he has attained age 70; or

(2) After December 31, 1969 and after he has attained age 69; or

(3) After December 31, 1970 and after he has attained age 68; or
(4) After December 31, 1971 and after he has attained age 67; or
(5) After December 31, 1972 and after he has attained age 66; or
(6) After December 31, 1973 and after he has attained age 65; or
(7) After December 31, 1978, but before January 1, 1987, and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

(1) For the purpose of determining eligibility only, in this subsection 'calendar year' shall mean any period of 12 consecutive months or, if less, the period covered by an annual contract of employment. For all other purposes in this subsection "calendar year" shall mean the 12 months beginning January 1 and ending December 31.
(2) Last day of actual service shall be:
  a. When employment has been terminated, the last day the member actually worked.
  b. When employment has not been terminated, the date on which an absent member's sick and annual leave expire, unless he is on approved leave of absence and is in service under the provisions of G.S. 135-4(h).
(3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 135-4(h).
(4) A member on leave of absence from his position as a teacher or State employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the 12-month period immediately prior to the month in which death occurred, not to be less than twenty-five thousand dollars ($25,000) nor to exceed fifty thousand dollars ($50,000).

The provisions of the Retirement System pertaining to Administration, G.S. 135-6, and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

A member who is a beneficiary of the Disability Income Plan provided for in Article 6 of this Chapter shall be eligible for group life insurance benefits as provided in this subsection, notwithstanding that the member is no longer an employee or teacher or that the member's death occurs after the eligibility period after active service. The basis of the death benefit payable hereunder shall be the higher of the death benefit computed as above or a death benefit based on compensation used in computing the benefit payable under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post-disability increases, all subject to the maximum dollar limitation as provided above. A member in receipt of benefits from the Disability Income Plan under the provisions of G.S. 135-112 whose right to a benefit accrued under the former Disability Salary Continuation Plan shall not be covered under the provisions of this paragraph.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(b) G.S. 135-64(g) reads as rewritten:

"(g) Upon the death of a retired member on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if

not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(c) G.S. 135-64 is amended by adding a new subsection to read:

"(h) Upon the death of a retired member on or after January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(d) G.S. 120-4.27 reads as rewritten:

"**§ 120-4.27. Death benefit.**

The designated beneficiary of a member who dies while in service after completing one year of creditable service shall receive a lump-sum payment of an amount equal to the deceased member's highest annual salary, to a maximum of fifteen thousand dollars ($15,000). For purposes of this death benefit 'in service' means currently serving as a member of the North Carolina General Assembly.

The death benefit provided by this section shall be designated a group life insurance benefit payable under an employee welfare benefit plan that is separate and apart from the Retirement System but under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. The Board of Trustees is authorized to provide the death benefit in the form of group life insurance either by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in the State of North Carolina for the purpose of insuring the lives of qualified members in service, or by establishing or affiliating with a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death

required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member, or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(e) G.S. 128-27(12) reads as rewritten:

"(12) Death Benefit for Retired Members. -- Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars ($5,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(f) G.S. 128-27 is amended by adding a new subsection to read:

"(13) Death Benefit for Retired Members. -- Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the

deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars ($6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

(g) This section becomes effective January 1, 1999.

Requested by: Senator Gulley

RIF ABUSES PROHIBITED

Section 28.28. G.S. 143-27.2 reads as rewritten:

"**§ 143-27.2. Discontinued service retirement allowance and severance wages for certain State employees.**

(a) When the Director of the Budget determines that the closing of a State institution or a reduction in force will accomplish economies in the State Budget, he shall pay either a discontinued service retirement allowance or severance wages to any affected State employee, provided reemployment is not available. As used in this section, "economies in the State Budget" means economies resulting from elimination of a job and its responsibilities or from a lack of funds to support the job. In determining whether to pay a discontinued service retirement allowance or severance wages, the Director of the Budget shall consider the recommendation of the department head involved and any recommendation of the State Personnel Director. Severance wages shall not be paid to an employee who chooses a discontinued service retirement. Severance wages shall not be subject to employer or employee retirement contributions. Severance wages shall be paid according to the policies adopted by the State Personnel Commission.

Notwithstanding any other provisions of the State's retirement laws, any employee of the State who is a member of the Teachers' and State Employees' Retirement System or the Law-Enforcement Officers' Retirement System and who has his job involuntarily terminated as a result of economies in the State Budget may be entitled to a discontinued service retirement allowance, subject to the approval of the employing agency and the availability of agency funds. An unreduced discontinued service retirement allowance, not otherwise allowed, may be approved for employees with 20 or more years of creditable retirement service who are at least 55 years of age; or a discontinued service retirement allowance, not otherwise allowed, may be approved for employees with 20 or more years of creditable retirement service who are at least 50 years of age, reduced by one-fourth of one percent (1/4 of 1%) for each month that retirement precedes his fifty-fifth birthday. In cases where a discontinued service retirement allowance is approved, the employing agency shall make a lump sum payment to the Administrator of the State Retirement Systems equal to the actuarial present value of the additional liabilities imposed upon the System, to be determined by the System's consulting actuary, as a result of the discontinued service retirement, plus an administrative fee to be determined by the Administrator.

The salary used to determine severance wages under this section, is the last annual salary except that if the employee was promoted within the previous 12 months, the

last annual salary is that annual salary prior to the promotion. If the annual salary prior to the promotion is used, it shall be adjusted to account for any across-the-board legislative salary increases. Excluded from any calculation are any benefits such as, but not limited to, overtime pay, shift pay, holiday premium, or longevity pay.

(b) Any employee separated from State government and paid severance wages under this section shall not be employed under a contractual arrangement by the same department until 12 months have elapsed since the separation. This subsection does not affect any reduction in force rights that the employee may have."

PART XXIX. GENERAL CAPITAL APPROPRIATIONS/PROVISIONS

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 29. Appropriations are made from the General Fund of the State for the 1998-99 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund

	1998-99
ADMINISTRATION	
Reserve for State Veterans Nursing Home-Salisbury	
Renovation of a 100-bed nursing care unit	$1,000,000
AGRICULTURE AND CONSUMER SERVICES	
N.C. State Fair	
Conservation Education Center-Design	$500,000
Eastern Agriculture Center	
Funds for continued development including parking, paving, and a covered walkway	$1,000,000
Southeastern Farmers Market and Agriculture Center	
Continued Development	$500,000
Union County Equine Facility-Planning	$1,000,000
Umstead Farm Unit	
Authorizes the Department to use timber receipts for fiscal year 1998-99 for the construction of nutrition and animal care facilities at the Umstead Farm Unit in Butner	
Total Requirements	$533,000
Less Receipts	($533,000)
Appropriation	0
COMMUNITY COLLEGES	
Center for Applied Textile Technology	
Lab and Administration Building	$2,000,000

UNC-General Administration	
School Leadership Academy	$2,000,000
UNC-Public Television	
Advanced Planning, Conversion to Digital TV	$1,100,000
UNC-Charlotte	
Academic Facilities-Humanities-Site Development	$3,000,000
Academic Facilities-Sciences-Planning	$2,000,000
UNC-Greensboro	
Science Instructional Building-Site Development	$3,850,000
UNC-Pembroke	
Regional Center for Economic, Professional and Community Development Planning	$700,000
Western Carolina University	
Fine and Performing Arts Center-Site Development	$2,500,000
Winston-Salem State University	
Computer Science Facility-Planning	$700,000
TOTAL CAPITAL APPROPRIATION	$135,348,000

Requested by: Senators Odom, Plyler, Perdue

EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND RENOVATIONS

Section 29.1 (a) Of the funds in the Reserve for Repairs and Renovations for the 1998-99 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall submit to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, for their review, the proposed allocations of these funds. Subsequent changes in the proposed allocations shall be reported prior to expenditure to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office.

Requested by: Senators Lee, Winner

UNC REPAIRS AND RENOVATIONS

Section 29.2. The Board of Governors of The University of North Carolina may allocate up to ten million dollars ($10,000,000) of its funding from the

Reserve for Repairs and Renovations for improvements to the technology infrastructure on the campuses of the constituent institutions. Such improvements to the technology infrastructure shall include repairs to existing systems, improvements to improve the use and suitability of existing space for technology, and other improvements to utilities infrastructure that will allow the increased use of advanced technology for educational and research purposes.

These funds shall be used in accordance with G.S. 143-15.3A.

Requested by: Senators Plyler, Perdue, Odom

HISTORIC SITES REPAIRS AND RENOVATIONS FUNDS

Section 29.3. (a) Funds allocated in this act to the Office of State Budget and Management for the Repairs and Renovations Fund may be used to make needed repairs and renovations at the State Historic Sites.

(b) There is established the Historic Sites Repairs and Renovations Review Committee. The Committee shall consist of the following members: the three cochairs of the Senate Appropriations and Base Budget Committee and the four cochairs of the House of Representatives Appropriations Committee. The Office of State Budget and Management shall submit its proposal for the use of funds from the Repairs and Renovations Fund for Historic Sites to the Committee before submitting the proposal to the Joint Legislative Commission on Governmental Operations in accordance with this act.

Requested by: Senators Warren, Plyler, Odom, Perdue

STATE CAPITOL AND VISITOR'S CENTER SITE

Section 29.4. The new State Capitol and Visitor Center being planned for construction shall be located at the site bounded by Blount Street, Wilmington Street, Edenton Street, and Jones Street in Raleigh, unless that construction site is unacceptable for structural reasons.

Requested by: Senator Martin of Pitt

TIMBER RECEIPTS FOR CAPITAL CONSTRUCTION

Section 29.5. The sum of five hundred thirty-three thousand dollars ($533,000) shall be transferred from the Department of Agriculture and Consumer Services' timber sales capital improvement account, established pursuant to G.S. 146-30, to the Department of Agriculture and Consumer Services for the 1998-99 fiscal year for construction of nutrition and animal care facilities at the Umstead Farm Unit in Butner.

Requested by: Senator Jenkins

SOUTH BROAD PARK LAKE AND WATER CONSERVATION FUND CONVERSION

Section 29.6. Lands purchased by the State to establish a new State park in Transylvania County shall be used as replacement property to fulfill the requirements of the federal Land and Water Conservation Fund for the conversion of land within South Broad Park in Brevard to a use other than outdoor recreation. Except for the tract currently used for an arboretum, Transylvania County may use for library purposes lands in South Broad Park converted under this section.

Requested by: Senators Plyler, Perdue, Odom

CONSTRUCTION FUNDS FOR STATE PORTS AND WANCHESE SEAFOOD INDUSTRIAL PARK

Section 29.7. Of the two million dollars ($2,000,000) appropriated in this act to the Department of Commerce for capital improvements, the sum of one million

seven hundred fifty thousand dollars ($1,750,000) for the 1998-99 fiscal year shall be divided equally between the State ports at Morehead City and Wilmington to be used for capital improvements. The remaining two hundred fifty thousand dollars ($250,000) for the 1998-99 fiscal year shall be used for construction of new meeting and office space and renovation of existing meeting and office space at the Wanchese Seafood Industrial Park.

Requested by: Senator Martin of Pitt

WATER RESOURCES DEVELOPMENT PROJECTS FUNDS

Section 29.8. (a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose estimated costs are as indicated:

Name of Project		
1. Morehead City Harbor Turning Basin		$ 2,000,000
2. Wilmington Harbor Maintenance Dredging		200,000
3. B. Everett Jordan Lake Water Supply		110,000
4. Wilmington Harbor Long-Term Disposal		1,400,000
5. Aquatic Plant Control Statewide and Lake Gaston		150,000
6. Beaufort Harbor Maintenance Dredging		80,000
7. North Channel Maintenance Dredging and Disposal Site		1,200,000
8. Manteo Shallowbag Bay Maintenance Dredging		200,000
9. Rollinson Channel Maintenance Dredging (Dare County)		400,000
10. State-Local Projects		
a. Frisco Ditch Snagging (Dare County)		3,500
b. Moccasin Creek Restoration (Johnston County)		78,800
c. Avery Pond Jetties and Dredging (Town of Kitty Hawk)		140,800
d. High Rock Lake Dredging Feasibility Study		20,000
e. Northwest Creek Dredging		100,000
f. Other Stream Restoration Projects		256,900
	Subtotal	600,000
11. Pine Knolls Shores Protection (Carteret Co.)		200,000
12. Tar River Road Streambank Protection (City of Greenville)	50,000	
13. Battery Island Bird Habitat Restoration (Brunswick County)	140,000	

14. Dare County Beaches Feasibility Study 70,000

15. Deep Creek Watershed Project (Yadkin Co.) 500,000

Total $ 7,300,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1998-99 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.
(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1998-99.
(3) State-local Water Resources Development Projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1999-2000 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

Requested by: Senator Ballance

WARREN COUNTY PCB LANDFILL DETOXIFICATION FUNDS

Section 29.9. (a) The Director of the Budget shall place funds appropriated in this act to the Department of Environment and Natural Resources for the 1998-99 fiscal year for the detoxification of the Warren County polychlorinated biphenyl (PCB) landfill, any available funds for the 1998-99 fiscal year, and any available federal funds into a nonreverting reserve to be used by the Department for the detoxification of a landfill located in Warren County that contains polychlorinated biphenyl (PCBs) and dioxin/furan contaminated materials. The detoxification treatment standards for residual concentrations of contaminants remaining in the soil shall be 200 parts per billion for PCBs and 200 parts per trillion toxicity equivalent concentration (TEQ) for dioxins/furans. Based catalyzed decomposition (BCD) technology shall be used to detoxify the landfill in accordance with a plan approved by the Department. The Department shall oversee the detoxification of this landfill.

(b) Any funds remaining in the reserve established under subsection (a) of this section at the conclusion of the detoxification of the landfill shall remain in a nonreverting reserve and shall be transferred to the Department of Commerce to be used for economic development in Warren County or Warren County's infrastructure needs, or both.

Requested by: Senator Perdue

GLOBAL TRANSPARK RESERVE

Section 29.10. There is established in the Office of State Budget and Management a reserve fund entitled the "Global TransPark Reserve Fund" for runway and taxiway construction, wetlands compensatory mitigation, and assuming the local sponsor role for the Kinston Regional Jetport facility. Of the funds appropriated in this act to the Office of State Budget and Management for the Global TransPark Authority, the sum of five million three hundred twenty-five thousand dollars ($5,325,000) shall be placed in the Global TransPark Reserve Fund. These funds shall be used to match federal funds and shall be allocated by the North Carolina Global TransPark Authority as follows:

(1) Up to $3,500,000 to begin construction of the runway extension and taxiways.

(2) Up to $1,500,000 to satisfy wetlands compensatory mitigation requirements associated with obtaining a State water quality certification under section 401 of the federal Clean Water Act or any other compensatory mitigation requirements under section 404 of the federal Clean Water Act in connection with the construction of the runway extension and taxiways. The compensatory mitigation requirements shall be met by the North Carolina Global TransPark Authority by making payment to the Wetlands Restoration Fund in accordance with G.S. 143-214.12.

(3) Up to $325,000 to assume the local sponsor role for the Kinston Regional Jetport facility.

Any funds not expended or encumbered pursuant to this section by June 30, 2000, shall revert to the General Fund.

Requested by: Senators Plyler, Perdue, Odom

CAPITAL IMPROVEMENT PROJECTS/SUPPLEMENTAL FUNDING APPROVAL/REPORTING REQUIREMENT

Section 29.11. Each department receiving capital improvement appropriations from the Highway Fund under this act shall report quarterly to the Director of the Budget on the status of those capital projects. The reporting procedure to be followed shall be developed by the Director of the Budget.

Capital improvement projects authorized in this act that have not been placed under contract for construction due to insufficient funds may be supplemented with funds identified by the Director of the Budget, provided:

(1) That the project was designed and bid within the scope as authorized by the General Assembly;

(2) That the funds to supplement the project are the same source as authorized for the original project;

(3) That the department to which the project was authorized has unsuccessfully pursued all statutory authorizations to award the contract; and

(4) That the action be reported to the Fiscal Research Division of the Legislative Services Office.

Requested by: Senator Jordan

RELOCATE GLOBAL TRANSPARK AUTHORITY

Section 29.12. Of funds available to the North Carolina Global TransPark Authority from funds appropriated in this act, the Authority shall relocate its administrative offices from Raleigh to the site of the TransPark in Kinston. No State funds shall be spent to lease office space in Raleigh after June 30, 1999. At the

request of the Authority, the State Property Office shall assist the Authority in locating State uses for that space, if practical and economical.

The Authority may maintain a contact person housed in the offices of the Department of Transportation in Raleigh.

PART XXX. MISCELLANEOUS PROVISIONS

Requested by: Senators Plyler, Perdue, Odom

EXECUTIVE BUDGET ACT APPLIES

Section 30. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Senators Plyler, Perdue, Odom,

COMMITTEE REPORT

Section 30.1. (a) The Senate Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, dated June 30, 1998, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 1998-99 fiscal year is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget, in accordance with the steps that follow and the line item detail in the budget enacted by the General Assembly may be derived accordingly:

(1) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the Senate Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, dated June 30, 1998, together with any accompanying correction sheets.

(2) Transfers of funds supporting programs were made in accordance with the Senate Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, dated June 30, 1998, together with any accompanying correction sheets.

The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

Requested by: Senators Plyler, Perdue, Odom

MOST TEXT APPLIES ONLY TO 1998-99

Section 30.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1998-99 fiscal year, the textual

provisions of this act apply only to funds appropriated for, and activities occurring during, the 1998-99 fiscal year.

Requested by: Senators Plyler, Perdue, Odom

1997-98 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Section 30.3. (a) Except where expressly repealed or amended by this act, the provisions of S.L. 1997-443, S.L. 1998-1 Extra Session, and S.L. 1998-9 remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1998-99 fiscal year in S.L. 1997-443, S.L. 1998-1 Extra Session, and S.L. 1998-9 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

Requested by: Senators Plyler, Perdue, Odom

EFFECT OF HEADINGS

Section 30.4. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

Requested by: Senators Plyler, Perdue, Odom

SEVERABILITY CLAUSE

Section 30.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Senators Plyler, Perdue, Odom

EFFECTIVE DATE

Section 30.6. Except as otherwise provided, this act becomes effective July 1, 1998.

1997 budget

Requested by: Representatives Bowie, Dockham, McMahan, Senators Jordan, Hoyle, Rucho

HB 1545 + SB 1390 Correct this oversight created by this special provision.

SALVAGE VEHICLE INSPECTIONS

Section 32.26. G.S. 20-71.3 reads as rewritten:

"**§ 20-71.3. Titles and registration cards to be branded.**

Motor Vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 shall be branded. As used herein 'branded' means that the title and registration card shall contain a designation that discloses if the vehicle is classified as (a) Flood Vehicle, (b) Non-U.S.A. Vehicle, (c) Reconstructed Vehicle, (d) Salvage Motor Vehicle, or (e) Salvage Rebuilt Vehicle or other classification authorized by law. Any motor vehicle up to six model years old damaged by collision or other occurrence which is to be retitled in this State shall be subject to preliminary and final inspections by the Enforcement Section of the Division, and the Division shall refuse to issue a title to a vehicle up to six model years old which has not undergone a preliminary inspection. These inspections serve as an antitheft measure and do not certify the safety or roadworthiness of a vehicle. Any motor vehicle which has been branded in another state shall be branded with the nearest applicable brand specified in this section, except that no junk vehicle or vehicle that has been branded junk in another state shall be titled or registered. A motor vehicle titled in another state and damaged by collision or other occurrence may be repaired and an unbranded title issued in North Carolina only if the cost of repairs, including parts and labor, does not exceed seventy-five percent (75%) of its fair market retail value. The Commissioner shall prepare necessary forms and may adopt regulations required to carry out the provisions of this Part 3A. The title shall reflect the branding until surrendered to or cancelled by the Commissioner."

Requested by: Representatives Bowie, Dockham, McMahan, Gray, Esposito, Oldham, Womble, Decker, Sexton, Senators Jordan, Hoyle, Rucho

WESTERN PASSENGER RAIL SERVICE ROUTE MAJOR INVESTMENT STUDY

Section 32.27. (a) From funds appropriated to the Department of Transportation for the 1997-98 fiscal year, up to seven hundred fifty thousand dollars ($750,000) shall be used to fund a Major Investment Study (MIS) which shall include:

(1) A passenger rail proposal providing service between Asheville and Raleigh through Winston-Salem generally following the I-40 corridor; and

(2) A passenger rail proposal providing for commuter rail services between Winston-Salem, Greensboro, High Point and outlying communities.

Funds expended for the MIS shall be approved by the Department of Transportation which shall make written reports to the Joint Legislative Transportation Oversight Committee on the progress of the MIS.

(b) Section 3.1 of S.L. 1997-393 House Bill 993 as ratified, reads as rewritten:

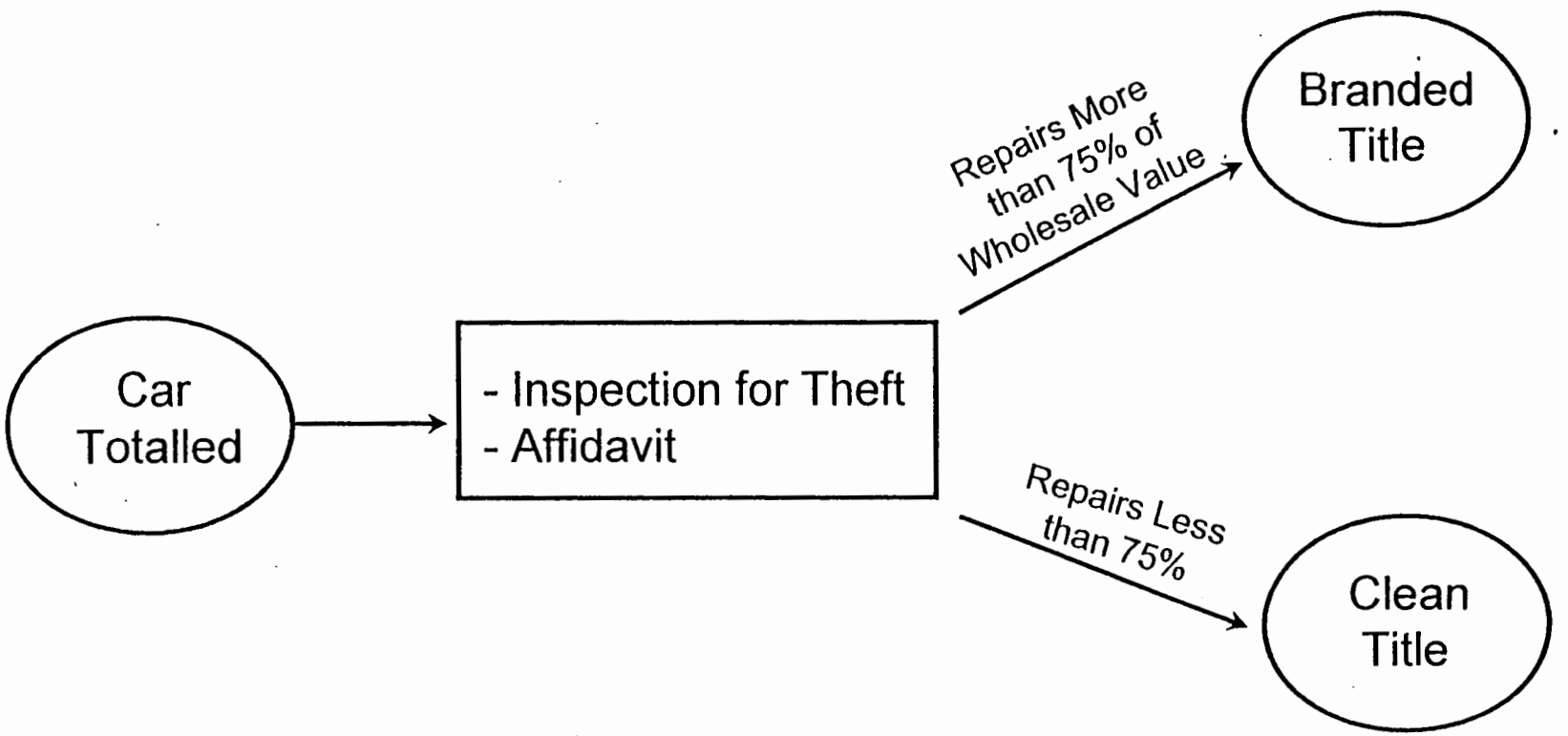
"Section 3.1. ~~If~~ The Major Investment Study (MIS) authorized in Senate Bill 352 ~~is~~ as enacted ~~and~~ which provides that funds appropriated to the Department of Transportation for the 1997-98 fiscal year shall be used to fund a Major Investment Study (MIS) ~~which shall include:~~ including:

(1) A passenger rail proposal providing service between Asheville and Raleigh through Winston-Salem generally following the I-40 corridor; and

(2) A passenger rail proposal providing for commuter rail services between Winston-Salem, Greensboro, High Point, and outlying communities,

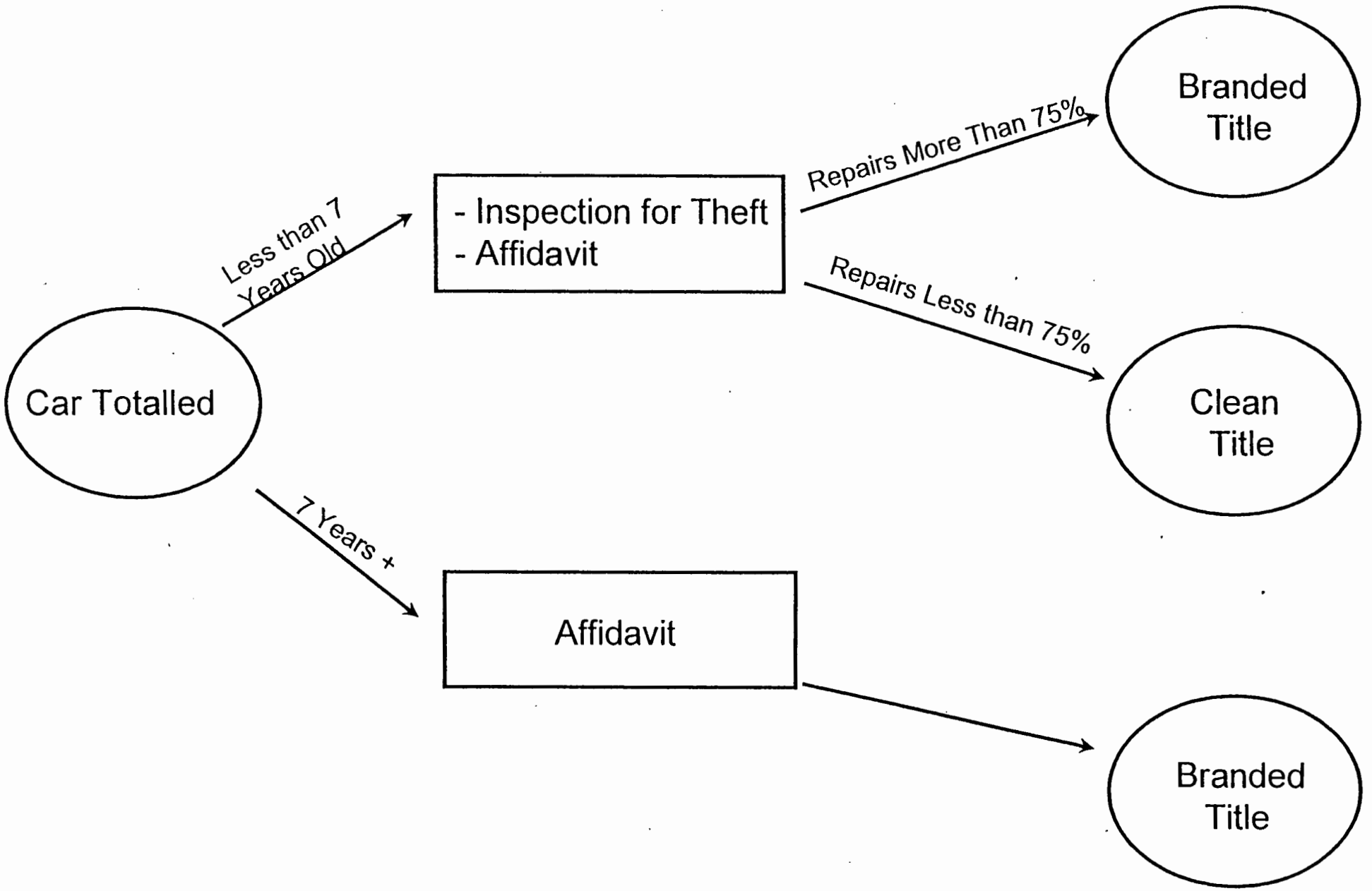
~~then notwithstanding that act, the MIS authorized in~~ shall be administered by the Regional Transportation Authority created under this act which includes Guilford

1996 - Branded Titles

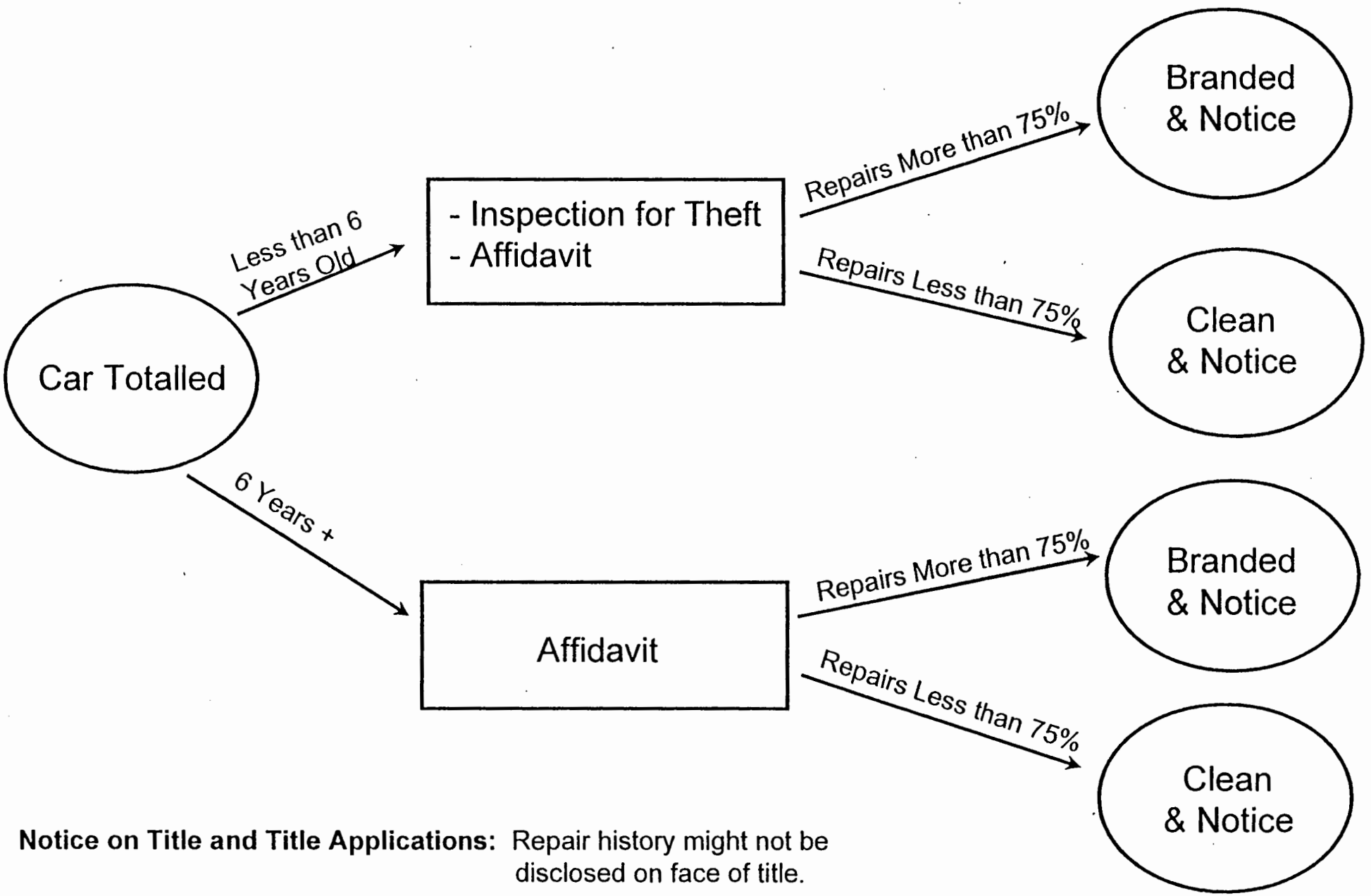


IX
(Ps. 1-3)

1997 - Branded Titles



Proposed Branded Titles



Notice on Title and Title Applications: Repair history might not be disclosed on face of title.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **HOUSE APPROPRIATIONS Subcommittee on Transportation** will meet as follows:

DAY & DATE: **Tuesday, July 14, 1998**

TIME: **8:30 AM**

LOCATION: **Room 1228/1327**

If we do not finish our work in the am, be prepared to meet again in the afternoon.

Respectfully,

Representatives Bowie, Dockham, McMahan
Co-Chairs

I hereby certify this notice was filed by Sharon Gaudette, Committee Clerk, at the following offices at 2 pm on July 10, 1998.

___Principal Clerk
___Reading Clerk - House Chamber

Sharon Gaudette
Sharon Cram (Committee Clerks)

AGENDA

House Appropriations Subcommittee
on
Transportation

July 14, 1998
Room 1228
8:30 A.M.

Chair: Representative Ed McMahan

Overview of House Budget Proposal

Evan Rodewald
Fiscal Research Division

THE HOUSE LEGISLATIVE
APPROPRIATIONS
TRANSPORTATION COMMITTEE

July 14, 1998
8:30 a.m.
Room 1327

The House Committee on Appropriations/Sub-Transportation Committee met in Room 1327 at 8:30 a.m. on Tuesday, July 14, 1998. Representative Ed McMahan, Co-Chairman called the meeting to order. Visitor's sheet attached.

Members Present:

Rep. Joanne Bowie, Co-Chair
Rep. Ed McMahan, Co-Chair
Rep. Dan Blue
Rep. Jim Gulley
Rep. William Hiatt
Rep. Drew Saunders
Rep. Ronnie Sutton

Chairman McMahan welcomed the Members and guests to the meeting, and stated that Staff would be presenting some Special Provisions to the Committee for their consideration only, and explained that these issues would be voted on at a future meeting.

Chairman McMahan then recognized **Evan Rodewald**, Staff Counsel, to present to the Committee an Overview of House Budget Proposal (*see Attachment I, entitled 1998-99 Expansion Budget-Highway Fund).* **Mr. Rodewald** gave the Committee a brief overview of the differences in the House and Senate Budget. Questions were taken from the Committee.

Representative Sutton referenced *Page 1, Line 13 - Driver Education Program,* and asked whether that reduction would have any impact on DPI. **Mr. Rodewald** said no because the reduction is a result of the requirement being reduced.

Chairman McMahan referenced *Page 1, Line 16 - Transfer to General Fund in Lieu of Sales Tax,* and explained that the Co-Chairs felt that money needed to stay in the General Fund this time in view of the $400 million needed for the Retirees. He also informed the Committee that they were proposing to set up a Study Commission to look at several issues including the transfers.

Chairman McMahan also referenced *Page 2, Line 5 - Contract Resurfacing,* and explained that this reduction was a result of transferring $13.4 million into the General Fund. He also referenced *Page 2, Line 6 - Highway Fund Salary Increase*, and *Page 2, Line 19 - Equity Pay for Enforcement Officers,* and told the Committee that the Chairs

felt that the overall pay grade needed to be looked at by a Study Commission with the intent of making a recommendation to the long session.

Chairman McMahan then referenced *Page 2, Line 7 - Public Transportation Funding,* and told the Committee that the Chairs felt the $1 million needed to be put back in the Budget so this program could be funded at least at the level it was funded last year.

Representative Blue referenced *Page 2, Line 5 - Contract Resurfacing,* and asked whether any discussion had taken place with regard to the increased costs as a result of delaying these projects. **Chairman McMahan** indicated that there was approximately a 6% increase, and they realized that they would need to raise the revenue in the future.

Representative Blue also referenced *Page 2, Line 19 - Equity Pay for Enforcement Officers*, and expressed his concern for the morale of these officers. **Chairman McMahan** pointed out that the number needed had grown since the original estimate, and as a result, the Chairs felt the issue needed to be studied more carefully before action is taken.

Chairman McMahan recognized **Evan Rodewald** to present the Special Provisions to the Committee. **Mr. Rodewald** referred the Committee to a handout (*see Attachment II),* and gave a brief overview of the Special Provisions to the Committee. Questions were taken from the Committee.

Representative Blue referenced *Page 9 - Reopen State Highway in Bertie County,* and asked what our intent was in that situation. **Mr. Rodewald** explained that it simply restates the authority the Department of Transportation already has. **Ms. Ruth Sappie,** Department of Transportation, further explained that the provision was requested by Senator Ballance in response to a request by the citizens of Bertie County.

Representative Sutton asked Staff to provide him with information previously requested on the Special Provision entitled *Branded Title Clarification, Page 10,* before the Committee votes on these Special Provisions.

Representative Sutton also referenced *Page 13 - Board of Transportation to Report Before Adding Personnel*, and asked whether any consideration had been given to transferring personnel within house for this function. **Chairman McMahan** said that these details had not been worked out yet.

Chairman McMahan referenced *Page 14 - Blue Ribbon Transportation Finance Study Commission*, and expressed to the Committee the need for this Commission as the Transportation needs for North Carolina grow.

Chairman McMahan also referenced *Page 16 - Performance Audit of Public Transportation and Rail Divisions*, and recognized **Ruth Sappie**, Department of

Transportation, to comment on this Special Provision. **Ms. Sappie** said that the Department of Transportation welcomed the audit and would give it their fullest cooperation.

Chairman McMahan next referenced *Page 17, Medium Custody Road Crew Compensation*, and explained to the Committee that the purpose of this Special Provision was to bring accountability into the system because of past billing inconsistencies with the Department of Corrections over work performed by the inmates. **Don Goins**, Chief Engineer, Department of Transportation, was recognized to comment on this Provision. **Mr. Goins** said that the Department is losing money on this project . **Representative Blue** asked what the Department of Correction was charging per hour for this labor, and **Mr. Goins** replied that they had requested a breakdown of charges, but the Department of Corrections had not furnished that information. **Representative Bowie** expressed her concern that transportation dollars were being spent to keep the inmates in prison. In answer to the Committee's questions on why this problem has not been resolved by the two Departments, **Ms. Sappie** replied that the Secretary of Corrections and the Secretary of Transportation had met but had not been able to resolve the issue. **Representative Blue** suggested that the Department of Transportation should only be responsible for paying for transportation to the site and an extra guard if needed. **Chairman McMahan** suggested that the Provision be re-evaluated and the language tightened up.

Chairman McMahan recognized **Mr. Rodewald** to clear up some questions from the Committee with regard to Transfers from Highway Fund to Highway Trust Fund *(see Attachment III)*. **Mr. Rodewald** reminded the Committee that all the federal aid goes to the Highway Fund, and Trust Fund transfers are triggered by federal aid for Trust Fund projects. He went on to explain that the advantage of this flexibility is that the Board of Transportation can fund projects in the TIP outside the Trust Fund Legislation. **Chairman McMahan** and **Representative Bowie** both expressed their concern over money allocated from the Trust Fund, and reiterated the need for the Blue Ribbon Finance Study Commission.

Chairman McMahan recognized **Mr. Bob Weiss**, Staff Counsel, to present to the Committee Further Information on Transportation Funding Comparisons for North Carolina, Texas, and Virginia (*see Attachment IV)*. In answer to a previous question from the Committee on why North Carolina has more employees in the Transportation Department than Virginia, **Mr. Weiss** pointed out to the Committee that North Carolina has more miles of state-maintained highway, and Virginia has privatized its secondary road construction program. With reference to comparisons on how maintenance funds are used and what are the revenue sources, Mr. Weiss pointed out that funding for maintenance in North Carolina takes up approximately 40% of the Highway Fund, and in comparison Virginia does not have dedicated funding, but maintenance does come off the top by statute. He went on to say Texas also does not have a dedicated funding source. Statistics were presented to the Committee. **Representative Blue** pointed out that North Carolina's has 20% higher taxes, and 20% higher population than Virginia, but the

relative number of dollars raised per penny of taxes is almost the same. He asked Staff for an explanation. **Ms. Sappie** was recognized to comment on this situation, and she pointed out that Virginia has an extra 3 ½ cent diesel tax, and they have also authorized local government to levy a 2% transportation tax for public transportation.

The meeting was adjourned at 9:35 a.m.

Representative Ed McMahan
Co-Chair

Sharon Cram
Committee Clerk

VISITOR REGISTRATION SHEET

APPROP/SUBCOMMITTEE ON TRANSPORTATION 2-14-98 **, 1998**

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Howard	DOT / DMV
Carol Simon	DMV
V L McBride	NCDOT
Wayne Stallings	NCDOT
Pat Simmons	NCDOT
Sanford T. Crow	NCDOT
Ruth Sappie	NCDOT
Milton Alford	OSBM
Gene Causby	NCDTSEA
Chuck Brookfield	DHHS

1998-99 Expansion Budget - Highway Fund

		Governor's Recommendations			Senate Budget			House Budget Proposal		
		Recurring	Non-recur.	Total	Recurring	Non-recur.	Total	Recurring	Non-recur.	Total
	Availability									
1	State Highway Revenue	1;145,850,000	-	1,145,850,000	1,145,850,000	-	1,145,850,000	1,145,850,000	-	1,145,850,000
2	Surplus from 1997-98	468,248	11,531,752	12,000,000	468,248	11,531,752	12,000,000	468,248	11,531,752	12,000,000
3	Funds For Year 2000 Reserve (SB 1193)					(6,840,630)	(6,840,630)		(6,840,630)	(6,840,630)
4	Funds Available	1,146,318,248	11,531,752	1,157,850,000	1,146,318,248	4,691,122	1,151,009,370	1,146,318,248	4,691,122	1,151,009,370
5	Certified Continuation Budget	1,134,103,250	10,522,487	1,144,625,737	1,134,103,250	10,522,487	1,144,625,737	1,134,103,250	10,522,487	1,144,625,737
6										
7	**Net Funds Available**	**12,214,998**	**1,009,265**	**13,224,263**	**12,214,998**	**(5,831,365)**	**6,383,633**	**12,214,998**	**(5,831,365)**	**6,383,633**
8										
9	**Budget Technical Adjustments:**									
10	State Aid to Municipalities	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)
11	Secondary Roads	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)
12	LUST Cleanup Fund	(189,000)		(189,000)	(189,000)		(189,000)	(189,000)		(189,000)
13	Driver Education Program							(174,861)		(174,861)
14										
15	**Budget Reductions**									
16	Transfer to General Fund in Lieu of Sales Tax	(13,400,000)		(13,400,000)		(13,400,000)	(13,400,000)		-	-
17	Transfer to Highway Trust Fund	(38,000,000)		(38,000,000)		(38,000,000)	(38,000,000)		(38,000,000)	(38,000,000)
18	Retirement Contribution - Actuarial Gain			-		(3,612,248)	(3,612,248)	(3,802,500)		(3,802,500)
19	Federal Aid Match	(33,153,153)		(33,153,153)	(33,153,153)		(33,153,153)	(33,153,153)		(33,153,153)
20										
21	**Total Adjustments and Reductions**	**(88,842,153)**	**-**	**(88,842,153)**	**(37,442,153)**	**(55,012,248)**	**(92,454,401)**	**(41,419,514)**	**(38,000,000)**	**(79,419,514)**
22										
23	**Total Funds Available for Expansion**	**101,057,151**	**1,009,265**	**102,066,416**	**49,657,151**	**49,180,883**	**98,838,034**	**53,634,512**	**32,168,635**	**85,803,147**

1998-99 Expansion Budget - Highway Fund

	Governor's Recommendations			Senate Budget			House Budget Proposal		
	Recurring	Non-recur.	Total	Recurring	Non-recur.	Total	Recurring	Non-recur.	Total
Total Funds Available for Expansion	**101,057,151**	**1,009,265**	**102,066,416**	**49,657,151**	**49,180,883**	**98,838,034**	**53,634,512**	**32,168,635**	**85,803,147**
Expansion Items									
Contract Resurfacing	38,000,000		38,000,000		37,707,354	37,707,354		26,555,004	26,555,004
Highway Fund Salary Increase	16,000,000	4,000,000	20,000,000	12,000,000	4,000,000	16,000,000	12,000,000	4,000,000	16,000,000
Public Transportation Funding	13,400,000		13,400,000		12,400,000	12,400,000		13,400,000	13,400,000
SIPS Charges	6,000,000	4,000,000	10,000,000	6,000,000	4,000,000	10,000,000	6,000,000	4,000,000	10,000,000
Telephone Line Charges	1,300,000		1,300,000	800,000	500,000	1,300,000	800,000	500,000	1,300,000
MIS - Contracted Services	1,000,000		1,000,000	1,000,000		1,000,000	1,000,000		1,000,000
Liability Insurance Tracking System		500,000	500,000		500,000	500,000		500,000	500,000
Hardware and Software for MIS Division	500,000		500,000	500,000		500,000	500,000		500,000
DOT Facility Improvements		4,070,348	4,070,348		4,070,348	4,070,348		4,070,348	4,070,348
Increased Postage	710,785		710,785	710,785		710,785	710,785		710,785
Security Services	33,778		33,778	33,778		33,778	33,778		33,778
Contract Security for Raney Building	65,000		65,000	65,000		65,000	65,000		65,000
Maintenance for Raney Building	109,751		109,751	109,751		109,751	109,751		109,751
Stormwater Discharge Permit Compliance	500,000		500,000	500,000		500,000	500,000		500,000
Equity Pay for Enforcement Officers	1,000,000		1,000,000	3,390,708		3,390,708	-		-
License Plates and Stickers	227,044		227,044	227,044		227,044	227,044		227,044
Hardware, Software for Liability Ins. System	5,000	197,596	202,596	5,000	197,596	202,596	5,000	197,596	202,596
Equipment and Expenses, Crash Reporting	66,500	385,000	451,500	66,500	385,000	451,500	66,500	385,000	451,500
Error in Highway Patrol Salary Increases	2,787,596		2,787,596	2,787,596		2,787,596	2,787,596		2,787,596
Criminal Justice Information Network		2,406,611	2,406,611		2,406,611	2,406,611		2,406,611	2,406,611
Helicopter Pad		-	-		75,000	75,000			-
Increase Salary Grade - Sgt. & 1st Lieut.	-		-	162,956		162,956	-		-
Additional Highway Patrolmen	968,300	1,583,295	2,551,595	403,900	1,583,295	1,987,195	403,900	1,583,295	1,987,195
Mobile Data Computers for Highway Patrol		2,249,812	2,249,812		2,249,812	2,249,812		2,249,812	2,249,812
Board of Transportation (House Bill 1304)							500,000		500,000
Notification of Vehicle Seizures (HB 1496)							152,614		152,614
Medical Evaluation Program (House Bill 232)							93,513		93,513
Total Expansion	**82,673,754**	**19,392,662**	**102,066,416**	**28,763,018**	**70,075,016**	**98,838,034**	**25,955,481**	**59,847,666**	**85,803,147**
Surplus (Deficit)	**18,383,397**	**(18,383,397)**	**-**	**20,894,133**	**(20,894,133)**	**-**	**27,679,031**	**(27,679,031)**	**-**

II

CODE NO. 98TRANS-H005-S

Requested by: Representatives Bowie, Dockham, McMahan

DESIGN-BUILD TRANSPORTATION CONSTRUCTION CONTRACTS AUTHORIZED

Section @. Notwithstanding any other provision of law, the Board of Transportation may award up to three contracts annually for construction of transportation projects on a design-build basis. These contracts may be awarded after a determination by the Department of Transportation that delivery of the projects must be expedited and that it is not in the public interest to comply with normal design and construction contracting procedures. Prior to the award of a design-build contract, the Secretary of Transportation shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Commission on Governmental Operations on the nature and scope of the project and the reasons an award on a design-build basis will best serve the public interest.

CODE NO. 98TRANS-H006-S

Requested by: Representatives Bowie, Dockham, McMahan

DISCONTINUE BOND RETIREMENT TRANSFER FROM HIGHWAY FUND TO HIGHWAY TRUST FUND FOR ONE YEAR

Section @. G.S. 136-176(a)(4) and G.S. 136-183 are suspended from July 1, 1998 to June 30, 1999.

CODE NO. 98TRANS-H007-S

Requested by: Representatives Bowie, Dockham, McMahan

FEDERAL FUNDS FOR PUBLIC TRANSPORTATION IMPROVEMENTS

Section @. Section 32.18 of S.L. 1997-443 reads as rewritten:

"Section 32.18. To the extent allowable by federal law, the Department of Transportation shall use ten million dollars ($10,000,000) of federal highway funds during each year of the 1997-99 biennium for improvements to public transportation."

CODE NO. 98TRANS-H008-S

Requested by: Representatives Bowie, Dockham, McMahan

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

Section @. Section 32.13 of S.L. 1997-443 reads as rewritten:

"Section 32.13. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

FY 1999-2000	~~$1,182.2~~	$1,190.8 million
FY 2000-2001	~~$1,211.2~~	$1,225.7 million
FY 2001-2002	~~$1,241.2~~	$1,265.4 million
FY 2002-2003	~~$1,271.9~~	$1,301.0 million

The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

FY 1999-2000	~~$861.7~~	$871.4 million
FY 2000-2001	~~$891.0~~	$901.8 million
FY 2001-2002	~~$921.6~~	$934.7 million
FY 2002-2003	~~$953.3~~	$967.2 million."

CODE NO. 98TRANS-H009-S

Requested by: Representatives Bowie, Dockham, McMahan

OUTDOOR ADVERTISING JUST COMPENSATION SUNSET EXTENDED

Section @. Section 2 of Chapter 1147 of the 1981 Session Laws, as amended by all of the following:

Chapter 318 of the 1983 Session Laws

Chapter 1024 of the 1987 Session Laws

Section 1 of Chapter 166 of the 1989 Session Laws

Section 1 of Chapter 725 of the 1993 Session Laws

reads as rewritten:

"Sec. 2. This act is effective upon ratification, but shall expire ~~June 30, 1998,~~ June 30, 2004, and shall have no force or effect after that date."

CODE NO. 98TRANS-H010-S

Requested by: Representatives Bowie, Dockham, McMahan

PAYMENTS TO CONTRACT AGENTS FOR COLLECTING EMISSION CONTROL CIVIL PENALTIES AND FOR MAKING SALES OF INSPECTION STICKERS TO LICENSED INSPECTION STATIONS, AND A TECHNICAL CHANGE TO A RELATED STATUTE.

Section @. (a) G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. -- All registration plates, registration certificates and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the said Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of such plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina and the Division shall make a reasonable effort in every locality, except as hereinbefore noted, to enter into a commission contract for the issuance of such plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts as hereinbefore set out it shall then issue said plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of such distribution. Commission contracts entered under this subsection shall provide for the payment of compensation for all transactions as set forth below. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker,

or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.

(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.

(9) Collection of the highway use tax.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through ~~(8)~~ (8b) of this section is a single transaction for which a dollar and thirty-five cent ($1.35) compensation shall be paid. Performance of the item listed in subdivision (9) of this subsection in combination with any other items listed in this subsection is a separate transaction for which a one dollar and twenty cent ($1.20) compensation shall be paid."

(b) G.S. 20-183.8A reads as rewritten:

"**§ 20-183.8A. Civil penalties against motorists for emissions violations.**

The Division ~~must~~ shall assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of penalty is one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and two hundred fifty dollars ($250.00) if the vehicle is a 1981 or newer model vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this ~~subsection~~ section has been paid."

CODE NO. 98TRANS-H011-S

Requested by: Representatives Bowie, Dockham, McMahan

REOPEN STATE HIGHWAY IN BERTIE COUNTY

Section @. (a) The Department of Transportation may use available funds to reopen S.R. 1109 in Bertie County.

(b) If a court determines that reopening the road requires compensation, then the Department of Transportation may expend funds from the Highway Fund in fiscal year 1998-99 for that purpose.

CODE NO. 98TRANS-H012A-S

Requested by: Representative Weatherly

BRANDED TITLE CLARIFICATION

Section @. G.S. 20-71.3 reads as rewritten:

"**S** 20-71.3. Titles and registration cards to be branded.

(a) Motor Vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 ~~shall~~ may be branded.

As used ~~herein~~ in this section, 'branded' means that the title and registration card shall contain a designation that discloses if the vehicle is classified as any of the following:

(1) ~~(a)~~ Flood ~~Vehicle,~~ Vehicle.

(2) ~~(b)~~ Non-U.S.A. ~~Vehicle,~~ Vehicle.

(3) ~~(c)~~ Reconstructed ~~Vehicle,~~ Vehicle.

(4) ~~(d)~~ Salvage Motor ~~Vehicle, or~~ Vehicle.

(5) ~~(e)~~ Salvage Rebuilt ~~Vehicle or~~ Vehicle.

(6) Any other classification authorized by law.

(b) Any motor vehicle up ~~to six~~ to, and including, five model years old damaged by collision or other ~~occurrence~~ occurrence, which requires a disclosure pursuant to G.S. 20-71.4, and ~~which~~ which, as a result of such damage, is to be retitled in this State shall be subject to preliminary and final inspections by the Enforcement Section of the ~~Division, and~~ Division. ~~the~~ The Division shall ~~refuse to~~ not ~~issue a title to~~ retitle a vehicle ~~up to six model years old~~ described in the first sentence of this subsection which has not undergone a preliminary ~~inspection.~~ inspection required by this subsection.

These inspections serve as antitheft measures and do not certify the safety or roadworthiness of a vehicle.

(c) Any motor vehicle more than five model years old damaged by collision or other occurrence which requires a disclosure pursuant to G.S. 20-71.4 and which, as a result of such damage, is to be retitled by the State shall, without inspection, be retitled with an unbranded or branded title, as appropriate, based upon a title application by the rebuilder with a supporting affidavit disclosing all of the following:

(1) The parts used or replaced.

(2) The major components replaced.

(3) The total cost of repair, including labor costs.

The Division shall maintain these affidavits and make them available for review and copying by persons researching the salvage and repair history of the vehicle.

~~These inspections serve as an antitheft measure and do not certify the safety or roadworthiness of a vehicle.~~

(d) Any motor vehicle which has been branded in another state shall be branded with the nearest applicable brand specified in this section, except that no junk vehicle or vehicle that has been branded junk in another state shall be titled or registered.

(e) A motor vehicle titled in another state and damaged by collision or other occurrence may be repaired and an unbranded title issued in North Carolina only if the cost of repairs, including parts and labor, does not exceed seventy-five percent (75%) of its fair market retail value.

(f) Once a branded title has been issued for a motor vehicle, subsequent titles shall continue to reflect the branding until the title for that motor vehicle is either surrendered to the Division or cancelled by the Division.

(g) The ~~Commissioner~~ Division shall prepare necessary forms and may adopt ~~regulations~~ rules required to carry out the provisions of this ~~Part 3A.~~ Part. ~~The title shall reflect the branding until surrendered to or cancelled by the Commissioner.~~

All title and title application forms shall contain a notice that indicates that the complete repair or salvage history of the vehicle might not be disclosed on the face of the title."

CODE NO. 98TRANS-H003D

Requested by: Representative Hiatt

DMV MEDICAL EVALUATION PROGRAM ENHANCEMENT FUNDS

Section @. Of funds appropriated from the Highway Fund to the Division of Motor Vehicles the sum of ninety-three thousand five hundred thirteen dollars ($93,513) for the 1998-99 fiscal year shall be used to fund an additional Public Health Physician II in the Department of Health and Human Services to review the medical records of the growing number of drivers referred to the Drivers Medical Evaluation Program. This implements a recommendation of the Driver Medical Evaluation Program Study Commission.

CODE NO. 98TRANS-H004

Requested by: Representative Bowie

BOARD OF TRANSPORTATION TO REPORT BEFORE ADDING PERSONNEL

Section @. The Board of Transportation shall report a proposed staffing plan to the Joint Legislative Transportation Oversight Committee before hiring or reclassifying personnel as a result of any reorganization or restructuring of the Board or staff mandated by the General Assembly.

CODE NO. 98TRANS-H013D

Requested by: Representatives McMahan, Bowie, Dockham

BLUE RIBBON TRANSPORTATION FINANCE STUDY COMMISSION.

Section @. (a) Commission established.-- There is established a Blue Ribbon Transportation Finance Study Commission.

(b) Membership.-- The Commission shall be composed of 15 members, as follows:

(1) Three members of the House of Representatives appointed by the Speaker of the House.

(2) Three members of the Senate appointed by the President Pro Tempore of the Senate.

(3) Three members of the public appointed by the Governor, one of whom shall be the Secretary of Transportation or his designee.

(4) Three members of the public appointed by the Speaker of the House, two of whom have expertise in Transportation matters.

(5) Three members of the public appointed by the President Pro Tempore of the Senate, two of whom have expertise in transportation matters.

(c) Duties of Commission.--

The Commission shall study the following matters related to Transportation Finance:

(1) The Highway Trust Fund Act of 1989.-- the Commission shall review the current law and recommend any revisions that may be necessary, based on the nine year history of the fund and the current transportation needs of the State.

(2) Current revenue sources.-- The Commission shall review all current revenue sources that support State transportation programs, and recommend changes, additions or deletions based on projected needs for the next ten years.

(3) Transportation system maintenance.-- The Commission shall review current financing of transportation system maintenance, and recommend changes to accommodate maintenance of new construction and increased traffic volume.

(4) Public transportation.-- The Commission shall evaluate funding public transportation with dedicated sources of funds. The Commission's

recommendation shall include specific sources and amounts of any dedicated funds, if recommended.

(5) Other Transportation Financing Issues.-- The Commission may study any other transportation finance-related issue approved by the cochairs, or recommended by the Secretary of Transportation and approved by the cochairs.

(d) Vacancies.-- Any vacancy on the Commission shall be filled by the appointing authority.

(e) Cochairs.-- Cochair person of the Commission shall be designated by Speaker of the House and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be eight members.

(e) Expenses of Members.-- Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

(f) Staff.-- Adequate staff shall be provided to the Commission by the Legislative Services Office.

(g) Consultants.--The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

(h) Meeting location.-- The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

(i) Report.-- The Commission shall submit a final report to the General Assembly by February 1, 2000. Upon the filing of its report, the Commission shall terminate.

(j) Appropriation.-- From appropriations to the General Assembly, the Legislative Services Commission may allocate funds for the expenses of the Commission.

CODE NO. 98TRANS-H001B

Requested by: Representative C. Wilson

PERFORMANCE AUDIT OF PUBLIC TRANSPORTATION AND RAIL DIVISIONS

Section @. The State Auditor shall conduct a performance audit of the Public Transportation and Rail Divisions of the Department of Transportation. The performance audit shall be conducted according to Government Auditing Standards as promulgated by the Comptroller General of the United States. The results of the audit shall be presented to the Fiscal Research Division of the General Assembly no later than February 1, 1999.

CODE NO. 98TRANS-H014B

Requested by: Representatives Bowie, Dockam, McMahan

MEDIUM CUSTODY ROAD CREW COMPENSATION

Section @. (a) The Department of Transportation shall reimburse the Department of Correction during the 1998-99 fiscal year up to six million five hundred thousand dollars ($6,500,000) for costs authorized for reimbursement by G.S. 148-26.5 for highway related labor performed by medium custody prisoners. Any requested reimbursements over that amount shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management.

(b) Sections 19.16 and 32.2 of Session Law 1997-443 are repealed.

III

Transfers from Highway Fund to Highway Trust Fund (Inception to May, '98)
($ millions)

Transfers From Trust Fund	
Intrastate System	943
Urban Loops	700
Total	**1,643**
Allocations of Transfers	
Primary Construction	391
Secondary Construction	41
Urban Construction	536
Bridge Replacement	34
Rail Operations	37
Match for Federal Aid	595
Presently Unallocated	9
Total	**1,643**
Value of Highway Trust Fund Projects Constructed With Federal Aid	**1,953**
Difference Between Transfer Authority and Actual $ Transferred	**310**

IV

7/10/98

To: Joint Appropriations Committee on Transportation

From: Robert Weiss
Fiscal Research Division

Subject: Further information on transportation funding comparisons for North Carolina, Texas, and Virginia

1. Why does North Carolina have more employees in its transportation department than Virginia?

The major reason is that North Carolina has 77,758 miles of state-maintained highway while Virginia has 55,913. Also, Virginia has privatized its secondary road construction program, reducing the number of state employees. North Carolina's program is done 50 percent in-house.

2. How are maintenance funds used and what are the revenue sources for maintenance? Do Texas and Virginia have dedicated funding sources for maintenance?

The NCDOT maintenance and contract resurfacing budget for 1997-98 was approximately $430 million. Activities include road maintenance, bridge maintenance, operations, railroad signals, weigh stations, inmate labor, historical markers, renovation of rest areas, and training. Funding for maintenance takes up approximately 40 percent of the Highway Fund. Revenues for the Highway Fund are motor fuel taxes (69 percent), licenses and fees (30 percent), and investment income (1 percent).

Texas does not have a dedicated funding source for maintenance. Virginia does not have dedicated funding but, by statute, maintenance does come off the top. That is, by law; they maintain and then build. After maintenance and operating costs have been covered, if there is any money left in the Highway Fund, it is transferred to the Trust Fund for construction.

The Performance Audit of the North Carolina Department of Transportation made the following findings with respect to the funding of maintenance:

- The annual roadway maintenance funding allocation has not kept pace with the growth in maintenance responsibilities.
- The current annual pavement resurfacing funding allocation represents a shortfall of approximately $95 million.
- Roadway condition is deteriorating.
- The current funding allocation for bridge maintenance has not been adequate to address the bridge maintenance backlog.

4. Gas taxes and motor fuel taxes.

Gas Taxes and Motor Fuel Taxes
1997
(cents per gallon)

	Gasoline	Diesel	LPG	Gasohol	Million $ Raised Per Penny of Tax
NC	22.6	22.6	22.6	22.6	43.1
Texas	20.0	20.0	15.0	20.0	116.0
Virginia	17.5	16.0	10.0	17.5	40.0

Note: Texas spends about $580 million, or 25 percent of its motor-fuel tax receipts net of refunds and administration, on schools.

4. Gas taxes and motor fuel taxes.

Gas Taxes and Motor Fuel Taxes
1997
(cents per gallon)

	Gasoline	Diesel	LPG	Gasohol	Million $ Raised Per Penny of Tax
NC	22.6	22.6	22.6	22.6	43.1
Texas	20.0	20.0	15.0	20.0	116.0
Virginia	17.5	16.0	10.0	17.5	40.0

Note: Texas spends about $580 million, or 25 percent of its motor-fuel tax receipts net of refunds and administration, on schools.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **HOUSE APPROPRIATIONS Subcommittee on Transportation** will meet as follows:

DAY & DATE: **Thursday, July 16, 1998**

TIME: **8:30 AM**

LOCATION: **Room 1228/1327**

Respectfully,

Representatives Bowie, Dockham, McMahan
Co-Chairs

I hereby certify this notice was filed by Sharon Gaudette, Committee Clerk, at the following offices at 4 p.m. on July 14, 1998.

___Principal Clerk
___Reading Clerk - House Chamber

Sharon Gaudette
Sharon Cram (Committee Clerks) ✓

AGENDA

House Appropriations Subcommittee
on
Transportation

July 16, 1998
Room 1228
8:30 A.M.

Chair: Representative Joni Bowie

Overview of House Budget Proposal

Evan Rodewald
Fiscal Research Division

MINUTES

HOUSE APPROPRIATIONS
Subcommittee on Transportation

July 16, 1998
8:30 A.M.

The HOUSE APPROPRIATIONS Subcommittee on Transportation met in Room 1228/1327 of the Legislative Building on Thursday, July 16, 1998, at 8:30 a.m. **Representative Joanne Bowie presiding.** Visitor's Sheet attached.

Members Present: Representatives Bowie, Dockham, McMahan, Barbee, Blue, Hiatt, Gulley, Saunders and Sutton.

Representative Bowie welcomed the Committee and introduced the House Pages serving the Committee.

Evan Rodewald, Fiscal Research Staff, reviewed the changes to the 1998-99 Expansion Budget; Governor's recommendations vs. Senate Budget vs. House Budget *(see attachment I. Pg. 1 & 2).*

1. Page I - Line 18 - *Reduction in the Retirement Contribution due to actuarial gain* - 3.6 million.
2. Page 2 - Line 19 - *Equity Pay for Enforcement Officers. N*ow fully funded.
3. Page 2 - Line 5 - *Contract Resurfacing.* Final amount - $22,974,044.

Representative Hiatt motioned the changes be accepted. Motion passed.

Mr. Rodewald next presented changes within the Special Provisions:

The Special Provision to reopen Bertie County Highway 1109 was eliminated.

1. REGIONAL TRANSPORTATION COMMITTEE OF CENTRALINA COUNCIL OF GOVERNMENTS FUNDS *(see attachment II - Pg. 1).* This act is to fund up to $1000,000 for the 1998-99 fiscal year and each of the subsequent four fiscal years to fund an ongoing regional transportation study by the Regional Transportation

Meeting adjourned at 9:00 a.m.

Respectfully submitted:

Representative Joanne W. Bowie,
Presiding, Co-Chair

Sharon A. Gaudette
Committee Clerk

Rep. Jerry Dockham
Rep. Ed McMahan, Co-Chairs

VISITOR REGISTRATION SHEET

APPROP/SUBCOMMITTEE ON TRANSPORTATION 2-16-98 **, 1998**

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	[illegible]
DAVID Allsbrook	NCDOT
Sanford T. Crow	NCDOT
[illegible]	NCDOT
[illegible]	DMV
AL RISELE	DHHS
[illegible]	OSBM
[illegible]	NCDOT
BERRY JONKINS	CAROLINAS AGC
Ward Purrington	Atty

1998-99 Expansion Budget - Highway Fund

		Governor's Recommendations			Senate Budget			House Budget Proposal		
		Recurring	Non-recur.	Total	Recurring	Non-recur.	Total	Recurring	Non-recur.	Total
	Availability									
1	State Highway Revenue	1,145,850,000	-	1,145,850,000	1,145,850,000	-	1,145,850,000	1,145,850,000	-	1,145,850,000
2	Surplus from 1997-98	468,248	11,531,752	12,000,000	468,248	11,531,752	12,000,000	468,248	11,531,752	12,000,000
3	Funds For Year 2000 Reserve (SB 1193)					(6,840,630)	(6,840,630)		(6,840,630)	(6,840,630)
4	Funds Available	1,146,318,248	11,531,752	1,157,850,000	1,146,318,248	4,691,122	1,151,009,370	1,146,318,248	4,691,122	1,151,009,370
5	Certified Continuation Budget	1,134,103,250	10,522,487	1,144,625,737	1,134,103,250	10,522,487	1,144,625,737	1,134,103,250	10,522,487	1,144,625,737
6										
7	**Net Funds Available**	**12,214,998**	**1,009,265**	**13,224,263**	**12,214,998**	**(5,831,365)**	**6,383,633**	**12,214,998**	**(5,831,365)**	**6,383,633**
8										
9	**Budget Technical Adjustments:**									
10	State Aid to Municipalities	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)
11	Secondary Roads	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)	(2,050,000)		(2,050,000)
12	LUST Cleanup Fund	(189,000)		(189,000)	(189,000)		(189,000)	(189,000)		(189,000)
13	Driver Education Program							(174,861)		(174,861)
14										
15	**Budget Reductions**									
16	Transfer to General Fund in Lieu of Sales Tax	(13,400,000)		(13,400,000)		(13,400,000)	(13,400,000)		-	-
17	Transfer to Highway Trust Fund	(38,000,000)		(38,000,000)		(38,000,000)	(38,000,000)		(38,000,000)	(38,000,000)
18	Retirement Contribution - Actuarial Gain			-		(3,612,248)	(3,612,248)	(3,612,248)		(3,612,248)
19	Federal Aid Match	(33,153,153)		(33,153,153)	(33,153,153)		(33,153,153)	(33,153,153)		(33,153,153)
20										
21	**Total Adjustments and Reductions**	**(88,842,153)**	**-**	**(88,842,153)**	**(37,442,153)**	**(55,012,248)**	**(92,454,401)**	**(41,229,262)**	**(38,000,000)**	**(79,229,262)**
22										
23	**Total Funds Available for Expansion**	**101,057,151**	**1,009,265**	**102,066,416**	**49,657,151**	**49,180,883**	**98,838,034**	**53,444,260**	**32,168,635**	**85,612,895**

1998-99 Expansion Budget - Highway Fund

		Governor's Recommendations			Senate Budget			House Budget Proposal		
		Recurring	Non-recur.	Total	Recurring	Non-recur.	Total	Recurring	Non-recur.	Total
1	**Total Funds Available for Expansion**	**101,057,151**	**1,009,265**	**102,066,416**	**49,657,151**	**49,180,883**	**98,838,034**	**53,444,260**	**32,168,635**	**85,612,895**
2										
3										
4	**Expansion Items**									
5	Contract Resurfacing	38,000,000		38,000,000		37,707,354	37,707,354		22,974,044	22,974,044
6	Highway Fund Salary Increase	16,000,000	4,000,000	20,000,000	12,000,000	4,000,000	16,000,000	12,000,000	4,000,000	16,000,000
7	Public Transportation Funding	13,400,000		13,400,000		12,400,000	12,400,000		13,400,000	13,400,000
8	SIPS Charges	6,000,000	4,000,000	10,000,000	6,000,000	4,000,000	10,000,000	6,000,000	4,000,000	10,000,000
9	Telephone Line Charges	1,300,000		1,300,000	800,000	500,000	1,300,000	800,000	500,000	1,300,000
10	MIS - Contracted Services	1,000,000		1,000,000	1,000,000		1,000,000	1,000,000		1,000,000
11	Liability Insurance Tracking System		500,000	500,000		500,000	500,000		500,000	500,000
12	Hardware and Software for MIS Division	500,000		500,000	500,000		500,000	500,000		500,000
13	DOT Facility Improvements		4,070,348	4,070,348		4,070,348	4,070,348		4,070,348	4,070,348
14	Increased Postage	710,785		710,785	710,785		710,785	710,785		710,785
15	Security Services	33,778		33,778	33,778		33,778	33,778		33,778
16	Contract Security for Raney Building	65,000		65,000	65,000		65,000	65,000		65,000
17	Maintenance for Raney Building	109,751		109,751	109,751		109,751	109,751		109,751
18	Stormwater Discharge Permit Compliance	500,000		500,000	500,000		500,000	500,000		500,000
19	Equity Pay for Enforcement Officers	1,000,000		1,000,000	3,390,708		3,390,708	3,390,708		3,390,708
20	License Plates and Stickers	227,044		227,044	227,044		227,044	227,044		227,044
21	Hardware, Software for Liability Ins. System	5,000	197,596	202,596	5,000	197,596	202,596	5,000	197,596	202,596
22	Equipment and Expenses, Crash Reporting	66,500	385,000	451,500	66,500	385,000	451,500	66,500	385,000	451,500
23	Error in Highway Patrol Salary Increases	2,787,596		2,787,596	2,787,596		2,787,596	2,787,596		2,787,596
24	Criminal Justice Information Network		2,406,611	2,406,611		2,406,611	2,406,611		2,406,611	2,406,611
25	Helicopter Pad		-	-		75,000	75,000			-
26	Increase Salary Grade - Sgt. & 1st Lieut.	-		-	162,956		162,956	-		-
27	Additional Highway Patrolmen	968,300	1,583,295	2,551,595	403,900	1,583,295	1,987,195	403,900	1,583,295	1,987,195
28	Mobile Data Computers for Highway Patrol		2,249,812	2,249,812		2,249,812	2,249,812		2,249,812	2,249,812
29	Board of Transportation (House Bill 1304)							500,000		500,000
30	Notification of Vehicle Seizures (HB 1496)							152,614		152,614
31	Medical Evaluation Program (House Bill 232)							93,513		93,513
32										
33										
34	**Total Expansion**	**82,673,754**	**19,392,662**	**102,066,416**	**28,763,018**	**70,075,016**	**98,838,034**	**29,346,189**	**56,266,706**	**85,612,895**
35										
36	**Surplus (Deficit)**	**18,383,397**	**(18,383,397)**	**-**	**20,894,133**	**(20,894,133)**	**-**	**24,098,071**	**(24,098,071)**	**-**

H

CODE NO. 98TRANS-H015B

Requested by: Representatives McMahan, Bowie, Dockham

REGIONAL TRANSPORTATION COMMITTEE OF CENTRALINA COUNCIL OF GOVERNMENTS FUNDS

Section @. From funds appropriated to the Department of Transportation from the Highway Fund the Department shall expend up to one hundred thousand dollars ($100,000) for the 1998-99 fiscal year and each of the subsequent four fiscal years to fund an ongoing regional transportation study by the Regional Transportation Committee of Centralina Council of Governments.

Funds expended for the regional transportation study shall be approved by the Department of Transportation which shall make written reports to the Joint Legislative Transportation Oversight Committee on the progress of the study.

CODE NO. 98TRANS-H016

Requested by: Representatives Cansler and Sherrill

NONBETTERMENT RELOCATION COSTS

Section @. (a) G.S. 136-27.1 reads as rewritten:

"§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State highway right-of-way, that are necessary to be relocated for a State highway improvement project and that are owned by: (i) a municipality with a population of 5,500 or less according to the latest decennial census; (ii) a nonprofit water or sewer association or corporation; (iii) any water or sewer system organized pursuant to Chapter 162A of the General Statutes; (iv) a rural water system operated by county as an enterprise system; (v) any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General Statutes; ~~or~~ (vi) constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to a municipality with a population of greater than 5,500 according to the latest decennial ~~census.~~ census; or (vii) constructed by a water or sewer system organized pursuant to Article 20 of Chapter 160A of the General Statutes."

(b) This section applies to Buncombe County and Henderson County only.

(c) This section is effective when it becomes law and shall not affect pending litigation.

CODE NO. 98TRANS-H013G

Requested by: Representatives McMahan, Bowie, Dockham

BLUE RIBBON TRANSPORTATION FINANCE STUDY COMMISSION.

Section @. (a) Commission established.-- There is established a Blue Ribbon Transportation Finance Study Commission.

(b) Membership.-- The Commission shall be composed of 18 members, as follows:

(1) Four members of the House of Representatives appointed by the Speaker of the House.

(2) Four members of the Senate appointed by the President Pro Tempore of the Senate.

(3) Three members of the public appointed by the Governor, two of whom shall have expertise in transportation matters.

(4) Three members of the public appointed by the Speaker of the House, two of whom have expertise in transportation matters.

(5) Three members of the public appointed by the President Pro Tempore of the Senate, two of whom have expertise in transportation matters.

(6) The Secretary of Transportation or his designee who shall serve as a nonvoting ex officio member.

(c) Duties of Commission.--

The Commission shall study the following matters related to Transportation Finance:

(1) The Highway Trust Fund Act of 1989.-- the Commission shall review the current law and recommend any revisions that may be necessary, based on the nine year history of the fund and the current transportation needs of the State.

(2) Current revenue sources.-- The Commission shall review all current revenue sources that support State transportation programs, and recommend changes, additions or deletions based on projected needs for the next twenty-five years.

(3) Transportation system maintenance.-- The Commission shall review current financing of transportation system maintenance, and recommend changes to accommodate maintenance of new construction and increased traffic volume.

(4) Public transportation.-- The Commission shall evaluate funding public transportation with dedicated sources of funds. The Commission's recommendation shall include specific sources and amounts of any dedicated funds, if recommended.

(5) Transfers from the Highway Fund to other State agencies; including whether or not those funds would more appropriately come from the General Fund.

(6) Other Transportation Financing Issues.-- The Commission may study any other transportation finance-related issue approved by the cochairs, or recommended by the Secretary of Transportation and approved by the cochairs.

(d) Vacancies.-- Any vacancy on the Commission shall be filled by the appointing authority.

(e) Cochairs.-- Cochair person of the Commission shall be designated by Speaker of the House and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be eight members.

(e) Expenses of Members.-- Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

(f) Staff.-- Adequate staff shall be provided to the Commission by the Legislative Services Office.

(g) Consultants.--The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

(h) Meeting location.-- The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

(i) Report.-- The Commission shall submit a final report to the General Assembly by February 1, 2000. Upon the filing of its report, the Commission shall terminate.

(j) Appropriation.-- From appropriations to the General Assembly, the Legislative Services Commission may allocate up to two hundred thousand dollars ($200,000) for the expenses of the Commission.

CODE NO. 98TRANS-H014E

Requested by: Representatives Bowie, Dockham, McMahan

MEDIUM CUSTODY ROAD CREW COMPENSATION

Section @. (a) Of funds appropriated to the Department of Transportation by this act six million five hundred thousand dollars ($6,500,000) shall be used by the Department to reimburse the Department of Correction during the 1998-99 fiscal year for costs authorized by G.S. 148-26.5 for reimbursement for highway related labor performed by medium custody prisoners. The Department of Transportation may use funds appropriated by this act to pay requested reimbursements submitted by the Department of Correction over and above the $6,500,000 but those reimbursement requests shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

(b) Sections 19.16 and 32.2 of Session Law 1997-443 are repealed.

CODE NO. 98TRANS-H009A-S

Requested by: Representatives Bowie, Dockham, McMahan

OUTDOOR ADVERTISING JUST COMPENSATION SUNSET EXTENDED

Section @. Section 2 of Chapter 1147 of the 1981 Session Laws, as amended by all of the following:

Chapter 318 of the 1983 Session Laws

Chapter 1024 of the 1987 Session Laws

Section 1 of Chapter 166 of the 1989 Session Laws

Section 1 of Chapter 725 of the 1993 Session Laws

reads as rewritten:

"Sec. 2. This act is effective upon ratification, but shall expire ~~June 30, 1998,~~ June 30, 2000, and shall have no force or effect after that date."

CODE NO. 98TRANS-HO17A-S

Requested by: Representatives Bowie, Dockham, McMahan

DMV ENFORCEMENT SECTION PAY EQUITY PLAN LIMITATIONS

Section @. Of the funds appropriated in this act to the Department of Transportation, up to three million three hundred ninety thousand seven hundred eight dollars ($3,390,708) may be used to adjust the salaries and benefits of the enforcement officers assigned to the Enforcement Section of the Division of Motor Vehicles.

These adjustments shall be based on factors such as: employee salary, position class title, position grade, and creditable years of sworn service with the Enforcement Section.

No salary adjustment shall result in an increase beyond the maximum salary set for an officer's pay grade. If an officer's salary is near or at the top of the officer's pay grade, the officer shall be eligible to receive a salary adjustment up to the top of the officer's pay grade. If an officer is at the top of the officer's pay grade, then the officer is not eligible to receive a salary adjustment.

Before adjusting salaries or benefits pursuant to this section, the Department of Transportation shall do all of the following:

(1) Consult with and get approval of the Office of State Personnel.

(2) Report to the Joint Legislative Transportation Oversight Committee.

(3) Report to the Joint Legislative Commission on Governmental Operations.

CODE NO. 98TRANS-H005-S

Requested by: Representatives Bowie, Dockham, McMahan

DESIGN-BUILD TRANSPORTATION CONSTRUCTION CONTRACTS AUTHORIZED

Section @. Notwithstanding any other provision of law, the Board of Transportation may award up to three contracts annually for construction of transportation projects on a design-build basis. These contracts may be awarded after a determination by the Department of Transportation that delivery of the projects must be expedited and that it is not in the public interest to comply with normal design and construction contracting procedures. Prior to the award of a design-build contract, the Secretary of Transportation shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Commission on Governmental Operations on the nature and scope of the project and the reasons an award on a design-build basis will best serve the public interest.

CODE NO. 98TRANS-H006-S

Requested by: Representatives Bowie, Dockham, McMahan

DISCONTINUE BOND RETIREMENT TRANSFER FROM HIGHWAY FUND TO HIGHWAY TRUST FUND FOR ONE YEAR

Section @. G.S. 136-176(a)(4) and G.S. 136-183 are suspended from July 1, 1998 to June 30, 1999.

CODE NO. 98TRANS-H007-S

Requested by: Representatives Bowie, Dockham, McMahan

FEDERAL FUNDS FOR PUBLIC TRANSPORTATION IMPROVEMENTS

Section @. Section 32.18 of S.L. 1997-443 reads as rewritten:

"Section 32.18. To the extent allowable by federal law, the Department of Transportation shall use ten million dollars ($10,000,000) of federal highway funds during each year of the 1997-99 biennium for improvements to public transportation."

CODE NO. 98TRANS-H008-S

Requested by: Representatives Bowie, Dockham, McMahan

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

Section @. Section 32.13 of S.L. 1997-443 reads as rewritten:

"Section 32.13. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

FY 1999-2000	~~$1,182.2~~	$1,190.8 million
FY 2000-2001	~~$1,211.2~~	$1,225.7 million
FY 2001-2002	~~$1,241.2~~	$1,265.4 million
FY 2002-2003	~~$1,271.9~~	$1,301.0 million

The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

FY 1999-2000	~~$861.7~~	$871.4 million
FY 2000-2001	~~$891.0~~	$901.8 million
FY 2001-2002	~~$921.6~~	$934.7 million
FY 2002-2003	~~$953.3~~	$967.2 million."

CODE NO. 98TRANS-H010-S

Requested by: Representatives Bowie, Dockham, McMahan

PAYMENTS TO CONTRACT AGENTS FOR COLLECTING EMISSION CONTROL CIVIL PENALTIES AND FOR MAKING SALES OF INSPECTION STICKERS TO LICENSED INSPECTION STATIONS, AND A TECHNICAL CHANGE TO A RELATED STATUTE.

Section @. (a) G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. -- All registration plates, registration certificates and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the said Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of such plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina and the Division shall make a reasonable effort in every locality, except as hereinbefore noted, to enter into a commission contract for the issuance of such plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts as hereinbefore set out it shall then issue said plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of such distribution. Commission contracts entered under this subsection shall provide for the payment of compensation for all transactions as set forth below. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker,

or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.

(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.

(9) Collection of the highway use tax.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through ~~(8)~~ (8b) of this section is a single transaction for which a dollar and thirty-five cent ($1.35) compensation shall be paid. Performance of the item listed in subdivision (9) of this subsection in combination with any other items listed in this subsection is a separate transaction for which a one dollar and twenty cent ($1.20) compensation shall be paid."

(b) G.S. 20-183.8A reads as rewritten:

"**§ 20-183.8A. Civil penalties against motorists for emissions violations.**

The Division ~~must~~ shall assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

(1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.

(2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.

(3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of penalty is one hundred dollars ($100.00) if the vehicle is a pre-1981 vehicle and two hundred fifty dollars ($250.00) if the vehicle is a 1981 or newer model vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this ~~subsection~~ section has been paid."

CODE NO. 98TRANS-H012A-S

Requested by: Representative Weatherly

BRANDED TITLE CLARIFICATION

Section @. G.S. 20-71.3 reads as rewritten:

"**§ 20-71.3. Titles and registration cards to be branded.**

(a) Motor Vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 ~~shall~~ may be branded.

As used ~~herein~~ in this section, 'branded' means that the title and registration card shall contain a designation that discloses if the vehicle is classified as any of the following:

(1) ~~(a)~~ Flood ~~Vehicle,~~ Vehicle.

(2) ~~(b)~~ Non-U.S.A. ~~Vehicle,~~ Vehicle.

(3) ~~(c)~~ Reconstructed ~~Vehicle,~~ Vehicle.

(4) ~~(d)~~ Salvage Motor ~~Vehicle, or~~ Vehicle.

(5) ~~(e)~~ Salvage Rebuilt ~~Vehicle or~~ Vehicle.

(6) Any other classification authorized by law.

(b) Any motor vehicle up ~~to six~~ to, and including, five model years old damaged by collision or other ~~occurrence~~ occurrence, which requires a disclosure pursuant to G.S. 20-71.4, and ~~which~~ which, as a result of such damage, is to be retitled in this State shall be subject to preliminary and final inspections by the Enforcement Section of the ~~Division, and~~ Division. ~~the~~ The Division shall ~~refuse to~~ not ~~issue a title to~~ retitle a vehicle ~~up to six model years old~~ described in the first sentence of this subsection which has not undergone a preliminary ~~inspection.~~ inspection required by this subsection.

These inspections serve as antitheft measures and do not certify the safety or roadworthiness of a vehicle.

(c) Any motor vehicle more than five model years old damaged by collision or other occurrence which requires a disclosure pursuant to G.S. 20-71.4 and which, as a result of such damage, is to be retitled by the State shall, without inspection, be retitled with an unbranded or branded title, as appropriate, based upon a title application by the rebuilder with a supporting affidavit disclosing all of the following:

(1) The parts used or replaced.

(2) The major components replaced.

(3) The total cost of repair, including labor costs.

The Division shall maintain these affidavits and make them available for review and copying by persons researching the salvage and repair history of the vehicle.

~~These inspections serve as an antitheft measure and do not certify the safety or roadworthiness of a vehicle.~~

(d) Any motor vehicle which has been branded in another state shall be branded with the nearest applicable brand specified in this section, except that no junk vehicle or vehicle that has been branded junk in another state shall be titled or registered.

(e) A motor vehicle titled in another state and damaged by collision or other occurrence may be repaired and an unbranded title issued in North Carolina only if the cost of repairs, including parts and labor, does not exceed seventy-five percent (75%) of its fair market retail value.

(f) Once a branded title has been issued for a motor vehicle, subsequent titles shall continue to reflect the branding until the title for that motor vehicle is either surrendered to the Division or cancelled by the Division.

(g) The ~~Commissioner~~ Division shall prepare necessary forms and may adopt ~~regulations~~ rules required to carry out the provisions of this ~~Part 3A.~~ Part. ~~The title shall reflect the branding until surrendered to or cancelled by the Commissioner.~~

All title and title application forms shall contain a notice that indicates that the complete repair or salvage history of the vehicle might not be disclosed on the face of the title."

CODE NO. 98TRANS-H003D

Requested by: Representative Hiatt

DMV MEDICAL EVALUATION PROGRAM ENHANCEMENT FUNDS

Section @. Of funds appropriated from the Highway Fund to the Division of Motor Vehicles the sum of ninety-three thousand five hundred thirteen dollars ($93,513) for the 1998-99 fiscal year shall be used to fund an additional Public Health Physician II in the Department of Health and Human Services to review the medical records of the growing number of drivers referred to the Drivers Medical Evaluation Program. This implements a recommendation of the Driver Medical Evaluation Program Study Commission.

CODE NO. 98TRANS-H004

Requested by: Representative Bowie

BOARD OF TRANSPORTATION TO REPORT BEFORE ADDING PERSONNEL

Section @. The Board of Transportation shall report a proposed staffing plan to the Joint Legislative Transportation Oversight Committee before hiring or reclassifying personnel as a result of any reorganization or restructuring of the Board or staff mandated by the General Assembly.

CODE NO. 98TRANS-H001B

Requested by: Representative C. Wilson

PERFORMANCE AUDIT OF PUBLIC TRANSPORTATION AND RAIL DIVISIONS

Section @. The State Auditor shall conduct a performance audit of the Public Transportation and Rail Divisions of the Department of Transportation. The performance audit shall be conducted according to Government Auditing Standards as promulgated by the Comptroller General of the United States. The results of the audit shall be presented to the Fiscal Research Division of the General Assembly no later than February 1, 1999.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **HOUSE APPROPRIATIONS Subcommittee on Transportation** will meet as follows:

DAY & DATE: **Tuesday, August 11, 1998**

TIME: **9:00 a.m.**

LOCATION: **Room 1228/1327**

The following bills will be considered (Bill # & Short Title):

HB 1229 - Darker Vehicle Window for Lupus

Respectfully,

Representative Bowie, Dockham, McMahan
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **12:00 p.m.** on **August 6, 1998**.

___Principal Clerk
___Reading Clerk - House Chamber

Sharon Gaudette
Sharon Cram (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **Representative William Culpepper, III**

OFFICE: **Room 604 - LOB**

DATE: **August 6, 1998**

The House Committee on **HOUSE APPROPRIATIONS Subcommittee on Transportation** will meet as follows:

DAY & DATE: **Tuesday, August 11, 1998**

TIME: **9:00 a.m.**

LOCATION: **Room 1228/1327**

Your Bill (or Bills) will be discussed at this time:

HB 1229 - Darker Vehicle Window for Lupus

We would like to have you attend this meeting.

Representative Bowie, Dockham, McMahan
Chairman

Sharon Cram
Sharon Gaudette (Committee Clerk)

AGENDA

House Appropriations Subcommittee
on
Transportation

August 11, 1998
Room 1228
9:00 A.M.

Chair: Representative Joni Bowie

House Bill 1229 - Darker Vehicle Window for Lupus

MINUTES

HOUSE APPROPRIATIONS
Subcommittee on Transportation

August 11, 1998
9:00 A.M.

The HOUSE APPROPRIATIONS Subcommittee on Transportation met in Room 1228/1327 of the Legislative Building on Tuesday, August 11, 1998, at 9:00 a.m. **Representative Joanne Bowie presiding.** Visitor's Sheet attached.

Members Present: Representatives Bowie, Dockham, Hiatt, Gulley, Saunders and Sutton.

Representative Bowie indicated the purpose of the meeting was to discuss **House Bill 1229, DARKER VEHICLE WINDOW FOR LUPUS** (see attachment I). Representative William Culpepper, bill sponsor, was on hand to answer any questions.

Representative Bowie acknowledged **Representative Bill Hiatt, Chairperson of the sub-committee** selected to review *House Bill 1229*. Representative Hiatt moved the bill come before the Committee for review. **Motion passed.**

Representative Hiatt explained *House Bill 1229, DARKER VEHICLE WINDOW FOR LUPUS* allows people who suffer from a medical condition that causes the person to be photosensitive to have a darker vehicle window than is allowed under the window tinting laws. Representative Hiatt noted that a study was conducted and the impact of this bill should affect no more than 100 vehicles in the entire state (see attachment II). Discussion took place.

Ruth Sappie, DOT Legislative Liaison, Department of Transportation indicated the Department of Transportation supports House Bill 1229. **Mr. Joe Stewart, Legislative Liaison, Department of Crime Control & Public Safety** indicated the Highway Patrol also supports the bill.

Representative Culpepper thanked Representative Hiatt and his sub-committee for their work and indicated he was extremely pleased with the final version of the bill.

Representative Hiatt thanked the subcommittee members Representative Saunders and Representative Gulley for their work.

Representative Hiatt, Chairperson of the Subcommittee, moved that **House Bill 1229- #3 receive a favorable report with an unfavorable report to the original bill. Motion passed.**

Meeting adjourned at 9:18 AM.

Respectfully submitted:

Representative Joanne W. Bowie,
Presiding, Co-Chair

Sharon A. Gaudette
Committee Clerk

Representative Jerry Dockham, Co-Chair
Representative Ed McMahan, Co-Chair

VISITOR REGISTRATION SHEET

HOUSE APPROP/SUBCOMMITTEE ON TRANSPORTATION **August 11, 1998**

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Diane Johnson	DMV - Veh Reg
B. M. Cross	DMV - ENFORCEMENT
Joe Stewart	CCPS
V L McBride	NCA
Steve Keene	NC Med Soc
Ruth Sapphire	NCDOT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 3

HOUSE BILL 1229
Committee Substitute Favorable 6/4/97
Committee Substitute #2 Favorable 6/25/97

Short Title: Darker Vehicle Window for Lupus. (Public)

Sponsors:

Referred to:

May 15, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PERSON WHO SUFFERS FROM A MEDICAL CONDITION THAT CAUSES THE PERSON TO BE PHOTOSENSITIVE TO HAVE A DARKER VEHICLE WINDOW THAN IS ALLOWED UNDER THE WINDOW TINTING LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-127 reads as rewritten:

"**§ 20-127. Windows and windshield wipers.**

(a) Windshield Wipers. -- A vehicle that is operated on a highway and has a windshield must have a windshield wiper to clear rain or other substances from the windshield in front of the driver of the vehicle and the windshield wiper must be in good working order. If a vehicle has more than one windshield wiper to clear substances from the windshield, all the windshield wipers must be in good working order.

(b) Window Tinting Restrictions. -- A window of a vehicle that is operated on a highway or a public vehicular area must comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Any other window of the vehicle may be tinted in accordance with the following restrictions:

(1) The total light transmission of the tinted window must be at least thirty-five percent (35%). A vehicle window that, by use of a light

meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.

(2) The light reflectance of the tinted window must be twenty percent (20%) or less.

(3) Tinted film or another material used to tint the window must be nonreflective and must be a color other than red, yellow, or amber.

(c) Tinting Exceptions. -- The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

(1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.

(2) A window of a for-hire passenger vehicle, as defined in G.S. 20-4.01(27)b.

(3) A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.

(4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.

(5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.

(6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).

(7) A window of a limousine.

(8) A window of a law enforcement vehicle.

(9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.

(10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.

(11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

(d) Violations. -- A person who does any of the following commits a misdemeanor of the class set in G.S. 20-176:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section.

(e) Defense. -- It is a defense to a charge of driving a vehicle with an unlawfully tinted window that the tinting was removed within 15 days after the charge and the window now meets the window tinting restrictions. To assert this defense, the person

charged must produce in court, or submit to the prosecuting attorney before trial, a certificate from the Division of Motor Vehicles or the Highway Patrol showing that the window complies with the restrictions.

(f) Medical Exception. -- A person who suffers from a medical condition that causes the person to be photosensitive may obtain a medical exception permit. To obtain a permit, an applicant must complete an application form provided by the Division, pay the application fee, and give the Division a statement of the applicant's medical condition that is signed by a physician. The application fee is five dollars ($5.00). The permit must be renewed annually at the same time that the registration of the vehicle to which it applies is renewed. The renewal shall require a medical recertification that the person suffers from a medical condition requiring tinting. The renewal fee is five dollars ($5.00).

A person may receive no more than two medical exception permits. A permit issued under this subsection must specify the vehicle to which it applies, and the permit must be carried in the vehicle to which it applies when the vehicle is driven on a highway. The Division must give a person who receives a medical exception permit a sticker to place on the lower left hand corner of the rear window of the vehicle to which it applies between the tinting and the glass."

Section 2. This act becomes effective January 1, 1998.

North Carolina General Assembly
Legislative Services Office

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(919) 733-7044

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MEMORANDUM

Analysis of H1129-CSLK-2

The Subcommittee submitting this proposed committee substitute met three times to discuss the substance of the proposed committee substitute.

The Subcommittee heard from Representatives Culpepper, the sponsor of the original bill and Representative Ellis, the chief author of G.S. 20-127, representatives of the Drivers Medical Evaluation Program, in particular Dr. Laurel Broadhurst who undertook significant medical research relating to the subject of the committee substitute, the Division of Motor Vehicles, DMV Enforcement, and Subcommittee staff. There was full and fair debate and discussion of the proposed committee substitute with the intent of providing relief for persons who had medical conditions affected by motor vehicle window darkening.

Significant factors:

- Dr. Broadhurst contacted the doctors who would treat medical conditions affected by visible light and informed the Subcommittee that not more than 100 North Carolinians would be subject to this medical waiver.
- The exact costs of implementing this program are unknown, at this time, due to fact that it is uncertain how many of the affected persons would apply for medical waivers.
- The budget bill has been passed by the Senate and the House and it would be difficult, or impossible to provide the significant funding required to update DMV's STARS system to computerize this program.

The significant changes to G.S. 20-127 made by the proposed committee substitute are:

⇒ It clarifies that a clear, untinted film may be applied to the windshield to limit ultraviolet light from entering the vehicle (Page 1, Line 22).

⇒ Includes the new medical exception in the list of exceptions to the general rules on window tinting (Page 2, Line 1).

⇒ Provides that a person with a medical condition affected by **visible light** may apply to the Drivers Medical Evaluation Program, in the same manner as a person with any other medical disability, and may receive a medical waiver from the provisions of G.S. 20-127.

* These medical waivers will be individually tailored to the particular medical condition and would allow for darkening of all windows in the vehicle, even those next to the driver or front passenger seat.
* There is a $5.00 fee for a medical waiver that is valid for up to 5 years as determined by the Drivers Medical Evaluation Program.

* Renewals shall require medical recertification.
* The waivers will be forms that will list the vehicles to which they apply and they must be kept in those vehicles.
* No more than two waiver forms will be given to an applicant at any one time.
* There shall be a sticker on the lower left hand corner of the rear window indicating the medical waiver.

⇒ The program shall be operated manually with modifications made to the STARS program only in conjunction with modifications made for some other purpose to limit the costs of reprogramming (estimated to be approximately $105,000).

⇒ The Drivers Medical Evaluation Program shall report to the Joint Legislative Transportation Oversight Committee 6 months after the first waiver is issued on the number of applications and waivers issued and the projected costs of full implementation of the program.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1229
H1229-CSLK-2
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Visible Light--Window Darkening. (Public)

Sponsors:

Referred to: Judiciary II, if favorable, Finance

May 15, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PERSON WHO SUFFERS FROM A MEDICAL CONDITION THAT CAUSES THE PERSON TO BE PHOTOSENSITIVE TO VISIBLE LIGHT TO HAVE A DARKER VEHICLE WINDOW THAN IS ALLOWED UNDER THE WINDOW TINTING LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-127 reads as rewritten:

"**§ 20-127. Windows and windshield wipers.**

(a) Windshield Wipers. -- A vehicle that is operated on a highway and has a windshield ~~must~~ shall have a windshield wiper to clear rain or other substances from the windshield in front of the driver of the vehicle and the windshield wiper ~~must~~ shall be in good working order. If a vehicle has more than one windshield wiper to clear substances from the windshield, all the windshield wipers ~~must~~ shall be in good working order.

(b) Window Tinting Restrictions. -- A window of a vehicle that is operated on a highway or a public vehicular area ~~must~~ shall comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film, which does not obstruct vision but which reduces or eliminates ultraviolet

radiation from entering a vehicle may be applied to the windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

(1) The total light transmission of the tinted window ~~must~~ shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.

(2) The light reflectance of the tinted window ~~must~~ shall be twenty percent (20%) or less.

(3) Tinted film or another material used to tint the window ~~must~~ shall be nonreflective and ~~must~~ shall not be ~~a color other than~~ red, yellow, or amber.

(c) Tinting Exceptions. -- The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

(1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.

(2) A window of a for-hire passenger vehicle, as defined in G.S. 20-4.01(27)b.

(3) A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.

(4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.

(5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.

(6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).

(7) A window of a limousine.

(8) A window of a law enforcement vehicle.

(9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.

(10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.

(11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

(d) Violations. -- A person who does any of the following commits a misdemeanor of the class set in G.S. 20-176:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section.

(e) Defense. -- It is a defense to a charge of driving a vehicle with an unlawfully tinted window that the tinting was removed within 15 days after the charge and the window now meets the window tinting restrictions. To assert this defense, the person charged ~~must~~ shall produce in court, or submit to the prosecuting attorney before trial, a certificate from the Division of Motor Vehicles or the Highway Patrol showing that the window complies with the restrictions.

(f) Medical Exception. -- A person who suffers from a medical condition that causes the person to be photosensitive to visible light may obtain a medical exception permit. To obtain a permit, an applicant shall apply in writing to the Drivers Medical Evaluation Program, have his or her doctor complete the required medical evaluation form provided by the Division, and pay the application fee. The application fee is five dollars ($5.00). The permit shall be valid for five years from the date of issue, unless a shorter time is directed by the Drivers Medical Evaluation Program. The renewal shall require a medical recertification that the person continues to suffer from a medical condition requiring tinting.

A person may receive no more than two medical exception permits that are valid at any one time. A permit issued under this subsection shall specify the vehicle to which it applies, the windows that may be tinted and the permitted levels of tinting. The permit shall be carried in the vehicle to which it applies when the vehicle is driven on a highway. The Division shall give a person who receives a medical exception permit a sticker to place on the lower left hand corner of the rear window of the vehicle to which it applies."

Section 2. The Medical Review Branch of the Division of Motor Vehicles shall issue rules and create forms and permits necessary for this program. Until funds for this program are

appropriated by the General Assembly, the Medical Review Branch shall manually issue all medical exception permits and shall manually maintain the records related specifically to these permits.

The Division of Motor Vehicles shall add the medical exemption described in Section 1 of this act to the STARS program, to allow the computerized issuance of medical exception permits and to allow computerized maintenance of the records related specifically to these permits when it is modifying that computer program for some other purpose.

The Division of Motor Vehicles shall report to the Joint Legislative Transportation Oversight Committee six months after the first medical exemption permit is issued on the number of permits issued and the projected additional costs, if any, of operating the program.

Section 3. This act becomes effective October 1, 1998.

Sharon Gaudette (Rep. Bowie)

To: House Appro-sub-Trans
Subject: FW: CHAMBER DESK MEETING - APPRO/SUBCOMMITTEE ON TRANS

Please note time change: Meeting will start 15 minutes before Session today -- at 2:15 pm

Sharon Gaudette
733-5853

From: Sharon Gaudette (Rep. Bowie)
Sent: Tuesday, September 29, 1998 12:52 PM
To: Annecia Norwood; Dixie Epps; Edna Pearce; Joanna Mills; Juanita Coley; Lin Threatt; Lucille Carter; Rita Harris; Rosa Murray; Ruth Fish; Sharon Cram; Sharon Gaudette
Subject: CHAMBER DESK MEETING - APPRO/SUBCOMMITTEE ON TRANS

MEETING APPROPRIATIONS SUBCOMMITTEE ON TRANSPORTATION

Weds., September 30, 1998

Immediately after session around Chamber Desk, Seat 26

Re: House Bill 1081 - CONDEMNATION AWARDS

Thank you,

Rep. Joni Bowie

Sharon Gaudette
733-5853

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **Rep. Cary Allred**

OFFICE: **Room - 2223**

DATE: **September 29, 1998**

The House Committee on **APPROPRIATIONS Subcommittee On Transportation** will meet as follows:

DAY & DATE: **Weds., September 30, 1998**

TIME: **Immediately after Session**

LOCATION: **Around chamber desk, Seat 26**

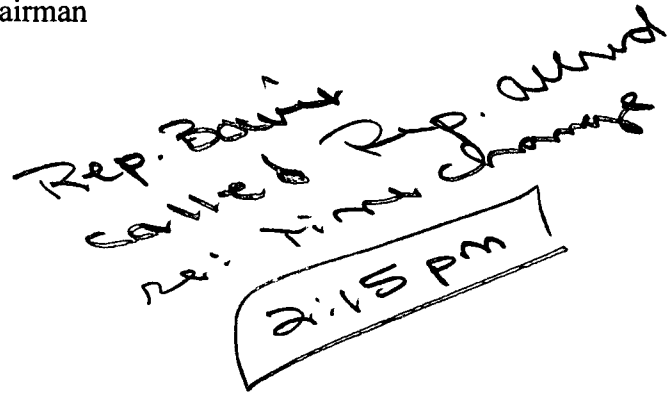
Your Bill (or Bills) will be discussed at this time:

Re: House Bill 1081 - CONDEMNATION AWARDS
- Speaking to Rule 36 -

We would like to have you attend this meeting.

Representative Bowie, Dockham, McMahan
Chairman

Sharon Gaudette, (Committee Clerk)
733-5853



MINUTES

HOUSE APPROPRIATIONS/Subcommittee On Transportation

Wednesday, September 30, 1998
2:15 PM

The House Appropriations/Subcommittee On Transportation met in the House Chamber, Seat 26, at 2:15 p.m. on Wednesday, September 30, 1998 to review **House Bill 1081, CONDEMNATION AWARDS.**

Members Present: Representative, Bowie, Barbee, Crawford, Dockham, Saunders, and Sutton.

Representative Bowie presented copies of House Bill 1081 to Committee Members and a brief discussion ensued.

Representative Ron Sutton motioned that House Bill 1081 be "postponed indefinitely." Motion passed.

Respectfully submitted,

Joanne W. Bowie

Representative Joanne W. Bowie
Presiding, Co-Chair

Sharon A. Gaudette

Sharon A. Gaudette
Committee Clerk

Representative Jerry Dockham, Co-Chair
Representative Ed McMahan, Co-Chair

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 1081
Committee Substitute Favorable 6/26/97

Short Title: Condemnation Awards. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND LAWS GOVERNING CONDEMNATION TO AUTHORIZE AWARD OF ATTORNEYS' FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-8 is amended by adding a new subsection to read:

"(d) In addition to the other costs allowed under this Chapter, in any action brought under Article 2 or Article 3 of this Chapter in which the judgment, including a consent judgment, awarded to the owner exceeds the amount of the commissioners' report under G.S. 40A-27 or the deposit under G.S. 40A-41 by at least seven hundred dollars ($700.00) and at least twenty percent (20%), the court with jurisdiction over the action may, after making appropriate findings of fact, award each owner of the condemned property a sum that, in the opinion of the court based upon its findings of fact, will reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorneys', appraisal, and engineering fees, in such amounts as the court shall in its discretion determine and allow."

Section 2. G.S. 136-119 reads as rewritten:

"**§ 136-119. Costs and appeal.**

(a) The Department of Transportation shall pay all court costs taxed by the court. Either party shall have a right of appeal to the Supreme Court for errors of law committed in any proceedings provided for in this Article in the same manner as in any other civil actions and it shall not be necessary that an appeal bond be posted.

The court having jurisdiction of the condemnation action instituted by the Department of Transportation to acquire real property by condemnation shall award

the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable cost, disbursements, and expenses, including reasonable attorney fees, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if (i) the final judgment is that the Department of Transportation cannot acquire real property by condemnation; or (ii) the proceeding is abandoned by the Department of Transportation.

The judge rendering a judgment for the plaintiff in a proceeding brought under G.S. 136-111 awarding compensation for the taking of property, shall determine and award or allow to such plaintiff, as a part of such judgment, such sum as will in the opinion of the judge reimburse such plaintiff for his reasonable cost, disbursements and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

(b) In addition to the other costs allowed under this Article, in any action brought under this Article in which the judgment, including a consent judgment, awarded to the owner exceeds the amount of the deposit under G.S. 136-103 by at least seven hundred dollars ($700.00) and at least twenty percent (20%), the court with jurisdiction over the action may, after making appropriate findings of fact, award each owner of the condemned property a sum that, in the opinion of the court based upon its findings of fact, will reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorneys', appraisal, and engineering fees, in such amounts as the court shall in its discretion determine and allow."

Section 3. This act becomes effective October 1, 1997, and applies to actions commenced on or after that date.

1998 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Bowie, Dockham, McMahan** for the Permanent Subcommittee on **Transportation** of the Standing Committee on **APPROPRIATIONS.**

☑ Committee Substitute for
H.B. 1081 ☑ A BILL TO BE ENTITLED AN ACT TO AMEND LAWS GOVERNING CONDEMNATION TO AUTHORIZE AWARD OF ATTORNEYS' FEES.

REPORTED TO THE STANDING COMMITTEE ON **APPROPRIATIONS.**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☑ Other recommended action: **POSTPONED INDEFINITELY.**

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:
for the Standing Committee on

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ 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 referred to the Committee on .)
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar. (PUBLIC BILLS ONLY)

4/24/97

1997

HOUSE AGRICULTURE

MINUTES

HOUSE COMMITTEE ON AGRICULTURE

1997 - 1998 SESSION

REPRESENTATIVE JOHN W. BROWN
CHAIRMAN

ANNA P. KIDD
COMMITTEE CLERK

BARBARA RILEY
STAFF COUNSEL

HOUSE AGRICULTURE COMMITTEE

John W. Brown

James C. Carpenter

Arlie F. Culp

Frank Mitchell

Dewey L. Hill

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Rex L. Baker

Charles M. Buchanan

Donald Spencer Davis

Rick L. Eddins

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Foyle Hightower, Jr.

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EX OFFICIO

Stephen Wood

SPEAKER PRO TEMPORE

Julia Craven Howard

MAJORITY WHIP

N. Leo Daughtry

MAJORITY LEADER

HOUSE AGRICULTURE COMMITTEE
MEMBERSHIP LIST
1997 SESSION

MEMBER (clerk)	TEL.	OFFICE	SEAT
REP. JOHN W. BROWN (CHAIRMAN)	3-5935	1111	1
ANNA P. KIDD (COMMITTEE CLERK)			
REP. CULP, V. CHAIR Wanete Lord	3-5865	1010	62
REP. MITCHELL, V.CHAIR Susan Thomason	3-5959	638	9
REP. CARPENTER, V.CHAIR Kara McGraw	3-5777	537	85
REP. HILL, RANKING MINORITY MEMBER Ginney McCann	3-5830	1309	21
REP. ALDRIDGE Susan Groh	3-5958	533	39
REP. BAKER Jo Hinton	5-3012	418A	50
REP. BUCHANON Shirley Phillips	3-5825	536	4
REP. DAVIS Audrey Johnson	5-3003	419C	89

REP. EDDINS Dorrie Monroe	3-5776	1 219	65
REP. FOX Sue Buehlmann	3-5661	1217	46
REP. HARDAWAY Jan Brooks	3-5530	1017	56
REP. HIGHTOWER Susan Burleson	3-5867	527A	82
REP. H. HUNTER Barbara Phillips	3-2962	613	68
REP. KISER Marilyn Holder	3-5803	1313	86
REP. McCRARY Barbara Berry	3-5780	610	55
REP. MERCER Kevin LeCount	5-2526	1424	60
REP. NICHOLS Bonnie Jones	5-6944	616	66
REP. OWENS Marie Sheets	3-0010	608	22
REP. REYNOLDS Tina Covington	3-5820	533	76
REP. ROGERS Judy Veorse	5-3023	416A	35
REP. SMITH Edna Collar	3-5827	1221	104
REP. TOLSON Gayle Christian	3-5607	609	59
REP. WATSON Eberon Watson	5-3015	417C	19

REP. WEATHERLY Debbie Puckett	3-5849	503	61
REP. YONGUE Jeanne Umstead	3-5823	1305	94
BARBARA RILEY Legal Staff	3-2578		

ATTENDANCE

Committee HOUSE AGRICULTURE COMMITTEE 1997 SESSION

[redacted]ES	2/11	2/18	2/25	3/4	3/11	3/18	3/25	4/1	4/8	4/15	4/22	4/29	5/6	5/13	5/20	5/29	5/27
BROWN, JOHN CHAIRMAN	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CARPENTER VICE CHAIR	✓		✓	✓	✓	✓	✓	✓			✓	✓	✓		✓	✓	✓
CULP VICE CHAIR	✓	✓	✓	✓	✓	EX	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
MITCHELL VICE CHAIR	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
HILL RANKING MINORITY MEMBER	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ALDRIDGE	✓	✓	✓	✓	✓	EX	✓	✓	✓	✓	EX	✓	✓	✓	✓	✓	
BAKER		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
BUCHANAN	✓		✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
DAVIS	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	EX	✓	✓	✓	
EDDINS	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓			
KISER		✓	✓	✓			✓		✓		EX	EX			✓	✓	✓
NICHOLS	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓			
REYNOLDS	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	
WATSON	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓		✓	
WEATHERLY							✓	✓			EX	EX					
FOX	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
McCRARY	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
MERCER	✓			✓							✓	✓	✓	✓	✓	✓	✓
OWENS	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ROGERS	✓	✓	EX	✓	✓		✓	✓	✓	✓	EX	✓	✓	✓	✓	✓	EX
SMITH	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓
TOLSON	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
HARDAWAY	✓		✓	✓	✓	✓	✓	✓					✓	✓		✓	
YONGUE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
HIGHTOWER	✓	✓		✓		✓		✓	✓	✓	✓		✓	✓			✓
HUNTER, H.	✓	✓					✓			✓			✓				
[redacted]																	
RILEY, BARBARA	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ANNA KIDD	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

ATTENDANCE

HOUSE AGRICULTURE COMMITTEE 1997 SESSION
(Name of Committee)

DATES	6/3	6/10													
BROWN, JOHN CHAIRMAN	✓	✓													
CARPENTER, VICE CHAIR	✓	✓													
CULP, VICE CHAIR	✓	✓													
MITCHELL, VICE CHAIR	✓	✓													
HILL, RANKING M. MEMBER	✓	✓													
ALDRIDGE	✓	✓													
BAKER	✓	✓													
BUCHANAN	✓	✓													
DAVIS	✓	E													
EDDINS	✓	✓													
KISER		X													
NICHOLS	✓	X													
REYNOLDS	✓	✓													
WATSON	✓	✓													
WEATHERLY		X													
FOX	✓	✓													
McCRARY	✓	✓													
MERCER	✓	X													
OWENS	✓	✓													
ROGERS	✓	✓													
SMITH	✓	✓													
TOLSON	✓	✓													
HARDAWAY		X													
YONGUE	✓	✓													
HIGHTOWER		✓													
HUNTER, H.	✓	X													
RILEY, BARBARA	✓	✓													
KIDD, ANNA	✓	X													

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1997-98 Regular Session — HOUSE: AGRICULTURE — Valid Through 9-SEP-1997

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 61=	BROWN	GS 106 OBSOLETE LAWS	*R -CH. SL 97-0074	02-05-97	02-25-97
H 96	DICKSON	INTANGIBLES TAX REMEDY	*R -CH. SL 97-0318	02-11-97	02-25-97
H 210=	BROWN	AG DEPT. NAME CHANGE	*R -CH. SL 97-0261	02-17-97	02-25-97
H 238=	MITCHELL	FACILITATE ANIMAL WASTE RESEARCH	*H -REF TO COM ON RULES	02-17-97	03-11-97
H 240=	MITCHELL	REMOVE ODOR CONTROL STUDY MATCH	*S -REF TO COM ON APPROPR	02-17-97	02-25-97
H 357	MITCHELL	GENERAL ANIMAL WASTE PERMITS	*H -RE-REF COM ON FINANCE	04-24-97	04-29-97
H 357	MITCHELL	GENERAL ANIMAL WASTE PERMITS	*H -RE-REF COM ON FINANCE	04-30-97	04-30-97
H 409=	YONGUE	AGRICULTURAL EMPLOYER APPEALS	R -CH. SL 97-0035	03-06-97	03-18-97
H 457	WEATHERLY	AMEND FOREST DEVELOPMENT ACT	*R -CH. SL 97-0352	03-10-97	04-02-97
H 463	OWENS	FARM PRODUCTS WEIGHT EXEMPTION	*R -CH. SL 97-0354	03-10-97	04-02-97
H 935	BEALL	PROMOTE LLAMA BREEDING	R -CH. SL 97-0084	04-14-97	04-22-97
H 980=	HARDY	CROP ALLOTMENT TAX APPRAISAL	*H -RE-REF COM ON FINANCE	04-17-97	06-11-97
H 998=	**BROWN**	**SOUTHERN DAIRY COMPACT**	**S -RE-REF COM ON APPROPR**	**04-17-97**	**05-27-97**
H 999	ROGERS	SOIL & WATER COMMISSION/INSPECTIONS	*R -CH. SL 97-0173	04-17-97	04-23-97
H1015=	RUSSELL	CROP ALLOTMENT TAX APPRAISAL	H -REF TO COM ON AGRICULT	04-21-97	
H1037	ARNOLD	SALE OF CERTAIN EXOTIC MEATS	*S -REF TO COM ON AGRICUL&	04-21-97	04-29-97
H1037	ARNOLD	SALE OF CERTAIN EXOTIC MEATS	*S -REF TO COM ON AGRICUL&	04-30-97	04-30-97
H1043=	**BROWN**	**FARM ENVIRONMENTAL COMPLIANCE FUND**	**H -RE-REF COM ON APPROP**	**04-21-97**	**04-29-97**
H1055=	**RUSSELL**	**ARBITRATION OF SEED CLAIMS**	***H -RE-REF COM ON FINANCE**	**04-21-97**	**06-04-97**
H1092=	CREECH	REDUCE FARM/INDUSTRY FUEL TAX	*H -RE-REF COM ON FINANCE	04-21-97	05-07-97
H1120=	MCCOMAS	PRESCRIBED BURNING IN FORESTS	*S -REF TO COM ON AGRICUL&	04-21-97	04-22-97
H1151	**ARNOLD**	**EASTERN NC LIVESTOCK ARENA FUNDS-2**	**H -ASSIGNED TO APP-CAP**	**04-22-97**	**05-14-97**
H1193	**BROWN**	**AGRICULTURAL FAIRS COMMITTEE/FUNDS**	**H -RE-REF COM ON APPROP**	**05-01-97**	**05-13-97**
S 172	ALBERTSON	NO SAFETY COURSE/DISABLED HUNTERS	*R -CH. SL 97-0365	03-27-97	04-16-97
S 266	LEDBETTER	PRODUCTION AND SALE OF RED DEER	*R -CH. SL 97-0142	04-16-97	05-07-97
S 508	PLYLER	TURKEY GROWER USE VALUE EXCEPTION	*R -CH. SL 97-0272	05-13-97	05-27-97

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.

BILL RD FORM

Committee Agriculture House

Date Received	House Bill	Senate Bill	Short Title	Action Taken	Date
2-5	61		GS 106 Obsolete Laws	Fav as Amended	2/25
2-11	96		Livestock Med Supplies Exempt	Fav as Com/Finance	2/25
2-17	210		Ag Dept Name Change	Fav	2/25
2-17	238		Facilitate Animal Waste Lgs.		
2-17	240		Remove Odor Control Study Moth	Fav	2/25
~~2-17~~					
~~2-17~~	238		Facilitate Animal Waste Mgt Rewrite	Fav as to Com Sub as to Bond Ref to Ag	3-11
	409		Agricultural Employee Appeals/APA	Fav	3-18
4/1	457		Amend Forest Weeds Act/APA		
	463		Farm Products Weight Exempt		
			Fav		
4/15		172	House Com Sub, Ung as to arg Recd		
			Reco on HCS be ref to F I →		4/15
4/22	935		Promote Llama Breeding	Fav	4/22
4/22	1120		Prescribed Burning in Forests	Fav + re-ref to F I	4/22
4/22	999		Soil & Water Conservation/Dist	Fav as amend/F II	4/22
4/29	357			Fav as amd /	
	1034			Dfav as amd /	
	1043			Fav + re-ref to Approp	4/29
4/29	357		~~Com Sub~~ General Animal Waste	Fav Com Sub Unfav	
	1037		~~Com Sub~~ Sale of Exotic Meats	Fav Com Sub Unfav Tabled Aye P.M	
5/13	1193		Agriculture Facilities	Fav Rep Appr	5/13
5/27		508	Turkey	Fav Rep Fav	
	998		Soybean Query Pro Compact	Fav Rep Appr	
5/6		266	Red Deer	Fav.	
	1092		Repeal Gas	Fav Com Sub unfav Bill re-ref Fin	

BILL RECORD FORM

Committee _____

Date Received	House Bill	Senate Bill	Short Title	Action Taken	Date
6/3	1055		Seed Arbitration	fav to Com Sub Unfav to orig refer to Jen	6/3

2/25/97

BILL ACTION WORKSHEET FOR COMMITTEE MEETINGS

Bill	HB 61	**Sponsor**	Brown
Favorable	✓	**Motion by**	Baker
Unfavorable		**Motion by**	
Amended	✓	**Motion by**	Cusp
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

****

Bill	HB 96	**Sponsor**	Dickson
Favorable	✓	**Motion by**	
Unfavorable		**Motion by**	
Amended	✓	**Motion by**	Hill
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred	Finance	**Motion by**	
Other Action			

****

Bill	HB 210	**Sponsor**	Brown
Favorable	✓	**Motion by**	Hill
Unfavorable		**Motion by**	
Amended		**Motion by**	
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

****

Bill	HB 240	**Sponsor**	Mitchell
Favorable	✓	**Motion by**	Nichols
Unfavorable		**Motion by**	
Amended		**Motion by**	
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

3/18/97

BILL ACTION WORKSHEET FOR COMMITTEE MEETINGS

Bill	HB 409	**Sponsor**	Younglee & Baker
Favorable	✓	**Motion by**	
Unfavorable		**Motion by**	
Amended		**Motion by**	
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

****

Bill		**Sponsor**	
Favorable		**Motion by**	
Unfavorable		**Motion by**	
Amended		**Motion by**	
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

****

Bill		**Sponsor**	
Favorable		**Motion by**	
Unfavorable		**Motion by**	
Amended		**Motion by**	
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

****

Bill		**Sponsor**	
Favorable		**Motion by**	
Unfavorable		**Motion by**	
Amended		**Motion by**	
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

4/22

BILL ACTION WORKSHEET FOR COMMITTEE MEETINGS

Bill	HB935	Sponsor	Beall
Favorable	✓	Motion by	Hightower
Unfavorable		Motion by	
Amended		Motion by	
Comm. Sub.		Motion by	
Original Bill			
Re-referred		Motion by	
Other Action			

****

Bill	HB 1120	Sponsor	McCoy
Favorable	✓	Motion by	
Unfavorable		Motion by	
Amended		Motion by	
Comm. Sub.		Motion by	
Original Bill			
Re-referred	✓ GI	Motion by	
Other Action			

****

Bill	HB 999	Sponsor	Rogers
Favorable	✓	Motion by	
Unfavorable		Motion by	Buckaloo
Amended	✓	Motion by	
Comm. Sub.		Motion by	
Original Bill			
Re-referred	✓	Motion by	J. H.
Other Action			

****

Bill		Sponsor	
Favorable		Motion by	
Unfavorable		Motion by	
Amended		Motion by	
Comm. Sub.		Motion by	
Original Bill			
Re-referred		Motion by	
Other Action			

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 61 A BILL TO BE ENTITLED AN ACT TO REPEAL OBSOLETE SECTIONS OF CHAPTER 106 OF THE NORTH CAROLINA GENERAL STATUTES.

☐ 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 GENERAL ASSEMBLY
AMENDMENT
House Bill 61

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H61-ARF-245-97d

Date_____,1997

Comm. Sub. [ ]
Amends Title [ ]

moves to amend the bill on page 1, lines 15 - 18 by rewriting those lines to read:

"Section 11. G.S. 106-436 through G.S. 106-451.1 are repealed.; and

further amends the bill by renumbering the remaining section accordingly".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 61*

Short Title: Proposed Changes/Chapter 106. (Public)

Sponsors: Representatives Brown; Culp and Hill.

Referred to: Agriculture.

February 5, 1997

A BILL TO BE ENTITLED

AN ACT TO REPEAL OBSOLETE SECTIONS OF CHAPTER 106 OF THE NORTH CAROLINA GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-5 is repealed.

Section 2. G.S. 106-9 is repealed.

Section 3. G.S. 106-12 is repealed.

Section 4. G.S. 106-13 is repealed.

Section 5. G.S. 106-15, 106-16, 106-17, and 106-18 are repealed.

Section 6. G.S. 106-19 is repealed.

Section 7. G.S. 106-21 is repealed.

Section 8. Article 15 of Chapter 106 of the General Statutes is repealed.

Section 9. G.S. 106-197 is repealed.

Section 10. G.S. 106-429.1 through G.S. 106-434 are repealed.

Section 11. G.S. 106-432.1 is repealed.

Section 12. G.S. 106-436 is repealed.

Section 13. G.S. 106-450.1 is repealed.

Section 14. G.S. 106-451.1 is repealed.

Section 15. 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) **John W Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 96 A BILL TO BE ENTITLED AN ACT TO EXPAND THE SALES TAX EXEMPTION FOR MEDICINE USED ON LIVESTOCK AND POULTRY TO INCLUDE VETERINARY SUPPLIES.

☐ 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 GENERAL ASSEMBLY
AMENDMENT
House Bill 96

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H96-ARF-246-97d

Date_____,1997

Comm. Sub. [ ]
Amends Title [ ]

1 moves to amend the bill on page 1, line 6,
2 by deleting the term "onanimals" and substituting the phrase "on
3 animals"."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

HOUSE BILL 96

Short Title: Livestock Medical Supplies Exempt. (Public)

Sponsors: Representatives Dickson; Culp, Mitchell, Rayfield, Smith, and Yongue.

Referred to: Agriculture, if favorable, Finance.

February 11, 1997

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE SALES TAX EXEMPTION FOR MEDICINE USED ON LIVESTOCK AND POULTRY TO INCLUDE VETERINARY SUPPLIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13(2a) reads as rewritten:

"(2a) Any of the following when purchased for use onanimals or plants, as appropriate, held or produced for commercial purposes:

a. Remedies, vaccines, medications, veterinary supplies and equipment, litter materials, and feeds for animals.

b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.

c. Defoliants for use on cotton or other crops.

d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops."

Section 2. This act becomes effective July 1, 1997, and applies to sales made 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) **John W. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 210 A BILL TO BE ENTITLED AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE TO THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.

☒ 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

HOUSE BILL 210*

Short Title: Ag Dept. Name Change. (Public)

Sponsors: Representatives Brown; and Yongue.

Referred to: Agriculture.

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE TO THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 19A-22 reads as rewritten:

"**§ 19A-22. Animal Welfare Section in Animal Health Division of Department of Agriculture created; Director.**

There is hereby created within the Animal Health Division of the North Carolina Department of ~~Agriculture,~~ Agriculture and Consumer Services, a new section thereof, to be known as the Animal Welfare Section of said division.

The Commissioner of Agriculture is hereby authorized to appoint a Director of said section whose duties and authority shall be determined by the Commissioner subject to the approval of the Board of Agriculture and subject to the provisions of this Article.

Section 2. G.S. 19A-23(8) reads as rewritten:

"(8) 'Director' means the Director of the Animal Welfare Section of the Animal Health Division of the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 3. G.S. 62-102(b)(6) reads as rewritten:

"(6) The Department of ~~Agriculture;~~ Agriculture and Consumer Services;".

Section 4. G.S. 66-58(b)(2) reads as rewritten:

"(2) The Department of Human Resources, the Department of Environment, Health, and Natural Resources, or the Department of Agriculture and Consumer Services for the sale of serums, vaccines, and other like products."

Section 5. G.S. 66-58(b)(13b) reads as rewritten:

"(13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department."

Section 6. G.S. 66-58(c)(7) and (8) read as rewritten:

"(7) The operation by penal, correctional or facilities operated by the Department of Human Resources or by the ~~State~~ Department of ~~Agriculture,~~ Agriculture and Consumer Services, of dining rooms for the inmates or clients or members of the staff while on duty and for the accommodation of persons visiting such inmates or clients, and other bona fide visitors.

(8) The sale by the Department of Agriculture and Consumer Services of livestock, poultry and publications in keeping with its present livestock and farm program."

Section 7. G.S. 81A-9(2) reads as rewritten:

"(2) Authorized Agent. -- An 'authorized agent' is any employee of the North Carolina Department of Agriculture and Consumer Services designated by the Commissioner to enforce any provisions of this Chapter and who is designated by an official identification card issued by the Commissioner."

Section 8. G.S. 81A-29 reads as rewritten:

"**§ 81A-29. Offenses and penalties.**

Any person who violates any provision of this section or any provision of this Chapter or regulations promulgated pursuant thereto for which a specific penalty has not been prescribed shall be guilty of a Class 2 misdemeanor upon a first conviction. Upon a subsequent conviction thereof, said person shall be guilty of a Class 1 misdemeanor. No person shall:

(1) Use or have in possession for use in commerce any incorrect weight or measure.

(2) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the Commissioner or his authorized agent.

(3) Hinder or obstruct any weights-and-measures official in the performance of his duties.

(4) Impersonate in any way any employee of the North Carolina Department of Agriculture and Consumer Services designated by the Commissioner to enforce any part of this Chapter.

(5) Use in retail trade, except in the preparation of packages put up in advance of sale, a weighing or measuring device which is not so positioned so that its indications may be accurately read and

the weighing or measuring operation observed from some position which may be reasonably assumed by a customer.

(6) Manufacture, use or possess a counterfeit seal, tag, mark, certificate, label or decal representing, imitating or copying the same issued by the Commissioner under this Chapter."

Section 9. G.S. 81A-51(3) reads as rewritten:

"(3) 'Department' means the North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 10. G.S. 81A-71 reads as rewritten:

"**§ 81A-71. Prerequisites for scale technician.** It shall be unlawful for any scale technician to render service as a scale technician until after he or she has compiled with the following requirements:

(1) Obtained from the Department of Agriculture and Consumer Services a copy of this Article, a copy of regulations pertinent to said Article, and an application form for registration.

(2) to (4) Repealed by Session Laws 1983, c. 111, s. 2, effective July 1, 1983.

(5) Obtained a registration card or certificate from the Commissioner or his authorized agent and a model form of service certificate.

(6) Obtained from the Department an annual certification of the standards of weight which will be used by the scale technician.

The provisions of this Article shall not apply to a full-time employee who renders service only on a scale or weighing device, or on scales or weighing devices, owned solely by his or her employer unless additional pay or compensation is received for such service."

Section 11. G.S. 90-187.10(10) reads as rewritten:

"(10) Any person employed by the North Carolina Department of Agriculture and Consumer Services as a livestock inspector or by the U.S. Department of Agriculture as an animal health technician from performing regular duties assigned to him or her during the course and scope of that person's employment."

Section 12. G.S. 105-130.37(b)(2) reads as rewritten:

"(2) 'Market price' means the season average price of the crop as determined by the North Carolina Crop and Livestock Reporting Service in the Department of ~~Agriculture,~~ Agriculture and Consumer Services, or the average price of the crop in the nearest local market for the month in which the crop is gleaned if the Crop and Livestock Reporting Service does not determine the season average price for that crop; and".

Section 13. G.S. 105-151.14(b)(2) reads as rewritten:

"(2) 'Market price' means the season average price of the crop as determined by the North Carolina Crop and Livestock Reporting Service in the Department of ~~Agriculture,~~ Agriculture and Consumer Services, or the average price of the crop in the

nearest local market for the month in which the crop is gleaned if the Crop and Livestock Reporting Service does not determine the season average price for that crop; and".

Section 14. G.S. 105-259(b)(14) reads as rewritten:

"(14) To exchange information concerning a tax imposed by Subchapter V of this Chapter with the Standards Division of the Department of Agriculture and Consumer Services when the information is needed to administer the Gasoline and Oil Inspection Act, Article 3 of Chapter 119 of the General Statutes."

Section 15. The Title to Article 1 of Chapter 106 reads as rewritten:

"ARTICLE 1.

Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 16. G.S. 106-2 reads as rewritten:

"§ 106-2. Department of Agriculture and Consumer Services established; Board of Agriculture, membership, terms of office, etc.

The Department of Agriculture and Consumer Services is created and established and shall be under the control of the Commissioner of Agriculture, with the consent and advice of a board to be styled "The Board of Agriculture." The Board of Agriculture shall consist of the Commissioner of Agriculture, who shall be ex officio a member and chairman thereof and shall preside at all meetings, and of 10 other members from the State at large, so distributed as to reasonably represent the different sections and agriculture of the State. In the appointment of the members of the Board the Governor shall also take into consideration the different agricultural interests of the State, and shall appoint one member who shall be a practical tobacco farmer to represent the tobacco farming interest, one who shall be a practical cotton grower to represent the cotton interest, one who shall be a practical truck farmer or general farmer to represent the truck and general farming interest, one who shall be a practical dairy farmer to represent the dairy and livestock interest of the State, one who shall be a practical poultryman to represent the poultry interest of the State, one who shall be a practical peanut grower to represent the peanut interests, one who shall be experienced in marketing to represent the marketing of products of the State. The members of such Board shall be appointed by the Governor by and with the consent of the Senate, when the terms of the incumbents respectively expire. The term of office of such members shall be six years and until their successors are duly appointed and qualified. The terms of office of the five members constituting the present Board of Agriculture shall continue for the time for which they were appointed. In making appointments for the enlarged Board of Agriculture, the Governor shall make the appointments so that the term of three members will be for two years, three for four and four for six years. Thereafter the appointments shall be made for six years. Vacancies in such Board shall be filled by the Governor for the unexpired term. The Commissioner of Agriculture and the members of the Board of Agriculture shall be practical farmers engaged in their profession."

Section 17. G.S. 106-17 reads as rewritten:

"§ 106-17. Acquisition of research farm.

The Department of Agriculture and Consumer Services is hereby authorized and empowered to acquire by purchase, gift, donation, or lease, a tract or boundary of land of not less than 100 acres in the sandhill section of North Carolina, and in northeastern North Carolina composed of the Counties of Camden, Chowan, Currituck, Gates, Pasquotank and Perquimans, to be developed and used as a 'research farm' for the purposes of work in investigation in agriculture.

Such 'research farm' when acquired and established shall be operated, managed and controlled as other 'research farms' in the State."

Section 18. G.S. 106-18 reads as rewritten:

"§ 106-18. Peanut research farm.

The Department of Agriculture and Consumer Services is hereby authorized and directed to purchase, establish and operate a research farm in some suitable place in the peanut section of eastern North Carolina for the purpose of studying the growing of peanuts, looking toward the improvement of seed, fertilizer, the control of disease, through experiments, and such other matters pertaining to the growth and improvement of the quality of peanuts. The said research farm to be purchased and established in time for operation not later than January 1, 1938. In doing this work the Department of Agriculture is authorized to make such reasonable expenditures for establishing and operating such peanut research farm as may be necessary for its proper conduct and in the same way as is now being done for the other research farms in the State. The research farm shall be established, operated and controlled by the Department of Agriculture as the other research farms for the study of other farm crops."

Section 19. G.S. 106-19 reads as rewritten:

"§ 106-19. State Chemist; duties of office.

The Department of Agriculture and Consumer Services shall employ an analyst or State Chemist skilled in agricultural chemistry, and such assistants as may be necessary. It shall be the duty of the State Chemist to analyze such fertilizers and products as may be required by this Department, and to aid as far as practicable in suppressing fraud in the sale of commercial fertilizers. He shall also, under the direction of the Department, analyze for citizens of the State such samples of ores, minerals, mineral and potable waters, soils, marls and phosphates as may be deemed by the Department of benefit to the development of the material interest of the State, when such samples are supplied under rules by the Department, and he shall carry on such other investigations as the Department may direct. He shall make regular reports to the Department of all analyses, assays, and experiments made, which shall be furnished when deemed needful to such newspapers as will publish the same."

Section 20. G.S. 106-21 reads as rewritten:

"§ 106-21. Timber conditions to be investigated and reported.

The Department of Agriculture and Consumer Services shall investigate and report upon the conditions of the timber in North Carolina, and recommend such legislation as will promote the growth thereof and preserve the same."

Section 21. G.S. 106-21.1 reads as rewritten:

"§ 106-21.1. Feed Advisory Service; fee.

The Department of Agriculture and Consumer Services shall operate a Feed Advisory Service for the analysis of animal feeds in order to provide a feeding management service to all animal producers in North Carolina. A fee of ten dollars ($10.00) shall accompany each feed sample sent to the Department for testing. A fee of seventy-five dollars ($75.00) shall accompany each feed sample which is to be tested for the presence of fumonisin."

Section 22. G.S. 106-21.2 reads as rewritten:

"**§ 106-21.2. Food Bank information and referral service.**

The Department of Agriculture and Consumer Services may maintain an information and referral service for persons and organizations that have notified the department of their desire to donate food to a nonprofit organization or a nonprofit corporation."

Section 23. G.S. 106-22.1 reads as rewritten:

"**§ 106-22.1. State farms.** State-owned farmland, including timberland, allocated to the Department of Agriculture and Consumer Services for the State Farm Program, shall be managed by the Department for research, teaching, and demonstration in agriculture, forestry, and aquaculture. Research projects on the State farms shall be approved by the Department. The Department may sell surplus commodities produced on the farms."

Section 24. G.S. 106-22.2 reads as rewritten:

"**§ 106-22.2. Museum of Natural Sciences; Maritime Museum; disposition of objects.**

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of Agriculture and Consumer Services may sell or exchange any object from the collections of the Museum of Natural Sciences and the Maritime Museum when it would be in the best interests of the Museums to do so. Sales or exchanges shall be conducted in accordance with generally accepted practices for accredited museums. If an object is sold, the net proceeds of the sale shall be deposited in the State treasury to the credit of a special fund to be used for the improvement of the Museums' collections or exhibits."

Section 25. G.S. 106-24 reads as rewritten:

"**§ 106-24. Collection and publication of information relating to agriculture; cooperation.**

The Department of Agriculture and Consumer Services shall collect, compile, systematize, tabulate, and publish statistical information relating to agriculture. The Department is authorized to use sample surveys to collect primary data relating to agriculture. The Department is authorized to cooperate with the United States Department of Agriculture and the several boards of county commissioners of the State, to accomplish the purpose of this Part."

Section 26. G.S. 106-24.1 reads as rewritten:

"**§ 106-24.1. Confidentiality of information collected and published.**

All information published by the Department of Agriculture and Consumer Services pursuant to this Part shall be classified so as to prevent the identification of information received from individual farm operators. All information received

pursuant to this Part from individual farm operators shall be held confidential by the Department and its employees. Information collected by the Department from individual farm operators for the purposes of its animal health programs may be disclosed by the State Veterinarian when, in his judgment, the disclosure will assist in the implementation of these programs."

Section 27. G.S. 106-65.23 reads as rewritten:

"**§ 106-65.23. Structural Pest Control Division of Department of Agriculture and Consumer Services recreated; Director; Structural Pest Control Committee created; appointment; terms; quorum.**

There is hereby recreated, within the North Carolina Department of ~~Agriculture,~~ Agriculture and Consumer Services, a Division thereof, to be known as the Structural Pest Control Division of said Department. The Commissioner of Agriculture is hereby authorized to appoint a Director of said Division whose duties and authority shall be determined by the Commissioner. Said Director shall act as secretary to the Structural Pest Control Committee herein created.

There is hereby created a Structural Pest Control Committee to be composed of the following members. The Commissioner shall appoint one member of the Committee who is not in the structural pest control business for a four-year term. The Commissioner of Agriculture shall designate an employee of the Department of Agriculture and Consumer Services to serve on said Committee at the pleasure of the Commissioner. The dean of the School of Agriculture of North Carolina State University at Raleigh shall appoint one member of the Committee who shall serve for one term of two years and who shall be a member of the entomology faculty of said University. The vacancy occurring on the Committee by the expired term of the member from the entomology faculty of said University shall be filled by the dean of the School of Agriculture of North Carolina State University at Raleigh who shall designate any person of his choice from the entomology faculty of said University to serve on said Committee at the pleasure of the dean. The Secretary of Environment, Health, and Natural Resources shall appoint one member of the Committee who shall be an epidemiologist in the Division of Health Services and who shall serve at the pleasure of the Secretary. The Governor shall appoint two members of said Committee who are actively engaged in the pest control industry, who are licensed in at least two phases of structural pest control as provided under G.S. 106-65.25(a), and who are residents of the State of North Carolina but not affiliates of the same company. The initial Committee members from the pest control industry shall be appointed as follows: one for a two-year term and one for a three-year term. The Governor shall appoint one member of the Committee who is a public member and who is unaffiliated with the structural pest control industry, the pesticide industry, the Department of ~~Agriculture,~~ Agriculture and Consumer Services, the Department of Environment, Health, and Natural Resources and the School of Agriculture at North Carolina State University at Raleigh. The initial public member shall be appointed for a term of two years, commencing July 1, 1991. After the initial appointments by the Governor, all ensuing appointments by the Governor shall be for terms of four years. Any vacancy occurring on the Committee by reason of death, resignation, or

otherwise shall be filled by the Governor or the Commissioner of Agriculture, as the case may be, for the unexpired term of the member whose seat is vacant. A member of the Committee appointed by the Governor shall not succeed himself.

The Committee shall make final decisions under this Article concerning licenses, certified applicator cards, and identification cards. The Committee shall report annually to the Board of Agriculture the action taken in the Committee's final decisions and the financial status of the Structural Pest Control Division.

The Director shall be responsible for and answerable to the Commissioner of Agriculture as to the operation and conduct of the Structural Pest Control Division.

Each member of the Committee who is not an employee of the State shall receive as compensation for services per diem and necessary travel expenses and registration fees in accordance with the provisions as outlined for members of occupational licensing boards and currently provided for in G.S. 93B-5. Such per diem and necessary travel expenses and registration fees shall apply to the same effect that G.S. 93B-5 might hereafter be amended.

Four members of the Committee shall constitute a quorum but no action at any meeting of the Committee shall be taken without four votes in accord. The chairman shall be entitled to vote at all times.

The Committee shall meet at such times and such places in North Carolina as the chairman shall direct; provided, however, that four members of the Committee may call a special meeting of the Committee on five days' notice to the other members thereof.

Except as otherwise provided herein, all members of the Committee shall be appointed or designated, as the case may be, prior to and shall commence their respective terms on July 1, 1967.

At the first meeting of the Committee they shall elect a chairman who shall serve as such at the pleasure of the Committee."

Section 28. G.S. 106-65.24(8a) reads as rewritten:

"(8a) 'Director' means the Director of the Structural Pest Control Division of the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 29. G.S. 106-65.24(9a) reads as rewritten:

"(9a) 'Enforcement agency' means the Structural Pest Control Division of the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 30. G.S. 106-65.44(4) reads as rewritten:

"(4) The term 'Division of Entomology' means the Division of the Department of Agriculture ~~so named.~~ and Consumer Services."

Section 31. G.S. 106-65.69(3) reads as rewritten:

"(3) Commissioner. -- The Commissioner of ~~the Department of~~ Agriculture of this State or any officer or employee of ~~said~~ the Department of Agriculture and Consumer Services or designated cooperator to whom authority to act in his stead has been or hereafter may be delegated."

Section 32. G.S. 106-121(2) reads as rewritten:

"(2) The term 'Commissioner' means the Commissioner of Agriculture; the term 'Department' means the Department of ~~Agriculture;~~ Agriculture and Consumer Services, and the term 'Board' means the Board of Agriculture."

Section 33. G.S. 106-134(8) reads as rewritten:

"(8) If it has been found by the Department of Agriculture and Consumer Services to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Board of Agriculture shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the Commissioner of Agriculture shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements."

Section 34. G.S. 106-141.1 reads as rewritten:

"**§ 106-141.1. Inspections of donated food.** (a) The Department of Agriculture and Consumer Services is authorized to inspect for compliance with the provisions of Article 12 of Chapter 106 of the North Carolina General Statutes, food items donated for use or distribution by nonprofit organizations or nonprofit corporations, and may establish procedures for the handling of the food items, including reporting procedures concerning the donation of food.

(b) The Department of Agriculture and Consumer Services may apply to Superior Court for injunctive relief restraining the violation of this section.

(c) Nothing in this section shall limit the duties or responsibilities of the Commission for Health Services or the local boards of health."

Section 35. G.S. 106-145.2(5) reads as rewritten:

"(5) Department. -- The Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 36. G.S. 106-185(a) reads as rewritten:

"(a) Scope. -- This Article gives the Department of Agriculture and Consumer Services the authority to investigate marketing conditions for and establish and maintain standard grades, packages, and State brands for farm products. As used in this Article, the term 'farm products' means farm crops, horticultural crops, and animal products."

Section 37. G.S. 106-202.14(a) reads as rewritten:

"(a) The North Carolina Plant Conservation Board is created within the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 38. G.S. 106-202.14(b)(6) reads as rewritten:

"(6) The Department of ~~Agriculture;~~ Agriculture and Consumer Services;".

Section 39. G.S. 106-202.15(12) reads as rewritten:

"(12) To promulgate regulations under which the Department of Agriculture and Consumer Services may issue permits to licensed nurserymen, commercial growers, scientific supply houses and botanical gardens for the sale or distribution of plants on the protected list provided that the plants are nursery propagated and grown horticulturally from seeds or by vegetative propagation of cuttings, meristems or other similar materials and that the plants bear the grower's permit number."

Section 40. G.S. 106-202.19(a)(7) reads as rewritten:

"(7) To fail to keep records as required under this Article, to refuse to make records available for inspection by the Board or its agent, or to use forms other than those provided for the current year or harvest season by the Department of ~~Agriculture;~~ Agriculture and Consumer Services;".

Section 41. G.S. 106-202.19(b) reads as rewritten:

"(b) The Commissioner or any employee of the Department of Agriculture and Consumer Services designated by the Commissioner to enforce the provisions of this Article, may enter any place within the State at all reasonable times where plant materials are being grown, transported or offered for sale and require the presentation for inspection of all pertinent papers and records relative to the provisions of this Article, after giving notice in writing to the owner or custodian of the premises to be entered. If he refuses to consent to the entry, the Commissioner may apply to any district court judge and the judge may order, without notice, that the owner or custodian of the place permit the Commissioner to enter the place for the purposes herein stated and failure by any person to obey the order may be punished as for contempt."

Section 42. G.S. 106-245.14(12) reads as rewritten:

"(12) 'Lots' means a physical grouping of eggs or containers with eggs therein, as determined by the North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 43. G.S. 106-245.31(3) reads as rewritten:

"(3) 'Department' means the North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 44. G.S. 106-251 reads as rewritten:

"§ 106-251. Department of Agriculture and Consumer Services to enforce law; examinations.

It shall be the duty of the Department of Agriculture and Consumer Services to enforce this Article, and the Board of Agriculture shall cause to be made by the experts of the Department such examinations of plants and products named herein as are necessary to insure the compliance with the provisions of this Article. For the purpose of inspection, the authorized experts of the Department shall have authority, during business hours, to enter all plants or storage rooms where cream, ice cream, butter, or cheese or ingredients used in the same are made, stored, or kept, and any person who shall hinder, prevent, or attempt to prevent any duly authorized expert

of the Department in the performance of his duty in connection with this Article shall be guilty of a violation of this Article."

Section 45. G.S. 106-266.6(5) reads as rewritten:

"(5) 'Health authorities' includes the Department of Environment, Health, and Natural Resources, the ~~State~~ North Carolina Department of ~~Agriculture,~~ Agriculture and Consumer Services, the Commissioner of Agriculture, and the local health authorities."

Section 46. G.S. 106-268 reads as rewritten:

"**§ 106-268. Definitions; enforcement of Article.**

The definitions set forth in this section shall apply to milk, dairy products, ice cream, frozen desserts, frozen confections or any other products which purport to be milk, dairy products or frozen desserts for which a definition and standard of identity has been established and when any of such products heretofore enumerated shall be sold, offered for sale or held with intent to sell by a milk producer, manufacturer or distributor, and insofar as practicable and applicable, the definitions contained in Article 12 of Chapter 106 of the General Statutes, as amended, shall be effective as to the products enumerated in this Article and section.

The term 'adulteration' means:

(1) Failure to meet definitions and standards as established by the Board of Agriculture.

(2) If any valuable constituent has been in whole or in part omitted or abstracted therefrom.

(3) If any substance has been substituted wholly or in part thereof.

(4) If it is adjudged to be unfit for human consumption.

The term 'misbranded' means:

(1) If its labeling is false or misleading in any particular.

(2) If it is offered for sale under the name of another dairy product or frozen dessert.

(3) If it is sold in package form unless it bears a prominent label containing the name of the defined product, name and address of the producer, processor or distributor and carries an accurate statement of the quantity of contents in terms of weight or measure.

The Department of ~~Agriculture,~~ Agriculture and Consumer Services, through its agents or inspectors, shall have free access during business hours to all places of business, buildings, vehicles, cars, storage places, containers and vessels used in the production, testing, processing and distribution of milk, cream, butter, cheese, ice cream, frozen dessert or any dairy product for which standards of purity and of identity have been established, as well as any substance which purports to be milk, dairy products, frozen dessert or confection for which a definition and standard of purity has been established; the Department ~~of Agriculture,~~ acting through its duly authorized agents and inspectors, may open any box, carton, parcel, package or container holding or containing, or supposed to hold or contain any of the

above-enumerated dairy products, as well as related products, and may take therefrom samples for analysis, test or inspection. If it appears that any of the provisions of this Article or of this section have been violated, or whenever a duly authorized agent of the Department ~~of Agriculture~~ has cause to believe that any milk, cream, butter, cheese, ice cream, frozen dessert or any dairy product for which standards of purity and of identity have been established or any substance which purports to be milk, a dairy product or a frozen dessert for which a definition and standard of identity has been established, is adulterated or misbranded or by reason of contamination with microorganisms has become deleterious to health during production, processing or distribution, and such products, or any of them, are in a stage of production, or are being exposed for sale, or are being held for processing or distribution or such products are being held with intent to sell the same, such agent or inspector is hereby authorized to issue a 'stop-sale' order which shall prohibit further sale of any of the products above enumerated or which shall prohibit further processing, production or distribution of any of the products above enumerated. The agent or inspector shall affix to such product a tag or other appropriate marking giving notice that such product is, or is suspected of, being adulterated, misbranded or contaminated and that the same has been detained or embargoed, and warning all persons not to remove or dispose of such product, by sale or otherwise, until permission for removal or disposal is given by such agent or inspector, until the law or regulation has been complied with or said violation has otherwise been legally disposed of. It shall be unlawful for any person to remove or dispose of any embargoed product, by sale or otherwise, without such permission: Provided, that if such adulteration or misbranding can be corrected by proper labeling or processing of the products so that the products meet the definitions and standards of purity and identity, then with the approval of such agent or inspector, sale and removal may be made. Any milk, dairy products or any of the products enumerated in this Article or section not in compliance with this Article or section shall be subject to seizure upon complaint of the Commissioner of Agriculture, or any of the agents or inspectors of the Department of ~~Agriculture,~~ Agriculture and Consumer Services, to a court of competent jurisdiction in the area in which said products are located. In the event the court finds said products, or any of them, to be in violation of this Article or of this section, the court may order the condemnation of said products, and the same shall be disposed of in any manner consistent with the rules and regulations of the Board of Agriculture and the laws of the State and in such a manner as to minimize any loss or damage as far as possible: Provided, that in no instance shall the disposition of said products be ordered by the court without first giving the claimant or owner of same an opportunity to apply to the court for the release of said products or for permission to again process or relabel the same so as to bring the product in compliance with this Article or section. In the event any 'stop-sale' order shall be issued under the provisions of this Article or section, the agents, inspectors or representatives of the Department of Agriculture and Consumer Services shall release the products, or any of them, so withdrawn from sale when the requirements of the provisions of this

Article and section have been complied with and upon payment of all costs and expenses incurred in connection with the withdrawal."

Section 47. G.S. 106-277.9(7) reads as rewritten:

"(7) To use the name of the Department of Agriculture and Consumer Services or the results of tests and inspections made by the Department for advertising purposes."

Section 48. G.S. 106-277.28(3) reads as rewritten:

"(3) Each seed dealer or grower who has seed, whether originated or labeled by the dealer or grower, that is offered for sale in this State shall report the quantity of seed offered for sale and pay an inspection fee of two cents (2¢) for each container of seeds weighing 10 pounds or more. Seed shall be subject to the inspection fee and reporting requirements only once in any 12-month period. This fee does not apply to seed grown by a farmer and offered for sale by the farmer at the farm where the seed was grown.

Each seed dealer or grower shall keep accurate records of the quantity of seeds and container weights offered for sale from each distribution point in the State. These records shall be available to the Commissioner or an authorized representative of the Commissioner at any and all reasonable hours for the purpose of verifying the quantity of seed offered for sale and the fees paid. Each seed dealer or grower shall report quarterly on forms furnished by the Commissioner the quantity and container weight of seeds first offered for sale that quarter. The reports shall be made on the first day of January, April, July, and October, or within 10 days thereafter. Inspection fees shall be due and paid with the next quarterly report filed after the seed is first offered for sale. If the report is not filed and the inspection fees paid to the Department of Agriculture and Consumer Services by the tenth day following the date due, or if the report of the quantity or container weights is false, the Commissioner may issue a stop-sale order for all seed offered for sale by the dealer or grower. If the inspection fees are unpaid more than 15 days after the due date, the amount due shall bear a penalty of ten percent (10%) which shall be added to the inspection fees due."

Section 49. G.S. 106-307.1 reads as rewritten:

"**§ 106-307.1. Serums, vaccines, etc., for control of animal diseases.**

The North Carolina Department of Agriculture and Consumer Services is authorized and empowered to purchase for resale serums, viruses, vaccines, biologics, and other products for the control of animal and poultry diseases. The resale of said serums, viruses, vaccines, biologics and other products shall be at a reasonable price to be determined by the Commissioner of Agriculture."

Section 50. G.S. 106-313 reads as rewritten:

"**§ 106-313. Price of serum to be fixed.**

The Department of Agriculture and Consumer Services shall fix the price of anti-hog-cholera serum at such an amount as will cover the cost of production."

Section 51. G.S. 106-322.3(10) reads as rewritten:

"(10) Where the owner has failed to submit the reports required by the United States Department of Agriculture and the North Carolina ~~Departments~~ Department of Agriculture and Consumer Services for animals on which indemnity is paid under Article 34."

Section 52. G.S. 106-418.10 reads as rewritten:

"**§ 106-418.10. Prohibited conduct.**

It shall be unlawful for any person to:

(1) Carry on or conduct the business of a livestock dealer without a current valid license issued by the North Carolina Department of Agriculture and Consumer Services under the provisions of this Article;

(2) Fail to keep the records required by G.S. 106-418.13."

Section 53. G.S. 106-426 reads as rewritten:

"**§ 106-426. Expert graders to be employed; cooperation with United States Department of Agriculture.**

The North Carolina Department of Agriculture and Consumer Services shall have authority to employ expert cotton graders to grade cotton in this State under such rules and regulations as it may adopt. The ~~North Carolina~~ Department ~~of Agriculture~~ may seek the aid of the United States Department of Agriculture in the prosecution of this work, and shall have authority to enter into such contracts or arrangements as shall be mutually agreeable in furtherance of the object and purpose of this Article."

Section 54. G.S. 106-451.7(7) reads as rewritten:

"(7) 'Warehouseman' means a person licensed by North Carolina Department of Agriculture and Consumer Services to engage in the business of storing cotton for hire."

Section 55. G.S. 106-451.9(2) and (3) read as rewritten:

"(2) To assign and reassign the administrative and enforcement duties and functions assigned to him in this Article to one or more divisions within the Department of ~~Agriculture.~~ Agriculture and Consumer Services.

(3) To delegate to any division head and other officer or employee of the Department of ~~Agriculture~~ Agriculture and Consumer Services any of the powers and duties given to the Department by statute or by rules promulgated pursuant to this Article."

Section 56. G.S. 106-542 reads as rewritten:

"**§ 106-542. Hatcheries, chick dealers and others to obtain license to operate.**

(a) It shall be unlawful for any person, firm or corporation to operate a hatchery within this State without first obtaining a hatchery license from the Department of Agriculture and Consumer Services for a fee of twenty-five dollars ($25.00) per year.

(b) It shall be unlawful for any person, firm or corporation to operate as a hatching egg dealer, chick dealer or jobber within this State without first obtaining a license from the Department of Agriculture and Consumer Services for a fee of ten dollars ($10.00) per year.

(c) The Department of Agriculture and Consumer Services may deny, suspend, revoke or refuse to renew the license of any person, firm or corporation for violation of this Article or any rule or regulation promulgated thereunder."

Section 57. G.S. 106-549.01 reads as rewritten:

"**§ 106-549.01. Civil penalties.**

The Department of Agriculture and Consumer Services may assess a civil penalty of not more than five thousand dollars ($5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Department shall consider the degree and extent of harm caused by the violation."

Section 58. G.S. 106-549.15(3) reads as rewritten:

"(3) 'Authorized representative' means the Director of the Meat and Poultry Inspection Service of the North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 59. G.S. 106-549.29 reads as rewritten:

"**§ 106-549.29. North Carolina Department of Agriculture and Consumer Services responsible for cooperation.**

(a) The North Carolina Department of Agriculture and Consumer Services is hereby designated as the State agency which shall be responsible for cooperating with the Secretary of Agriculture of the United States under the provisions of section 301 of the Federal Meat Inspection Act and such agency is directed to cooperate with the Secretary of Agriculture of the United States in developing and administering the meat inspection program of this State under this and the previous Article in such a manner as will effectuate the purposes of this and the previous Article.

(b) In such cooperative efforts, the North Carolina Department of Agriculture and Consumer Services is authorized to accept from said Secretary advisory assistance in planning and otherwise developing the State program, technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program.

(c) The North Carolina Department of Agriculture and Consumer Services is further authorized to recommend to the said Secretary of Agriculture such officials or employees of this State as the Commissioner shall designate, for appointment to the advisory committees provided for in Section 301 of the Federal Meat Inspection Act; and the Commissioner or his authorized representative shall serve as the representative of the Governor for consultation with said Secretary under paragraph (c) of Section 301 of said act."

Section 60. G.S. 106-549.38 reads as rewritten:

"**§ 106-549.38. Rules and regulations of State Department of ~~Agriculture.~~ Agriculture and Consumer Services.**

All rules and regulations of the ~~North Carolina~~ Department of Agriculture and Consumer Services not inconsistent with the provisions of this Article shall remain in full force and effect until amended or repealed by the Board."

Section 61. G.S. 106-549.51(12) and (13) read as rewritten:

"(12) 'Inspection service' means the official government service within ~~this State~~ the Department of Agriculture and Consumer Services designated by the Commissioner as having the responsibility for carrying out the provisions of this Article.

(13) 'Inspector' means an employee or official of the ~~State~~ Department of Agriculture and Consumer Services authorized by the Commissioner to inspect poultry and poultry products under the authority of this Article, or any employee or official of the government of any county or other governmental subdivision of this State authorized by the Commissioner to inspect poultry and poultry products under authority of this Article, under an agreement entered into between the Department ~~of Agriculture~~ and such governmental subdivision."

Section 62. G.S. 106-549.52 reads as rewritten:

"(a) The Department of Agriculture and Consumer Services is hereby designated as the State agency which shall be responsible for cooperating with the Secretary of Agriculture of the United States under the provisions of section 5 of the Federal Poultry Products Inspection Act and such agency is directed to cooperate with the Secretary of Agriculture of the United States in developing and administering the poultry products inspection program of this State under this Article and in developing and administering the program of this State under G.S. 106-549.58 in such a manner as will effectuate the purposes of this Article and said federal act.

(b) In such cooperative efforts, the Department ~~of Agriculture~~ is authorized to accept from said Secretary advisory assistance in planning and otherwise developing the State program, technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program.

(c) The Department ~~of Agriculture~~ is further authorized to recommend to the Secretary of Agriculture such officials or employees of this State as the Commissioner shall designate, for appointment to the advisory committees provided for in section 5 of the Federal Poultry Products Inspection Act; and the Commissioner shall serve as the representative of the Governor for consultation with said Secretary under subsection (c) of section 5 of said act."

Section 63. G.S. 106-549.94 reads as rewritten:

"**§ 106-549.94. Regulation of pen-raised quail by Department of ~~Agriculture;~~ and Consumer Services; certain authority of North Carolina Wildlife Resources Commission not affected.**

(a) The ~~North Carolina~~ Department of Agriculture and Consumer Services is given exclusive authority to regulate the production and sale of pen-raised quail for food purposes. The Board of Agriculture shall promulgate rules and regulations for

the production and sale of pen-raised quail for food purposes in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling pen-raised quail for food purposes.

(b) The North Carolina Wildlife Resources Commission shall retain its authority to regulate the possession and transportation of live pen-raised quail."

Section 64. G.S. 106-549.97 reads as rewritten:

"**§ 106-549.97. Regulation of fallow deer by Department of ~~Agriculture;~~ Agriculture and Consumer Services; certain authority of North Carolina Wildlife Resources Commission not affected.**

(a) The Department of Agriculture and Consumer Services shall regulate the production and sale of fallow deer for food purposes. The Board of Agriculture shall adopt rules for the production and sale of fallow deer for food purposes in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling fallow deer for food purposes.

As used in this section, 'fallow deer' (Dama dama spp.) means a small European deer raised commercially for production and sale for food purposes.

(b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation of live fallow deer and may adopt rules to prevent the release or escape of fallow deer upon finding that it is necessary to protect live fallow deer or to prevent damage to the native deer population or its habitat."

Section 65. G.S. 106-621(1) reads as rewritten:

"(1) Adulterated grain: Grain which contains any substance, such as, but not limited to, Captan, carbon tetrachloride, Malathion, Parathion, DDT, Dieldrin, Thiram, Endrin, Heptachlor, Maneb, Methoxychlor, 2, 6-dichloro, 4-nitroaniline, pentachloronitrobenzene, hexachlorobenzene, Demeton, Phorate, Carbophenothion, in excess of the tolerance for human or animal consumption established for such substances by the laws of the State or the regulations of the ~~North Carolina~~ Department of ~~Agriculture,~~ Agriculture and Consumer Services or both the State and the Department."

Section 66. G.S. 106-627 reads as rewritten:

"**§ 106-627. Determination of adulteration.**

For purposes of evidence under this Article, the grain dealer or his agent, upon receipt or pending receipt of suspected adulterated grain, may, at his discretion, call any law-enforcement officer to verify the sampling technique, [and] origin of sampled grain and subsequently send or request the law-enforcement officer to send the sample of grain in a sealed package to the Department of Agriculture and Consumer Services for inspection and analysis in order to protect only the chain of evidence.

Upon [a] finding by the Department ~~of Agriculture~~ that said sample is adulterated grain, the Department shall notify the grain dealer of the results and return the sample to the original sender in a sealed package."

Section 67. G.S. 106-635(10) reads as rewritten:

"(10) The term 'Department' means the North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 68. G.S. 106-662(b)(6) reads as rewritten:

"(6) In the trial of any suit or action wherein there is called in question the value or composition of any lot of commercial fertilizer, a certificate signed by the fertilizer chemist and attested with the seal of the Department of ~~Agriculture,~~ Agriculture and Consumer Services, setting forth the analysis made by the chemist of the Department ~~of Agriculture,~~ of any sample of said commercial fertilizer, drawn under the provisions of this section and analyzed by them under the provisions of the same, shall be prima facie proof that the lot of fertilizer represented by the sample was of the value and constituency shown by said analysis. And the said certificate of the chemist shall be admissible in evidence."

Section 69. G.S. 106-662(e)(2) reads as rewritten:

"(2) The sample shall be drawn in the presence of the manufacturer, seller, or representative designated by either party together with two disinterested adult persons; or in case the manufacturer, seller, or representative of either refuses or is unable to witness the drawing of such a sample, a sample may be drawn in the presence of three disinterested adult persons; provided, any such sample shall be taken with the same type of sampler as used by the inspector of the Department of Agriculture and Consumer Services in taking samples and shall be drawn, mixed, and divided, as directed in subdivisions (1), (2), (3), and (4) of subsection (b) of this section, except that the sample shall be divided into two parts each to consist of at least one pound. Each of these is to be placed into a separate, tight container, securely sealed, properly labeled, and one sent to the Commissioner for analysis and the other to the manufacturer. A certificate statement in a form which will be prescribed and supplied by the Commissioner must be signed by the parties taking and witnessing the taking of the sample. Such certificate is to be made and signed in duplicate and one copy sent to the Commissioner and the other to the manufacturer or seller of the brand sampled. The witnesses of the taking of any sample, as provided for in this section, shall be required to certify that such sample has been continuously under their observation from the taking of the sample up to and including the delivery of it to an express agency, a post office or to the office of the Commissioner."

Section 70. G.S. 106-708(5) reads as rewritten:

"(5) 'Department' means the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 71. G.S. 106-758(5) reads as rewritten:

"(5) 'Department' means the North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 72. G.S. 106-760(a) and (b) read as rewritten:

"(a) There is created within the Department of Agriculture and Consumer Services the Aquaculture Advisory Board, to consist of the following persons:

(1) The Commissioner of Agriculture, or his designee;
(2) The Secretary of Commerce, or his designee;
(3) The Secretary of Environment, Health, and Natural Resources, or his designee;
(4) The President of the North Carolina Biotechnology Center, or his designee;
(5) The President of the University of North Carolina, or his designee;
(6) One Senator designated by the President Pro Tempore of the Senate; and
(7) One Representative designated by the Speaker of the House of Representatives.

(b) The Commissioner of Agriculture or his designee shall serve as Chairman of the Board. A majority of the Board shall constitute a quorum for the transaction of business. Clerical and other assistance shall be provided by the Department of ~~Agriculture.~~ Agriculture and Consumer Services. The Commissioner may appoint advisory committees, pursuant to G.S. 143B-10(d), to assist the Board in carrying out its duties."

Section 73. G.S. 106-761(a) reads as rewritten:

"(a) Authority. The North Carolina Department of Agriculture and Consumer Services shall regulate the production and sale of commercially raised freshwater fish and freshwater crustacean species. The Board of Agriculture shall promulgate rules for the registration of facilities for the production and sale of freshwater aquaculturally raised species. The Board may prescribe standards under which commercially reared fish may be transported, possessed, bought, and sold. The Department ~~of Agriculture~~ and Board of Agriculture authority shall be limited to commercially reared fish and shall not include authority over the wild fishery resource which is managed under the authority of the North Carolina Wildlife Resources Commission. The authority granted herein to regulate facilities licensed pursuant to this section does not authorize the Department of Agriculture or the Board of Agriculture to promulgate rules that (i) are inconsistent with rules adopted by any other State agency; or (ii) exempt such facilities from the rules adopted by any other State agency."

Section 74. G.S. 106-761(d) reads as rewritten:

"(d) Aquaculture Propagation and Production Facility License. The Board of Agriculture may, by rule, authorize and license the operation of fish hatcheries and production facilities for species of fish listed in subsection (b) of this section. The Board may prescribe standards of operation, qualifications of operators, and the

conditions under which fish may be commercially reared, transported, possessed, bought, and sold. Aquaculture Propagation and Production Licenses issued by the ~~North Carolina~~ Department ~~of Agriculture~~ shall be valid for a period of five years."

Section 75. G.S. 106-761(e)(1) reads as rewritten:

"(1) Commercial catchout facilities must be stocked exclusively with hatchery reared fish obtained from hatcheries approved by the Department ~~of Agriculture~~ to prevent the introduction of diseases. The Board of Agriculture may, by rule, prescribe standards of operation and conditions under which fish from such ponds may be taken, transported, possessed, bought, and sold."

Section 76. G.S. 106-761(g) reads as rewritten:

"(g) Possession of species other than those listed in subsection (b) of this section or as authorized in writing by the Wildlife Resources Commission shall be a violation which shall result in the revocation of the Aquaculture Propagation and Production Facility or Commercial Catchout Facility License until such time that proper authorization is received from the Wildlife Resources Commission or the unauthorized species is removed from the facility. In the event of possession of unauthorized fish species, the Wildlife Resources Commission may take further regulatory action. The Department ~~of Agriculture~~ and the Wildlife Resources Commission shall have authority to enter the premises of such facilities to inspect for the possession of a species other than those authorized in subsection (b) of this section or authorized by written permission of the Wildlife Resources Commission."

Section 77. G.S. 106-762(a) reads as rewritten:

"(a) The North Carolina Department of Agriculture and Consumer Services shall, with the assistance of the Wildlife Resources Commission, develop and implement a fish disease management plan to prevent the introduction of fish diseases through aquaculture facilities subject to the provisions and duly adopted rules of this section into the State."

Section 78. G.S. 106-783(3) reads as rewritten:

"(3) 'Department' means the North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 79. G.S. 106-792(3) reads as rewritten:

"(3) Department. -- The North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 80. G.S. 113-129(16) reads as rewritten:

"(16) Wildlife. -- Wild animals; wild birds; all fish found in inland fishing waters; and inland game fish. Unless the context clearly requires otherwise, the definitions of wildlife, wildlife resources, wild animals, wild birds, fish, and the like are deemed to include species normally wild, or indistinguishable from wild species, which are raised or kept in captivity. Nothing in this definition is intended to abrogate the exclusive authority given the Department of Agriculture and Consumer Services to regulate the production and sale of pen-raised quail for food purposes."

Section 81. G.S. 113-273(h) reads as rewritten:

"(h) Game Bird Propagation License. -- No person may propagate game birds in captivity or possess game birds for propagation without first procuring a license under this subsection. The Wildlife Resources Commission may by rule prescribe the activities to be covered by the propagation license, which species of game birds may be propagated, and the manner of keeping and raising the birds, in accordance with the overall objectives of conservation of wildlife resources. Except as limited by this subsection, propagated game birds may be raised and sold for purposes of propagation, stocking, food, or taking in connection with dog training as authorized in G.S. 113-291.1(d). Migratory game bird operations authorized under this subsection must also comply with any applicable provisions of federal law and rules. The Wildlife Resources Commission may impose requirements as to shipping, marking packages, banding, tagging, or wrapping the propagated birds and other restrictions designed to reduce the change of illicit game birds being disposed of under the cover of licensed operations. The Wildlife Resources Commission may make a reasonable charge for any bands, tags, or wrappers furnished propagators. The game bird propagation license is issued by the Wildlife Resources Commission upon payment of a fee of five dollars ($5.00). It authorizes a person or individual to propagate and sell game birds designated in the license, in accordance with the rules of the Wildlife Resources Commission, except:

(1) Wild turkey and ruffed grouse may not be sold for food.

(2) Production and sale of pen-raised quail for food purposes is under the exclusive control of the Department of ~~Agriculture.~~ Agriculture and Consumer Services. The Wildlife Resources Commission, however, may regulate the possession, propagation, and transportation of live pen-raised quail.

Wild turkey acquired or raised under a game bird propagation license shall be confined in a cage or pen approved by the Wildlife Resources Commission and no such wild turkey shall be released for any purpose or allowed to range free. It is a Class 3 misdemeanor to sell wild turkey or ruffed grouse for food purposes, to sell quail other than lawfully acquired pen-raised quail for food purposes, or to release or allow wild turkey to range free."

Section 82. G.S. 113A-164.4(3) reads as rewritten:

"(3) Maintain a Natural Heritage Program to provide assistance in the selection and nomination for registration or dedication of natural areas. The Program shall include classification of natural heritage resources, an inventory of their locations, and a data bank for that information. The Program shall cooperate with the Department of Agriculture and Consumer Services in the selection and nomination of areas that contain habitats for endangered and rare plant species, and shall cooperate with the Wildlife Resources Commission in the selection and nomination of areas that contain habitats for endangered and rare animal species. Information from the natural heritage data bank may be made available to

public agencies and private persons for environmental assessment and land management purposes. Use of the inventory data for any purpose inconsistent with the Natural Heritage Program may not be authorized. The Program shall include other functions as may be assigned for registration, dedication, and protection of natural areas and nature preserves."

Section 83. G.S. 119-26.1 reads as rewritten:

"**§ 119-26.1. Oxygen content standards and reformulated gasoline.**

(a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the oxygen content of gasoline or to require the use of reformulated gasoline shall be implemented by the Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board. Such rules shall be implemented within any area specified by the Environmental Management Commission when the Commission certifies to the Commissioner of Agriculture that implementation:

(1) Will improve the ambient air quality within the specified county or counties;

(2) Is necessary to achieve attainment or preclude violations of the National Ambient Air Quality Standards; or

(3) Is otherwise necessary to meet federal requirements.

(b) The Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent with the implementation schedule and rules adopted by the Environmental Management Commission.

(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section shall not relieve any person from any other penalty or remedy authorized under this Article.

(d) The Commissioner of Agriculture may delegate his powers and duties under this subsection to the Director of the Standards Division of the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 84. G.S. 119-27.1(b) reads as rewritten:

"(b) The North Carolina Department of Agriculture and Consumer Services shall have the responsibility for the enforcement of this section."

Section 85. G.S. 122D-3(6) reads as rewritten:

"(6) 'Department' means the North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 86. G.S. 130A-250(9) reads as rewritten:

"(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 and Consumer Services or the United States Department of Agriculture."

Section 87. G.S. 130A-278 reads as rewritten:

"**§ 130A-278. Certain authorities of Department of Agriculture and Consumer Services not replaced.**

This Part shall not repeal or limit the Department of ~~Agriculture's~~ Agriculture and Consumer Services' authority to carry out labeling requirements, required butterfat testing, aflatoxin testing, pesticide testing, other testing performed by the Department of Agriculture and Consumer Services any other function of the Department of Agriculture and Consumer Services concerning Grade 'A' milk which is not inconsistent with this Article."

Section 88. G.S. 136-18.2 reads as rewritten:

"**§ 136-18.2. Seed planted by Department of Transportation to be approved by Department of Agriculture.**

The Department of Transportation shall not cause any seed to be planted on or along any highway or road right-of-way unless and until such seed has been approved by the ~~State~~ Department of Agriculture and Consumer Services as provided for in the rules and regulations of the Department of Agriculture and Consumer Services for such seed."

Section 89. G.S. 143-64.5 reads as rewritten:

"**§ 143-64.5. Department of Agriculture and Consumer Services exempted from application of Article.**

Notwithstanding any provisions or limitations of Part 2 of this Article, the North Carolina Department of Agriculture and Consumer Services is authorized and empowered to distribute food, surplus commodities and agricultural products under contracts and agreements with the federal government or any of its departments or agencies, and ~~the North Carolina Department of Agriculture~~ is authorized and empowered to adopt rules in order to conform with federal requirements and standards for such distribution and also for the proper distribution of such food, commodities and agricultural products. To the extent set forth above and in this section, the provisions of Part 2 of this Article shall not apply to the North Carolina Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 90. G.S. 143-436(b)(1) reads as rewritten:

"(1) One member each representing the North Carolina Department of Agriculture and Consumer Services and two members representing the North Carolina Department of Environment, Health, and Natural Resources, one of whom shall be the State Health Director or his designee and one of whom shall represent an environmental protection agency. The persons so selected may be either members of a policy board or departmental officials or employees."

Section 91. G.S. 143-438 reads as rewritten:

"**§ 143-438. Commissioner of Agriculture to administer and enforce Article.**

The Commissioner of Agriculture shall have the following powers and duties under this Article:

(1) To administer and enforce the provisions of this Article.

(2) To attend all meetings of the Pesticide Board, but without power to vote (unless he be designated as the ex officio member of the Board from the Department of ~~Agriculture).~~ Agriculture and Consumer Services).

(3) To keep an accurate and complete record of all Board meetings and hearings, and to have legal custody of all books, papers, documents and other records of the Board.

(4) To assign and reassign the administrative and enforcement duties and functions assigned to him in this Article to one or more of the divisions and other units within the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

(5) To direct the work of the personnel employed by the Board and of the personnel of the Department of Agriculture and Consumer Services who have responsibilities concerning the programs set forth in this Article.

(6) To delegate to any division head or other officer or employee of the Department of Agriculture and Consumer Services any of the powers and duties given to the Department by statute or by the rules, regulations and procedures established pursuant to this Article.

(7) To perform such other duties as the Board may from time to time direct."

Section 92. G.S. 143-468 reads as rewritten:

"**§ 143-468. Disposition of fees and charges.**

(a) Except as provided in subsection (b), all fees and charges received by the Board under this Article shall be credited to the Department of Agriculture and Consumer Services for the purpose of administration and enforcement of this Article.

(b) The Pesticide Environmental Trust Fund is established as a nonreverting account within the Department of ~~Agriculture.~~ Agriculture and Consumer Services. The Department of Agriculture and Consumer Services shall administer the Fund. The additional assessment imposed by G.S. 143-442(b) on the registration of a brand or grade of pesticide shall be credited to the Fund. The Department shall distribute money in the Fund as follows:

(1) Two and one-half percent (2.5%) to North Carolina State University Cooperative Extension Service to enhance its agromedicine efforts in cooperation with East Carolina University School of Medicine.

(2) Two and one-half percent (2.5%) to East Carolina University School of Medicine to enhance its agromedicine efforts in cooperation with North Carolina State University Cooperative Extension Service.

The State Department of Correction shall in their discretion, upon application to them, hire to the corporate authorities of any city or town for the purposes specified in G.S. 148-66, such convicts as are mentally and physically capable of performing the work or labor contemplated and are not at the time of such application hired or otherwise engaged in labor under the direction of the Department; but the convicts so hired for services shall be fed, clothed and quartered while so employed by the Department.

Upon application to it, it shall be the duty of the State Department of Correction, in its discretion, to hire to the Department of Agriculture and Consumer Services ~~of the State of North Carolina~~ for the purposes of working on the State test farms and/or State experimental stations, such convicts as may be mentally and physically capable of performing the work or labor contemplated; but the convicts so hired for services under this paragraph shall be fed, clothed and quartered while so employed by the State Department of Correction."

Section 108. G.S. 166A-26(a)(6) reads as rewritten:

"(6) The Department of ~~Agriculture;~~ Agriculture and Consumer Services;".

Section 109. The Revisor of Statutes shall change all references in the General Statutes from the Department of Agriculture to the Department of Agriculture and Consumer Services.

Section 110. This act is effective when it becomes law.

(3) Twenty percent (20%) to North Carolina State University, Department of Toxicology, to establish and maintain an extension agromedicine specialist position.

(4) Seventy-five percent (75%) to the Department of Agriculture and Consumer Services for its environmental programs, as directed by the Board, including establishing a pesticide container management program to enhance its pesticide disposal program and its water quality initiatives."

Section 93. G.S. 143A-11(8) reads as rewritten:

"(8) Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 94. The title to Article 7 of Chapter 143A of the General Statutes reads as rewritten:

"ARTICLE 7.

Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 95. G.S. 143A-56 reads as rewritten:

"**§ 143A-56. Creation.**

There is hereby created a Department of ~~Agriculture.~~ Agriculture and Consumer Services. The head of the Department ~~of Agriculture~~ is the Commissioner of Agriculture."

Section 96. G.S. 143A-58 reads as rewritten:

"**§ 143A-58. Commissioner of Agriculture; transfer of powers and duties to Department.**

Except as otherwise provided in the Constitution or in this Chapter, all powers, duties and functions vested by law in the Commissioner of Agriculture are transferred by a Type I transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 97. G.S. 143A-59 reads as rewritten:

"**§ 143A-59. Board of Agriculture; transfer.**

The Board of Agriculture, as contained in Article 1 of Chapter 106 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 98. G.S. 143A-60 reads as rewritten:

"**§ 143A-60. Structural Pest Control Division; transfer.**

The Structural Pest Control Division of the Department of Agriculture, as contained in Article 4C of Chapter 106 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 99. G.S. 143A-61 reads as rewritten:

"**§ 143A-61. The North Carolina Agricultural Hall of Fame; transfer.**

The North Carolina Agricultural Hall of Fame, as contained in Article 50B of Chapter 106 of the General Statutes and the laws of this State, is hereby transferred by a Type I transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 100. G.S. 143A-62 reads as rewritten:

"**§ 143A-62. Gasoline and Oil Inspection Board; transfer.**

The Gasoline and Oil Inspection Board, as contained in Article 3 of Chapter 119 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 101. G.S. 143A-63 reads as rewritten:

"**§ 143A-63. North Carolina Rural Rehabilitation Corporation; transfer.**

The North Carolina Rural Rehabilitation Corporation, and board of directors, as contained in Chapter 137 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 102. G.S. 143A-64 reads as rewritten:

"**§ 143A-64. North Carolina Board of Crop Seed Improvement; transfer.**

The North Carolina Board of Crop Seed Improvement, as contained in Article 30 of Chapter 106 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 103. G.S. 143A-65 reads as rewritten:

"**§ 143A-65. North Carolina Public Livestock Market Advisory Board; transfer.**

The North Carolina Public Livestock Market Advisory Board, as contained in Article 35 of Chapter 106 of the General Statutes and the laws of this State, is hereby transferred by a Type I transfer to the Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 104. G.S. 143B-417(1)q. reads as rewritten:

"q. Department of Agriculture and Consumer Services".

Section 105. G.S. 143B-434(c)(2) reads as rewritten:

"(2) The Department of ~~Agriculture.~~ Agriculture and Consumer Services."

Section 106. G.S. 148-66 reads as rewritten:

"**§ 148-66. Cities and towns and Department of Agriculture and Consumer Services may contract for prison labor.**

The corporate authorities of any city or town may contract in writing with the State Department of Correction for the employment of convicts upon the highways or streets of such city or town, and such contracts when so exercised shall be valid and enforceable against such city or town, and the Attorney General may prosecute an action in the Superior Court of Wake County in the name of the State for their enforcement.

The Department of Agriculture and Consumer Services ~~of the State of North Carolina~~ is hereby authorized and empowered to contract, in writing, with the State Department of Correction for the employment and use of convicts under its supervision to be worked on the State test farms and/or State experimental stations."

Section 107. G.S. 148-67 reads as rewritten:

"**§ 148-67. Hiring to cities and towns and State Department of ~~Agriculture.~~ Agriculture and Consumer Services.**

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 238 A BILL TO BE ENTITLED AN ACT TO ENCOURAGE OWNERS AND OPERATORS OF ANIMAL WASTE MANAGEMENT SYSTEMS TO PARTICIPATE IN CERTAIN RESEARCH STUDIES DIRECTED BY THE GENERAL ASSEMBLY BY LIMITING ENFORCEMENT ACTIONS FOR UNINTENTIONAL AND NONNEGLIGENT VIOLATIONS OF WATER QUALITY STANDARDS THAT ARE IDENTIFIED IN THE COURSE OF THOSE RESEARCH STUDIES AND TO CLARIFY THE REPORTING DATES FOR THOSE RESEARCH STUDIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW 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 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)

Julie

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 238*
Proposed Committee Substitute H238-PCS8067

Short Title: Facilitate Animal Waste Mgt. Research. (Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE OWNERS AND OPERATORS OF ANIMAL WASTE MANAGEMENT SYSTEMS TO PARTICIPATE IN CERTAIN RESEARCH STUDIES DIRECTED BY THE GENERAL ASSEMBLY BY LIMITING ENFORCEMENT ACTIONS FOR UNINTENTIONAL AND NONNEGLIGENT VIOLATIONS OF WATER QUALITY STANDARDS THAT ARE IDENTIFIED IN THE COURSE OF THOSE RESEARCH STUDIES AND TO CLARIFY THE REPORTING DATES FOR THOSE RESEARCH STUDIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Department of Environment, Health, and Natural Resources shall not take any enforcement action against any person for any unintentional and nonnegligent violation of water quality standards that are identified in the course of any of the research studies directed by Sections 27.3 (odor control technology), 27.7 (groundwater impacts of lagoons), 27.9 (atmospheric deposition of nitrogen in the Neuse Estuary), 27.32(b) (sources of nitrogen through isotope markers and other topics), and 27.35 (alternative animal waste technologies) of Chapter 18 of the 1995 Session Laws (Second Extra Session). This section shall not be construed to limit an enforcement action for any negligent or intentional act or for any violation that poses an immediate threat to public health or the environment. This section shall not be construed to relieve any person from any duty otherwise imposed by law to take remedial or corrective action to correct the violation.

Section 2. Notwithstanding the provisions of G.S. 143-215.10E(a), an employee of a State agency or unit of local government who identifies an unintentional or nonnegligent violation listed in subdivisions (1) through (4) of G.S. 143-215.10E(a) that is identified in the course of any of the research studies listed in Section 1 of this act shall not report the violation to the Division of Water Quality of the Department of Environment, Health, and Natural Resources unless the violation poses an immediate threat to public health or the environment.

Section 3. The Primary Investigator or Researcher for each of the research studies listed in Section 1 of this act shall report to the Environmental Review Commission on the progress of the research study and on any preliminary results of the research study on 1 January and 1 July of each year, beginning 1 July 1997, until the research study is concluded. The Primary Investigator shall make a final report, including final results and any recommendations, to the Environmental Review Commission at the conclusion of the research study.

Section 4. 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) **John W. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 240 A BILL TO BE ENTITLED AN ACT TO REMOVE THE MATCHING FUNDS REQUIREMENT FOR THE FUNDS APPROPRIATED IN 1996 TO CONDUCT AN ODOR CONTROL TECHNOLOGY STUDY, AS RECOMMENDED BY THE ENVIORNMENTAL REVIEW 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 (#), ☐ 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 240*

Short Title: Remove Odor Control Study Match. (Public)

Sponsors: Representatives Mitchell; Weatherly and Nichols.

Referred to: Agriculture, if favorable, Appropriations.

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE MATCHING FUNDS REQUIREMENT FOR THE FUNDS APPROPRIATED IN 1996 TO CONDUCT AN ODOR CONTROL TECHNOLOGY STUDY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Section 27.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session reads as rewritten:

"Sec. 27.3. Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act, the sum of six hundred thousand dollars ($600,000) for the 1996-97 fiscal year shall be transferred to the Board of Governors of The University of North Carolina for the North Carolina Agricultural Research Service at North Carolina State University to conduct research into economically feasible odor control technologies and to provide detailed economic analysis of odor management ~~alternatives; provided these funds are matched with an equal sum from private sources.~~ alternatives. No later than January 1, 1997, the Board of Governors shall report to the Environmental Review Commission and the Fiscal Research Division on progress under the research, including any findings and recommendations at that time."

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) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 409 A BILL TO BE ENTITLED AN ACT CLARIFYING WHERE APPEALS FROM AGRICULTURAL EMPLOYERS WILL BE HEARD.

☒ 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 409

Short Title: Agricultural Employer Appeals/AB. (Public)

Sponsors: Representatives Yongue; Bonner, Brown, and Culp.

Referred to: Agriculture.

March 6, 1997

A BILL TO BE ENTITLED

AN ACT CLARIFYING WHERE APPEALS FROM AGRICULTURAL EMPLOYERS WILL BE HEARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-227 reads as rewritten:

"**§ 95-227. Enforcement.**

For the purpose of enforcing the standards provided by this Article, the provisions of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall apply under this Article in a similar manner as they apply to places of employment under OSHANC; however, ~~G.S. 95-129(4), 95-130(2) and (6), and 95-137(b)(4)~~ G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to migrant housing. For the purposes of this Article, the term:

(1) 'Employer' in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall be construed to mean an operator;

(2) 'Employee' shall be construed to mean a migrant; and

(3) 'Director' shall mean the agent designated by the Commissioner to assist in the administration of this Article.

The Commissioner may establish a new division to enforce this Article."

Section 2. G.S. 150B-1(e) reads as rewritten:

"(e) Exemptions From Contested Case Provisions. -- The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

(1) The Department of Human Resources and the Department of Environment, Health, and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).
(2) Repealed by Session Laws 1993, c. 501, s. 29.
(3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.
(4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.
(5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.
(6) The Department of Revenue.
(7) The Department of Correction.
(8) The Department of Transportation, except as provided in G.S. 136-29.
(9) The Occupational Safety and Health Review ~~Board in all actions that do not involve agricultural employers.~~ Board.
(10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.
(11) Hearings that are provided by the Department of Human Resources regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7."

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) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 457 A BILL TO BE ENTITLED AN ACT TO ALLOW RECOVERY OF FUNDS PAID AS FOREST DEVELOPMENT COST-SHARING PAYMENTS WHEN TREES ARE NOT MAINTAINED AT LEAST TEN YEARS AND TO CONVERT THE FOREST DEVELOPMENT FUND TO ONE THAT ACCRUES INTEREST.

☐ 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.

☐ 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) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 463 A BILL TO BE ENTITLED AN ACT TO INCREASE THE PERMISSIBLE WEIGHT OF AGRICULTURAL CROPS THAT MAY BE TRANSPORTED ON THE HIGHWAYS FROM THE FIELD TO A PLACE WITH CERTIFIED SCALES.

☐ 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.

☐ 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 935

Short Title: Promote Llama Breeding. (Public)

Sponsors: Representatives Beall, Ramsey, and Brown.

Referred to: Agriculture.

April 14, 1997

A BILL TO BE ENTITLED

AN ACT TO RECOGNIZE LLAMAS AS LIVESTOCK ANIMALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-52.01 reads as rewritten:

"**§ 113A-52.01. Applicability of this Article.**

This Article shall not apply to the following land-disturbing activities:

(1) Activities, including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.

b. Dairy animals and dairy products.

c. Poultry and poultry products.

d. Livestock, including beef cattle, <u>llamas,</u> sheep, swine, horses, ponies, mules, and goats.

e. Bees and apiary products.

f. Fur producing animals.

(2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.

(3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

(4) For the duration of an emergency, activities essential to protect human life."

Section 2. G.S. 68-15 reads as rewritten:

"§ 68-15. Term 'livestock' defined.

The word 'livestock' in this Chapter shall include, but shall not be limited to, equine animals, bovine animals, sheep, ~~goats~~ goats, llamas, and swine."

Section 3. Any rules adopted by the Board of Agriculture that affect llamas shall not refer to llamas as exotic or wild animals. It is the intent of the General Assembly that llamas be treated as domesticated livestock in order to promote the development and improvement of the llama industry in the State. This section does not prohibit the Board of Agriculture from classifying llamas for animal health purposes in accordance with generally accepted standards of veterinary medicine.. For purposes of this section, 'llama' means a South American camelid that is an animal of the genus llama. Llama includes llamas, alpacas, and guanacos. Llama does not include vicunas.

Section 4. This act is effective when it becomes law. Section 3 of this act applies to rules adopted or amended on or after this date.

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 935 A BILL TO BE ENTITLED AN ACT TO RECOGNIZE LLAMAS AS LIVESTOCK ANIMALS.

☒ 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.B. FILED

0999 APR 16 97

HOUSE PRINCIPAL CLERK

H D

HOUSE DRH6199-LD192(4.10)

Short Title: Soil and Water Commission/Inspections. (Public)

Sponsors: Representative Rogers.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE AUTHORITY OF THE SOIL AND WATER CONSERVATION COMMISSION TO CONDUCT INSPECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-294 reads as rewritten:

"**§ 143B-294. Soil and Water Conservation Commission -- creation; powers and ~~duties.~~ duties; compliance inspections.**

(a) There is hereby created the Soil and Water Conservation Commission of the Department of Environment, Health, and Natural Resources with the power and duty to adopt rules to be followed in the development and implementation of a soil and water conservation program.

(1) The Soil and Water Conservation Commission has all of the following powers and duties:

a. To approve petitions for soil conservation ~~districts;~~ districts.

b. To approve application for watershed ~~plans; and~~ plans.

c. Such other duties as specified in Chapter 139.

d. To conduct any inspections consistent with subsection (b) of this section for inspections it deems reasonably necessary to carry out its duties.

(2) The Commission shall adopt rules consistent with the provisions of this Chapter. All rules not inconsistent with the provisions of this Chapter heretofore adopted by the Soil and Water Conservation Committee shall remain in full force and effect unless and until repealed or superseded by action of the Soil and Water Conservation Commission. All rules adopted by the Commission

shall be enforced by the Department of Environment, Health, and Natural Resources.

(b) Inspections authorized by subsubsection (1)d. of this section may be conducted by authorized representatives of the Commission. When conducting inspections, the Commission may enter at reasonable times upon any property, public or private, for the purpose of investigating compliance with Commission or Department programs.

(c) No person shall refuse entry or access to a person who requests entry for the purposes of an inspection under this section and who presents appropriate credentials. Any person who refuses entry or access to a person conducting an inspection or obstructs, hampers, or interferes with any such person while that person is in the process of carrying out official duties shall, notwithstanding G.S. 115A-1340.23, be guilty of a Class 1 misdemeanor punishable by imprisonment not to exceed 90 days, or by a fine not to exceed five thousand dollars ($5,000), or both."

Section 2. This act is effective when it becomes law, except G.S. 143B-294(c), as enacted by Section 1 of this act, becomes effective December 1, 1997, and applies to offenses committed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 999

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H999-arf-01 Page 1 of __

Date_____,1997

Comm. Sub. [ ]
Amends Title [ ]

1 moves to amend the bill on page 2, lines 12 and 13,
2 by deleting the citation "G.S. 115A-1340.23" and substituting the
3 citation "G.S. 15A-1340.23".
4

SIGNED _____
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) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 999 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE AUTHORITY OF THE SOIL AND WATER CONSERVATION COMMISSION TO CONDUCT INSPECTIONS.

☐ 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 Judiciary II.

☐ 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.

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1120 A BILL TO BE ENTITLED AN ACT TO ALLOW PRESCRIBED BURNING IN FORESTS BY FOREST LANDOWNERS UNDER CERTAIN CONDITIONS.

☐ With a favorable report.

x 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.

☐ 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) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
S.B. 172 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ISSUANCE OF HUNTING LICENSES FOR CERTAIN DISABLED HUNTERS WHO HAVE NOT COMPLIED WITH THE HUNTING SAFETY COURSE REQUIREMENT.

☐ 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 House committee substitute bill, unfavorable as to original bill and recommendation that the House 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.

☐ 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 172
Corrected Copy 2/19/97
Proposed Committee Substitute S172-PCS7738

Short Title: No Safety Course/Disabled Hunters. (Public)

Sponsors:

Referred to:

February 18, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF HUNTING LICENSES FOR CERTAIN DISABLED HUNTERS WHO HAVE NOT COMPLIED WITH THE HUNTING SAFETY COURSE REQUIREMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-270.1A reads as rewritten:

"**§ 113-270.1A. Hunter safety course required.**

(a) ~~On~~ Except as provided in subsection (a1) of this section, on or after July 1, 1991, a person, regardless of age, may not procure a hunting license or hunt in this State without producing a certificate of competency or a hunting license issued prior to July 1, 1991, or signing a statement on a form provided by the Wildlife Resources Commission that he had such a license.

(a1) A person who qualifies for a totally disabled resident combination hunting-fishing license under G.S. 113-270.1C(b)(3) need not comply with the requirements of subsection (a) of this section in order to receive that license, so long as the person does not make use of the license unless:

(1) The person is accompanied by an adult of at least 21 years of age who is licensed to hunt; and

(2) The adult hunter maintains a proximity to the disabled hunter which enables the adult to take immediate control of the hunting device at all times.

(b) The Wildlife Resources Commission shall institute and coordinate a statewide course of instruction in hunter ethics, wildlife laws and regulations, and competency and safety in the handling of firearms, and in so doing, may cooperate with any political subdivision, or with any reputable organization having as one of its objectives the promotion of competency and safety in the handling of firearms, including local rod and gun clubs.

(1) The Wildlife Resources Commission shall designate those persons or agencies authorized to give the course of instruction, and this designation shall be valid until revoked by the Commission. Those designated persons shall submit to the Wildlife Resources Commission validated listings naming all persons who have successfully completed the course of instruction.

(2) The Wildlife Resources Commission may conduct the course in hunter safety, using Commission personnel or other persons at times and in areas where other competent agencies are unable or unwilling to meet the demand for instruction.

(3) The Wildlife Resources Commission shall issue a certificate of competency and safety to each person who successfully completes the course of instruction, and the certificate shall be valid until revoked by the Commission.

(4) Any similar certificate issued outside the State by a governmental agency, shall be accepted as complying with the requirements of subsection (a) above, if the privileges are reciprocal for North Carolina residents.

(5) The Wildlife Resources Commission shall adopt rules and regulations to provide for the course of instruction and the issuance of the certificates consistent with the purpose of this section.

(c) On or after July 1, 1991, any person who obtains a hunting license by presenting a fictitious certificate of competency or who attempts to obtain a certificate of competency or hunting license through fraud shall have his hunting privileges revoked by the Wildlife Resources Commission for a period not to exceed one year.

(d) Nothing in this section shall be construed to prohibit the sale of lifetime licenses as provided in G.S. 113-270.2(c)(1a). Pending satisfactory completion of the hunter safety course, persons who possess such licenses may exercise the privileges thereof when accompanied by an adult at least 21 years of age who is licensed to hunt in this State. For the purpose of this section, 'accompanied' is defined as being able to take immediate control of the hunting device."

Section 2. Notwithstanding the provisions of Section 1 of this act, locations where hunting safety is taught shall not be relieved of their obligation to make the course accessible to persons with disabilities who wish to take the course.

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) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 357 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE REQUIREMENTS IMPOSED BY GENERAL PERMITS FOR CERTAIN ANIMAL OPERATIONS.

☐ 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 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 357
Proposed Committee Substitute H357-PCS6254

Short Title: General Animal Waste Permits. (Public)

Sponsors:

Referred to:

February 27, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE REQUIREMENTS IMPOSED BY GENERAL PERMITS FOR CERTAIN ANIMAL OPERATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.10C is amended by adding a new subsection to read:

"(a1) The general permits for animal operations shall not require any of the following:

(1) That application of animal waste onto land used to grow crops for direct human consumption be prohibited within any specified time period prior to or during the planting of the crop, during the growing season, or, in the case of fruit trees, prior to breaking dormancy.

(2) That application of animal waste onto land used to grow fiber or food crops for direct human consumption that undergo further processing be prohibited within any specified time period prior to the harvesting of the crop.

(3) That animal waste be incorporated into the soil within any specified time period after it is applied onto bare soil.

(4) That waste application and handling equipment be maintained on-site, when it is provided by the owner or operator.

(5) That inspection of a waste collection, treatment, storage, or transmission structure be performed more frequently than annually, when the structure is under the control of the owner or operator.

(6) That records be maintained of maintenance and repairs of a waste collection, treatment, or transmission structure, when the structure is under the control of the owner or operator.

(7) That repairs of a waste treatment, storage, or transmission structure be approved by a technical specialist.

(8) That streams be fenced to prevent grazing cattle from accessing drinking water."

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) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1037 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TRANSPORTATION AND RESALE OF THE EDIBLE PARTS OF BEAR AND DEER TAKEN IN ANOTHER STATE.

☐ 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 1037
Proposed Committee Substitute H1037-PCS6255

Short Title: Sale of Certain Exotic Meats. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TRANSPORTATION AND RESALE OF THE EDIBLE PARTS OF DEER RAISED DOMESTICALLY IN ANOTHER STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-291.3(b) is amended by adding a new subdivision to read:

"(8) The sale of the edible parts of deer raised domestically in another state may be transported into this State and resold as a meat product for human consumption when the edible parts have passed inspection in the other state by that state's inspection agency or the United States Department of Agriculture."

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) **JOHN W. BROWN** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
S.B. 266 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE PRODUCTION AND SALE OF RED DEER.

☐ 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

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1092 A BILL TO BE ENTITLED AN ACT TO PHASE DOWN THE SALES TAX ON ELECTRICITY AND PIPED NATURAL GAS USED IN FARMING AND MANUFACTURING.

☐ 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 1092*
Proposed Committee Substitute H1092-PCS6262

Short Title: Reduce Farm/Industry Fuel Tax. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PHASE DOWN THE SALES TAX ON ELECTRICITY AND PIPED NATURAL GAS USED IN FARMING AND MANUFACTURING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(a)(1f) reads as rewritten:

"(1f) The ~~rate of two and eighty-three hundredths percent (2.83%)~~ applicable rate provided in the table below applies to the sales price of electricity and piped natural gas described in this subdivision and measured by a separate meter or another device:

Effective Date	Rate
October 1, 1997	2.67%
July 1, 1998	2.34%
July 1, 1999	2%
July 1, 2000	1.67%
July 1, 2001	1.34%
July 1, 2002	1%

a. Sales of electricity and piped natural gas to farmers to be used by them for any farm purposes other than preparing food, heating dwellings, and other household purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.

b. Sales of electricity and piped natural gas to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants other than sales of electricity and gas to be used for residential heating purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.

c. Sales of electricity and piped natural gas to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service."

Section 2. Effective July 1, 2002, G.S. 105-164.4(a)(1c) reads as rewritten:

"(1c) The rate of one percent (1%) applies to the sales price of the following articles:

a. Horses or mules by whomsoever sold.

b. Semen to be used in the artificial insemination of animals.

c. Sales of ~~fuel, other than electricity or piped natural gas,~~ fuel and electricity to farmers to be used by them for any farm purposes other than preparing food, heating dwellings and other household purposes. The quantity of fuel or electricity purchased or used at any one time shall not ~~in any manner~~ be a determinative factor as to whether ~~any~~ its sale or use ~~of fuel~~ is or is not subject to the one percent (1%) rate of tax ~~imposed herein.~~ provided in this subdivision.

d. Sales of ~~fuel, other than electricity or piped natural gas,~~ fuel and electricity to manufacturing industries and manufacturing plants for use in connection with the operation of ~~such~~ these industries and plants other than sales of ~~fuels~~ fuel or electricity to be used for residential heating purposes. The quantity of fuel or electricity purchased or used at any one time shall not ~~in any manner~~ be a determinative factor as to whether ~~any~~ its sale or use ~~of fuel~~ is or is not subject to the rate of tax provided in this subdivision.

e. Sales of ~~fuel, other than electricity or piped natural gas,~~ fuel and electricity to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.

f. Sales to freezer locker plants of wrapping paper, cartons and supplies consumed directly in the operation of such plant."

Section 3. Effective July 1, 2002, G.S. 105-164.4(a)(1f) is repealed.

Section 4. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 5. Sections 2 and 3 of this act become effective July 1, 2002, for cycle billing dates occurring on or after that date. The remainder of this act becomes effective October 1, 1997, for cycle billing dates occurring 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) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1193 A BILL TO BE ENTITLED AN ACT TO CREATE AN AGRICULTURAL FAIRS ADVISORY COMMITTEE IN THE DEPARTMENT OF AGRICULTURE AND TO APPROPRIATE FUNDS FOR LOCAL AGRICULTURAL FAIRS.

☐ With a favorable report.

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

☐ 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 1193

Short Title: Agricultural Fairs Committee/Funds. (Public)

Sponsors: Representatives Brown, Mitchell, McCrary; and G. Wilson.

Referred to: Agriculture, if favorable, Appropriations.

May 1, 1997

A BILL TO BE ENTITLED

AN ACT TO CREATE AN AGRICULTURAL FAIRS ADVISORY COMMITTEE IN THE DEPARTMENT OF AGRICULTURE AND TO APPROPRIATE FUNDS FOR LOCAL AGRICULTURAL FAIRS.

The General Assembly of North Carolina enacts:

Section 1. Article 45 of Chapter 106 of the General Statutes is amended by adding a new Part to read:

"Part 5. Agricultural Fairs Advisory Committee.

"**§ 106-520.12. North Carolina Agricultural Fairs Advisory Committee.**

(a) The North Carolina Agricultural Fairs Advisory Committee is created within the Department of Agriculture.

(b) The Committee shall consist of five members as follows:

(1) The President of the North Carolina Association of Agricultural Fairs, as appointed by that association.

(2) Four county agricultural fair managers, to be appointed by the Commissioner of Agriculture.

The Commissioner of Agriculture or the Commissioner's designee, shall serve as an ex officio member. The members of the Advisory Committee appointed under subdivision (2) of this subsection shall serve for a term of four years. In the event of a vacancy, the Commissioner shall appoint a replacement in the same manner as for the original appointment to serve for the remainder of the unfinished term.

(c) The Commissioner of Agriculture or the Commissioner's designee shall serve as chairman. A majority of the members shall constitute a quorum for the purpose of transacting business.

"**§ 106-520.13. Advisory duties.**

The Committee shall advise the Commissioner of Agriculture in matters pertaining to the development and improvement of local agricultural fairs.

"**§ 106-520.14. Powers and duties of the Commissioner of Agriculture.**

(a) The Commissioner of Agriculture, with the advice of the Committee and subject to available funds, may make grants to qualified local agricultural fairs. The Commissioner may make grants to be used by local agricultural fairs to pay premium awards for competitive exhibits of products of agriculture and home economics and of domestic livestock, and for vocational and judging skills.

(b) The Commissioner may make grants to help establish new facilities and to improve existing facilities used in conducting events at local agricultural fairs. Grants for facilities shall be made under conditions as may be imposed by the Commissioner with the advice of the Committee. Grants to improve existing facilities shall require matching funds from the local agricultural fair in an amount to be determined by the Commissioner, with the advice of the Committee. Preference shall be given to agricultural fair associations that are most representative of agricultural interests. Grants to establish new agricultural fairs may be made to agricultural fair associations without matching funds.

(c) The Commissioner may make grants, not to exceed one thousand dollars ($1,000) to any one fair, to be used to promote agricultural commodities.

"**§ 106-520.15. Eligibility for grants.**

(a) In order to be eligible to receive a grant under this Part, a recipient must satisfy all of the following:

(1) Sponsor a fair that is licensed as an agricultural fair by the Commissioner of Agriculture pursuant to G.S. 106-520.3.

(2) Be a nonprofit or governmental organization.

(3) Provide for an annual fair running for at least three days.

(4) Present through the medium of youth organizations such as 4-H Clubs, Future Farmers of America, Future Homemakers of America, and other similar organizations, an educational program concerning the production, marketing, and consumption of livestock, poultry, field crops, and horticultural crops.

(5) Comply with rules adopted by the Department of Agriculture.

(b) Any local agricultural fair or agricultural fair association receiving a grant shall file with the Department of Agriculture by February 1 following the year in which the grant is received satisfactory proof that all State premium awards have been paid. As used in this subsection, 'proof' means a certified financial report notarized and submitted by the treasurer of the local fair association."

Section 2. G.S. 106-520 reads as rewritten:

"**§ 106-520. Local aid to agricultural, animal, and poultry exhibits.**

Any ~~city, town, or~~ county or municipality may appropriate ~~not to exceed one hundred dollars ($100.00)~~ funds to aid any ~~agricultural, animal, or poultry~~ agricultural exhibition ~~held within such city, town, or county.~~ or fair."

Section 3. G.S. 106-508, 106-509, and 106-510 are repealed.

Section 4. G.S. 106-516.1 reads as rewritten:

"**§ 106-516.1. Carnivals and similar amusements not to operate without permit.**

Every person, firm, or corporation engaged in the business of a carnival company or a show of like kind, including menageries, merry-go-rounds, Ferris wheels, riding devices, circus and similar amusements and enterprises operated and conducted for profit, shall, prior to exhibiting in any county annually staging an agricultural fair, apply to the sheriff of the county in which the exhibit is to be held for a permit to exhibit. The sheriff of the county shall issue a permit without ~~charge; provided, however, that no~~ charge. No permit shall be issued if ~~he shall find~~ the sheriff finds that the requested exhibition date is less than 30 days prior to a regularly advertised agricultural ~~fair and so in conflict with G.S. 105-37.1(d).~~ fair. Exhibition without a permit from the sheriff of the county in which the exhibition is to be held shall constitute a Class 1 ~~misdemeanor: Provided, that nothing~~ misdemeanor. Nothing contained in this section ~~shall prevent~~ prevents veterans' organizations and posts chartered by Congress or organized and operated on a statewide or nationwide basis from holding fairs or tobacco festivals on any dates ~~which~~ that they ~~may~~ select if ~~such~~ these fairs or festivals have ~~heretofore~~ been held previously as annual events."

Section 5. There is appropriated from the General Fund to the Department of Agriculture the sum of one hundred thousand dollars ($100,000) for the 1997-98 fiscal year to be used for grants for local agricultural fairs pursuant to Part 5 of Article 45 of Chapter 106 of the General Statutes, as enacted in Section 1 of this act.

Section 6. This act becomes effective July 1, 1997.

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 998 A BILL TO BE ENTITLED AN ACT TO ENACT INTO LAW THE SOUTHERN DAIRY COMPACT, TO DIRECT THE APPOINTMENT OF MEMBERS FROM NORTH CAROLINA TO THE SOUTHERN DAIRY COMPACT COMMISSION, AND TO APPROPRIATE FUNDS.

☐ With a favorable report.

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

☐ 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) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
S.B. 508 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A TURKEY GROWER SHALL NOT BE DISQUALIFIED FROM USE VALUE TAXATION FOR A TWO-YEAR PERIOD IF THE GROWER'S LAND IS TAKEN OUT OF PRODUCTION SOLELY BECAUSE OF THE PRESENCE OF TURKEY DISEASE IN THE AREA.

☐ 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

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 1055 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE MANDATORY ARBITRATION OF CLAIMS RELATED TO DEFECTIVE SEED.

☐ 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 1055*
Proposed Committee Substitute H1055-PCS4123

Short Title: Arbitration of Seed Claims. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE MANDATORY ARBITRATION OF CLAIMS RELATED TO DEFECTIVE SEED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-277.29 is repealed.

Section 2. Article 31 of Chapter 106 of the General Statutes is amended by adding the following new sections:

"**§ 106-277.30. Condition precedent to filing an action; notice required.**

(a) Complaint by Buyer. -- When a buyer believes that he or she has suffered damages due to the failure of agricultural or vegetable seed to produce or perform as labeled, as warranted, or as a result of negligence, the buyer shall make a sworn complaint against the dealer from whom the seeds were purchased, alleging the damages sustained or to be sustained, and file the complaint with the Commissioner of Agriculture within such time as to permit inspection of the seed, crops, or plants. The buyer shall send a copy of the complaint to the dealer by registered mail. A filing fee of one hundred dollars ($100.00) shall be paid to the Commissioner of Agriculture with each complaint filed. This fee may be used by the Commissioner to offset the expenses of the arbitration committee incurred under G.S. 106-277.32. Within 10 days after receipt of a copy of the complaint, the dealer may file an answer to the complaint and, in that event, shall send a copy to the buyer by registered mail.

(b) Notice Required. -- The seed dealer shall legibly print or type on the seed container or affix a label on the seed container a notice in the following form or using reasonably equivalent language:

'Notice of Mandatory Arbitration

Under the seed laws of some states, arbitration is required as a precondition of maintaining certain legal actions against a seller of seed. Information about this requirement where applicable, may be obtained from a State's Commissioner of Agriculture or corresponding chief agricultural official.'

(c) Condition Precedent. -- Complying with subsection (a) of this section is a condition precedent to the buyer's right to file an action against the seed dealer. This subsection does not apply if the seed dealer fails to provide notice as required under subsection (b) of this section.

(d) Investigation Requested by Seed Dealer. -- Any seed dealer against whom an action is brought in any court, State or federal, by a buyer who alleges that the buyer has suffered damages due to the failure of seeds purchased from a seed dealer to perform as labeled, as warranted, or as a result of negligence may request an investigation by the arbitration committee pursuant to G.S. 106-277.32. A filing fee of one hundred dollars ($100.00) shall be paid to the Department of Agriculture by the party requesting the investigation.

(e) Referral to Committee. -- The Commissioner of Agriculture shall refer the complaint and the answer to the complaint, if any, to the arbitration committee to investigate and make findings and recommendations on the matters complained of pursuant to G.S. 106-277.32.

"§ 106-277.31. Arbitration committee created; membership; duties.

(a) The Commissioner of Agriculture shall appoint an arbitration committee composed of five members, three of whom shall be appointed upon the recommendation of the following: Director of the Agricultural Research Service, North Carolina State University; Director of the North Carolina Cooperative Extension Service, North Carolina State University; and President of the North Carolina Seedsmen's Association. The other two members shall include: one farmer who is not connected in any way to selling seeds at retail or wholesale and one employee of the Department of Agriculture. An alternate for each member shall also be appointed in the same manner as that member was appointed to serve whenever that member is unable or unwilling to serve. Each member of the committee shall serve until replaced by the Commissioner of Agriculture. The committee shall elect a chairperson. The chairperson shall conduct all meetings and deliberations and direct all other activities of the committee.

(b) A clerk shall be appointed to serve the committee. The clerk shall be an employee of the Department of Agriculture. The clerk shall keep accurate and correct records of all meetings and deliberations and perform other duties for the committee as directed by the chairperson.

(c) The purpose of the arbitration committee is to assist seed buyers and agricultural seed dealers in determining the matters alleged in complaints made by buyers against seed dealers.

(d) The arbitration committee may be called into session by the Commissioner of Agriculture at the Commissioner's discretion or upon the direction of the chairperson to consider the matters referred to it by the Commissioner of Agriculture.

(e) The Department shall provide administrative support for the investigation under this section. The committee shall adopt rules to govern investigations and hearings. A copy of the rules shall be mailed to each party to a dispute upon receipt of a complaint.

(f) Members of the committee appointed by the Commissioner who are not governmental employees shall be entitled to receive reimbursement for necessary travel and subsistence expenses pursuant to G.S. 138-5. Other members of the committee shall not be entitled to any compensation or reimbursement of expenses from the Department of Agriculture.

(g) The Attorney General shall represent the committee in any and all legal proceedings that may arise concerning or against the committee.

"**§ 106-277.32. Duties of arbitration committee.**

(a) In conducting its investigation of claims referred by the Commissioner of Agriculture, the arbitration committee may engage in all of the following activities:

(1) Examine the buyer regarding the buyer's use of the seed of which the buyer complains and examine the seed dealer on the dealer's packaging, labeling, and selling of the seed alleged to be faulty.

(2) Grow a representative sample of the alleged faulty seed to production when such action is deemed by the committee to be necessary.

(3) Hold informal hearings at a time and place directed by the chairperson upon reasonable notice to the buyer and the seed dealer.

(4) Seek evaluations from authorities in allied disciplines, when deemed necessary by the committee.

(5) Visit and inspect the affected site and take samples, make plant counts, and take pictures of affected and unaffected areas.

(b) The committee shall keep a record of its activities and reports on file in the Department of Agriculture. The Department shall transmit all findings and recommendations to the buyer and to the seed dealer within 30 days of completion of the arbitration.

(c) No investigation shall be made by less than the whole membership of the committee unless the chairperson directs such investigation in writing. Such investigation shall be summarized in writing and considered by the committee in reporting its findings and making its recommendations.

(d) The report of arbitration shall be binding upon all parties to the extent, if any, that they have so agreed in writing subsequent to the filing of a complaint pursuant to G.S. 106-277.30.

"**§ 106-277.33. Filing an action regarding a defective seed claim.**

(a) In the absence of an agreement to be bound by arbitration, a buyer may file an action against a seed seller or assert such claim as a counterclaim or defense in any action brought by the seed seller at any time after the receipt of the report of arbitration under G.S. 106-277.32.

(b) In any action involving a complaint that has been the subject of arbitration under G.S. 106-277.32, any party may introduce the report of arbitration as evidence of the facts found in the report, and the court may give such weight to the committee's findings and conclusions of law and recommendations as to damages and costs as the court deems appropriate, based upon all the evidence before the court. The court may consider any finding of the committee with respect to the failure of any party to cooperate in the arbitration proceedings, including any finding as to the effect of delay in filing the arbitration claim upon the committee's ability to determine the facts of the case."

Section 3. There is appropriated from the General Fund to the Department of Agriculture the sum of ten thousand dollars ($10,000) for the 1997-98 fiscal year and the sum of ten thousand dollars ($10,000) for the 1998-99 fiscal year to be used to implement and administer this act.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1055*
Proposed Committee Substitute H1055-PCS4123

Short Title: Arbitration of Seed Claims. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE MANDATORY ARBITRATION OF CLAIMS RELATED TO DEFECTIVE SEED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-277.29 is repealed.

Section 2. Article 31 of Chapter 106 of the General Statutes is amended by adding the following new sections:

"**§ 106-277.30. Condition precedent to filing an action; notice required.**

(a) Complaint by Buyer. -- When a buyer believes that he or she has suffered damages due to the failure of agricultural or vegetable seed to produce or perform as labeled, as warranted, or as a result of negligence, the buyer shall make a sworn complaint against the dealer from whom the seeds were purchased, alleging the damages sustained or to be sustained, and file the complaint with the Commissioner of Agriculture within such time as to permit inspection of the seed, crops, or plants. The buyer shall send a copy of the complaint to the dealer by registered mail. A filing fee of one hundred dollars ($100.00) shall be paid to the Commissioner of Agriculture with each complaint filed. This fee may be used by the Commissioner to offset the expenses of the arbitration committee incurred under G.S. 106-277.32. Within 10 days after receipt of a copy of the complaint, the dealer may file an answer to the complaint and, in that event, shall send a copy to the buyer by registered mail.

(b) Notice Required. -- The seed dealer shall legibly print or type on the seed container or affix a label on the seed container a notice in the following form or using reasonably equivalent language:

'Notice of Mandatory Arbitration

Under the seed laws of some states, arbitration is required as a precondition of maintaining certain legal actions against a seller of seed. Information about this requirement where applicable, may be obtained from a State's Commissioner of Agriculture or corresponding chief agricultural official.'

(c) Condition Precedent. -- Complying with subsection (a) of this section is a condition precedent to the buyer's right to file an action against the seed dealer. This subsection does not apply if the seed dealer fails to provide notice as required under subsection (b) of this section.

(d) Investigation Requested by Seed Dealer. -- Any seed dealer against whom an action is brought in any court, State or federal, by a buyer who alleges that the buyer has suffered damages due to the failure of seeds purchased from a seed dealer to perform as labeled, as warranted, or as a result of negligence may request an investigation by the arbitration committee pursuant to G.S. 106-277.32. A filing fee of one hundred dollars ($100.00) shall be paid to the Department of Agriculture by the party requesting the investigation.

(e) Referral to Committee. -- The Commissioner of Agriculture shall refer the complaint and the answer to the complaint, if any, to the arbitration committee to investigate and make findings and recommendations on the matters complained of pursuant to G.S. 106-277.32.

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(e) The Department shall provide administrative support for the investigation under this section. The committee shall adopt rules to govern investigations and hearings. A copy of the rules shall be mailed to each party to a dispute upon receipt of a complaint.

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(5) Visit and inspect the affected site and take samples, make plant counts, and take pictures of affected and unaffected areas.

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(c) No investigation shall be made by less than the whole membership of the committee unless the chairperson directs such investigation in writing. Such investigation shall be summarized in writing and considered by the committee in reporting its findings and making its recommendations.

(d) The report of arbitration shall be binding upon all parties to the extent, if any, that they have so agreed in writing subsequent to the filing of a complaint pursuant to G.S. 106-277.30.

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(a) In the absence of an agreement to be bound by arbitration, a buyer may file an action against a seed seller or assert such claim as a counterclaim or defense in any action brought by the seed seller at any time after the receipt of the report of arbitration under G.S. 106-277.32.

(b) In any action involving a complaint that has been the subject of arbitration under G.S. 106-277.32, any party may introduce the report of arbitration as evidence of the facts found in the report, and the court may give such weight to the committee's findings and conclusions of law and recommendations as to damages and costs as the court deems appropriate, based upon all the evidence before the court. The court may consider any finding of the committee with respect to the failure of any party to cooperate in the arbitration proceedings, including any finding as to the effect of delay in filing the arbitration claim upon the committee's ability to determine the facts of the case."

Section 3. There is appropriated from the General Fund to the Department of Agriculture the sum of ten thousand dollars ($10,000) for the 1997-98 fiscal year and the sum of ten thousand dollars ($10,000) for the 1998-99 fiscal year to be used to implement and administer this act.

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

BILL RD FORM

Committee _____

Date Received	House Bill	Senate Bill	Short Title	Action Taken	Date

BILL[illegible]ORD FORM

Committee _____

Date Received	House Bill	Senate Bill	Short Title	Action Taken	Date

BILL[illegible]ORD FORM

Committee _____

Date Received	House Bill	Senate Bill	Short Title	Action Taken	Date

ROLL CALL VOTE

____ ____ = _____(TOTAL) HB# _____
YES NO SB# _____

HOUSE STANDING COMMITTEE ON _AGRICULTURE

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
		BROWN,CHAIR			
____	____	CULP, V.CHAIR	____	____	
____	____	CARPENTER, V.CHAIR	____	____	
____	____	MITCHELL, V.CHAIR	____	____	
____	____	HILL, RANKING M.M.	____	____	
____	____	ALDRIDGE	____	____	WEATHERLY
____	____	BAKER	____	____	YONGUE
____	____	BUCHANAN	____	____	
____	------	DAVIS	____	____	
____	____	EDDINS	____	____	
____	____	FOX	____	____	
____	____	HARDAWAY	____	____	
____	____	HIGHTOWER	____	____	
____	____	HUNTER,H.	____	____	
____	____	KISER	____	____	
____	____	MCCRARY	____	____	
____	____	MERCER	____	____	
____	____	NICHOLS	____	____	
____	____	OWENS	____	____	
____	____	REYNOLDS	____	____	
____	____	ROGERS	____	____	
____	____	SMITH	Ex officio Members		
____	____	TOLSON	____	____	Speaker Pro Tem
____	____	WATSON	____	____	Majority Leader

ROLL CALL VOTE

____ ____ = _____(TOTAL) HB# _____
YES NO SB# _____

HOUSE STANDING COMMITTEE ON _AGRICULTURE

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
		BROWN,CHAIR			
____	____	CULP, V.CHAIR	____	____	
____	____	CARPENTER, V.CHAIR	____	____	
____	____	MITCHELL, V.CHAIR	____	____	
____	____	HILL, RANKING M.M.	____	____	
____	____	ALDRIDGE	____	____	WEATHERLY
____	____	BAKER	____	____	YONGUE
____	____	BUCHANAN	____	____	
____	------	DAVIS	____	____	
____	____	EDDINS	____	____	
____	____	FOX	____	____	
____	____	HARDAWAY	____	____	
____	____	HIGHTOWER	____	____	
____	____	HUNTER,H.	____	____	
____	____	KISER	____	____	
____	____	MCCRARY	____	____	
____	____	MERCER	____	____	
____	____	NICHOLS	____	____	
____	____	OWENS	____	____	
____	____	REYNOLDS	____	____	
____	____	ROGERS	____	____	
____	____	SMITH	Ex officio Members		
____	____	TOLSON	____	____	Speaker Pro Tem
____	____	WATSON	____	____	Majority Leader

ROLL CALL VOTE

____ ____ = _____(TOTAL) HB# _____
YES NO SB# _____

HOUSE STANDING COMMITTEE ON _AGRICULTURE

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
		BROWN,CHAIR			
____	____	CULP, V.CHAIR	____	____	
____	____	CARPENTER, V.CHAIR	____	____	
____	____	MITCHELL, V.CHAIR	____	____	
____	____	HILL, RANKING M.M.	____	____	
____	____	ALDRIDGE	____	____	WEATHERLY
____	____	BAKER	____	____	YONGUE
____	____	BUCHANAN	____	____	
____	------	DAVIS	____	____	
____	____	EDDINS	____	____	
____	____	FOX	____	____	
____	____	HARDAWAY	____	____	
____	____	HIGHTOWER	____	____	
____	____	HUNTER,H.	____	____	
____	____	KISER	____	____	
____	____	MCCRARY	____	____	
____	____	MERCER	____	____	
____	____	NICHOLS	____	____	
____	____	OWENS	____	____	
____	____	REYNOLDS	____	____	
____	____	ROGERS	____	____	
____	____	SMITH	Ex officio Members		
____	____	TOLSON	____	____	Speaker Pro Tem
____	____	WATSON	____	____	Majority Leader

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

FEBRUARY 11, 1997

The House Committee on Agriculture had it's opening meeting on February 11, 1997 at l0: a.m. in Room 1425 of the Legislative Building. Representative John W. Brown, Chairman of the House Agriculture Committee presided with 23 House Members present and 3 House Members absent.

After introducing staff and counsel to the members, Chairman Brown welcomed and asked each Committee Member to give a brief resume of themselves.

Mr. Brown asked for volunteers to sponsor a Committee breakfast at the Farmers Market. Mr. Roger Bone with Bone and Associates volunteered the first breakfast. Arrangements will be made for a Wednesday morning.

The meeting adjourned at 10:30 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — Name of Committee

FEBRUARY 11, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
June Bottheim	NC State / The UNC - Ag Program
Andy Ellen	NC Farm Bureau
Peter Daniel	NCDA
J. Carlyle Tenague	Coop Council
Paula Kelly	NCFB
Audrey Johnson	Legislative Clerk
Caren Walker	Legislative Intern

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, FEBRUARY 18, 1997**

TIME: **10:OO A.M.**

LOCATION: **1425 LB**

The following bills will be considered (Bill # & Short Title):

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **11:00 A.M.** on **Thursday, February 13, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

Anna Kidd (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE
FEBRUARY 18, 1997

I. CALL MEETING TO ORDER

II. REMARKS BY CHAIRMAN

III. INTRODUCTION OF PAGES

IV. DR. DURWARD BATEMAN, DEAN
COLLEGE OF AGRICULTURE AND LIFE SCIENCES
NCSU

V. JUNE BROTHERTON
ASSISTANT TO THE CHANCELLOR, NCSU

VI. ANNOUNCEMENTS

VII. ADJOURNMENT

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

FEBRUARY 18, 1997

The House Committee on Agriculture met on Tuesday, February 18, 1997 at l0:00 a.m. in Room 1425 of the Legislative Building. Representative John W. Brown, Chairman of the House Agriculture Committee presided with twenty one House Members present and five House Members absent.

Chairman Brown introduced the pages and welcomed all the guests to the Agriculture meeting. At this time, Mr. Brown turned the meeting over to Dean Durward Bateman, Dean of the College of Agriculture and Life Sciences NCSU. The Dean stated that 30 years ago North Carolina mostly depended on one cash crop. Over the years the state has become diversified in agriculture. People who are not in farming do not realize how important agriculture is to their lives. North Carolina now realizes $7 billion in income from farming.

Dean Bateman next presented the committee members with the Budget requests for the Agriculture Programs l997-l999 Expansion Budget (Attachment I). Dean Bateman stated that the $6 million request in new funding has been sanctioned by the Board of Governors.

Under the l997-l999 Capital Improvement Budget Priorities- $14.6 million is requested for the Toxicology Facility Centennial Campus in order to increase the current capacity (Attachment II and III). Members were able to view a short video on the status of the facility. Several questions followed the video.

Dean Bateman stated that the NCSU's Agriculture Programs l997-l999 Expansion Budget were as follows (Attachment IV):

- Agriculture research and extension equity funds - $3.1 million
- Agricultural production and life sciences industries -$1.4 million
- Natural resources and the environment-$900,000
- Communties and rural development-$600,000

At this time Dean Bateman introduced June M. Brotherton, Assistant to the Chancellor. Due to the time schedule, Ms. Brotherton turned the meeting over to Dean Larry Tombaugh, College of Forest Resources who spoke on behalf of the forestry sector. Dean Tombaugh stated that the Forestry Department is working closely with the Agriculture Department and their main concern is with the $3.1 million in Agricultural Research and Extension Equity Funds. Questions were taken from the floor.

Chairman Brown next introduced Larry K. Monteith, Chancellor of NCSU. The Chancellor announced to the members that graduation rate is up at NCSU and the university now offers 9,000 credit hours. He asked the committee members to support the $3.1 million in Equity funds. He further stated that the $3.1 million is needed to make salary adjustments permanent and repay campus loan, avoiding further program reductions.

There being no further business, the meeting was adjourned at 11:00 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

NC State University

Agricultural Programs
1997 – 1999 Expansion Budget

I. Agricultural Research & Extension Equity Funds — $3.1 million

Background. In 1995, the Legislature approved a tuition increase of $400 per student at the state's two research universities — NC State and UNC-Chapel Hill. NC State used its additional tuition monies to increase the amount of financial aid available to students and to improve the academic and research capability of the NCSU libraries, which then ranked 101st out of 107 research libraries. During the 1996 Short Session, legislators voted to match the tuition increase for NC State and UNC-CH with $17 million in academic enhancement monies. Because experience and recent salary surveys had shown that NC State was not competitive with its peers in faculty salaries, NC State administrators used its $8.7 million share of those funds to increase its ability to recruit and retain top-notch faculty. However, the manner in which the funds were allocated to NC State prevented all faculty from having an equal opportunity to receive the merit-based awards.

Situation. Agricultural Research Service and Cooperative Extension Service faculty paid through the Agricultural Programs budget of the university have not been treated equitably in the determination of eligibility for special faculty salary adjustments. In the 1995-96 fiscal year, the Legislature approved an additional salary adjustment — in addition to the across-the-board salary adjustments for all state employees — for teaching faculty paid through the 030 Academic Programs budget code at the two research universities. As a result, Agricultural Research Service and Cooperative Extension Service faculty who were paid through the 031 and 032 budgets, respectively, were not eligible. To address the inequity of this situation and to retain critical faculty working in environmental, animal and crop production, biotechnology, bioprotection and other areas critical to the economic development of the state, the College of Agriculture and Life Sciences implemented program budget cuts and reallocated the monies so their faculty could be eligible for the same salary adjustments as their Academic Programs-paid peers.

From the 1996-97 Short Session, all state employees received a 4.5% salary increase, which was supplemented by an additional 0.5% increase for Academic Programs faculty (030 budget code) at the universities. CALS administration reallocated funds to permit all research and extension faculty paid through the 031 and 032 budgets to receive the additional 0.5% salary increase.

When NC State received the $8.7 million in tuition match funds, these monies were not awarded to faculty in an across-the-board increase. Rather, the funds were to be awarded selectively based upon special criteria. Once again, Agricultural Research Service and Cooperative Extension Service faculty were excluded because their salaries were funded through the 031 and 032 budget codes. Since no funds were available for this purpose, the Cooperative Extension Service funded the increases for its faculty from one-time federal carry-over funds until July 1, 1997. The Agricultural Research Service was forced to borrow the funds temporarily from the university administration to fund increases for its faculty until July 1, 1997.

Need. The amount of funds required to retain the 1996-97 academic enhancement increase, $3.1 million, cannot be absorbed on a recurring basis by CALS. NC State's Agricultural Programs Budget needs $3.1 million in recurring funds to replace the one-time monies funding the 1996-97 equity adjustments, or further major program cuts will be necessary. Any additional cuts of this magnitude would jeopardize the college's leadership position in agricultural and environmental research and extension and the high-quality faculty who provide the foundation for that leadership position. These programs of research and extension are unique in the state, and with the environmental and economic challenges currently facing the state, these valuable programs — and the faculty who lead them — cannot afford to be weakened.

Contact: Chancellor Larry K. Monteith or Assistant to the Chancellor June M. Brotherton at 515-2191, or Dean Durward Bateman, College of Agriculture and Life Sciences, at 515-2668.

II. Agricultural Production and Life Science Industries — $1.4 million

A. Value-added Products and Processes

In addition to benefitting from the sale of tobacco and other field crops, meats, seafood, small fruits, and vegetables, North Carolina also gains by adding value to those food commodities through processing. The Meats Processing Laboratory to be constructed soon will provide opportunities for expanded research and demonstration efforts in value-added processing of meats and seafood and in improving food inspection and worker safety. Increased funds are needed for those research and development activities and also for the application of genetic engineering techniques to develop new and improved crop plants that can enhance profitability and expand marketing opportunities for North Carolina agricultural products.

B. Cropping Systems & Precision Agriculture

1. Precision Agriculture

Modern agricultural production relies heavily on sophisticated technologies. For example, advanced positioning systems (GPS and GIS) enable producers to adjust application rates for crop nutrients and other inputs to the production capability at specific sites, reducing waste and preventing the release of unneeded inputs into the environment. Funds are requested to further develop these and other new technologies and to educate producers in their application.

2. Integrated Pest Management

By coupling accurate assessments of the potential for crop damage with an array of pest and disease management measures, integrated pest management (IPM) enables agricultural producers to minimize costs and environmental risk by applying pest management measures only when needed. Support is sought for research to enhance the reliability of IPM strategies and for extension programs to help producers understand and apply IPM practices.

3. Best Management Practices

The cornerstone of efforts to reduce nonpoint-source pollution from agricultural lands are "best management practices" (BMPs) developed through years of research. BMPs provide a powerful tool for reducing the release of sediments, nutrients, agricultural chemicals, and waste products into the environment. As production systems become larger and more complex, expanded research programs are needed to further refine and test BMPs, and educational programs are needed to help producers understand and apply these practices.

C. Animal Production Systems

1. Animal and Poultry Nutrition Related to Waste Management

The increasing scale and density of our state's animal and poultry industries present challenges to maintaining profitability while protecting environmental quality. A key to addressing these issues is systemwide nutrient management. Substantially expanded research and extension efforts are needed to minimize the volume of the waste stream and to develop and help producers apply advanced methods for converting by-products and wastes to value-added products,.

2. Animal Feed Processing & Feed Mill Management

The production of suitable feeds is critical to the food animal industry, a need met by our state's 55 large feed mills. Research and extension programs are needed to assist the feed industry in developing the necessary expertise in ingredient purchasing, complex machinery operation, animal nutrition, ingredient and product testing, compliance with governmental regulations affecting feed production, and the use of alternative crops as feedstuffs.

3. Animal System Engineering

As the animal industry has grown, so has the need for engineering solutions to issues of animal health and welfare, waste management, and the design of animal housing, transportation, and processing systems. New funds are needed to expand bioengineering research and extension programs to produce a safer, healthier environment for animals and workers.

D. Turf and Ornamental Plants

1. Turf Management Research and Extension

North Carolina's large and growing turf industry needs the support of expanded research and extension programs aimed at developing and promoting the adoption of new varieties, managing production enterprises, minimizing damage from pests and diseases, and encouraging adoption of practices that sustain or enhance environmental quality.

2. Introduction of New Ornamental Plants

The NCSU Arboretum is an important resource for our green industries. The Arboretum collects, cultivates, evaluates, and promotes commercial production of a wide range of new plants and varieties well adapted to North Carolina landscapes. Additional support is needed to meet the expanding demand for the Arboretum's teaching, research, and outreach services.

III. Natural Resources and the Environment — $900,000

A. Water Quality Issues in Fisheries Management

Declines in the quality of the state's coastal waters have led to marginal conditions in fish habitats, hindered commercial and recreational use of those waters, and threatened human health, with significant economic implications. However, the exact impacts of water quality degradation on fish habitats such as nursery areas, vegetation beds, and wetlands is not known. Funds are needed for research to gain a better understanding of the ecological relationship between fishery productivity and water quality, to explore potential management strategies for fish habitats, and to evaluate the direct socio-economic impacts of water quality management and policy decisions.

B. Water and Air Quality

1. Public and Producer Education on Environmental Issues

Consumers, agricultural producers, and policy makers play vitally important roles in addressing public policy issues related to environmental quality. To ensure that they can fulfill those roles effectively, support is needed for expanded educational programs to help them understand environmental issues and the consequences of various alternatives. Furthermore, consumers and agricultural producers need expanded educational programs that will help them reduce and manage waste more effectively and that will promote the adoption of best management practices (BMPs) in homes, on lawns, and on farms to ensure that sediments, nutrients, and chemicals are not released into environmentally sensitive areas.

2. Research Programs to Improve Water and Air Quality

Clean, safe water and air are important not only to quality of life for North Carolina's citizens but to our economy as well. Successful research and extension programs have been helping the state to assess its water quality and to develop and implement strategies for resolving water quality problems where they are found. Given the increasing pressures on land use, the need to continue and expand these efforts is great. Air quality, too, has become an issue in the state. The agricultural industry is both a source and a receptor of airborne pollutants such as nitrogenous compounds, pesticides, dust, and odor-producing compounds. Support is needed for inter-disciplinary research teams to measure flows of airborne pollutants into and out of agricultural systems, to study the biological and physical processes within those systems, and to use that knowledge in developing best management practices that will protect and improve air quality.

3. Research and Extension Programs at the Center for Environmental Farming Systems

Located at Goldsboro, the Center for Environmental Farming Systems is dedicated to the development of farming systems that are environmentally, economically, and socially sustainable. Research and educational activities are being focused on three areas: sustainable agriculture, reduced tillage systems, and organic farming. Funding is needed to support the efforts of interagency teams from NC State University, NC A&T State University, and the North Carolina Department of Agriculture, along with agricultural interests, who will work to design and conduct farm-scale trials of profitable agricultural production systems that are environmentally sustainable and that meet society's needs for a dependable supply of high-quality food and fiber.

C. Sustainable Forest Management

1. Southern Center for Sustainable Forestry

To improve the science and practice of sustainable forestry, development of a Center for Sustainable Forestry is planned. Resources are sought to achieve the center's objectives: to improve research on intensive management and monitoring of forests and environmentally sensitive areas, to expand knowledge about protecting and restoring ecologically sensitive areas, to identify forest resource issues and develop scientific responses, and to transfer new knowledge to resource managers, private forest landowners, and citizens.

2. Forest Management Education for Professional Foresters and Forest Owners

Pressures from urbanization, intensive agriculture, and expanding demands for forest products are making intensive forest management practices more important. Resources are needed to develop programs that will help professional foresters and individual forest landowners learn about and apply new forest management technologies and best management practices (BMPs) to protect or enhance the forest resource and the environment.

IV. Communities and Rural Development — $600,000

A. Youth and Family Programs

1. Environmental Education for Youth

An environmentally responsible citizenry in the future will be vitally important to furthering today's efforts to protect our natural environment. Our school-age children will be making key decisions about environmental issues within a few years. Resources are needed to develop curricula and train teachers for environmental education experiences to be provided through school enrichment and after-school programs, science clubs, and year-round camping and conference center programming.

2. Youth Development and Youth-At-Risk Programming

Juvenile and teen problems are rated by the League of Municipalities and the Council of Mayors as one of two leading issues they are confronting. Furthermore, quality care for children will be vital to welfare reform. Resources are needed for personnel, training, and curriculum materials to expand successful efforts that link university resources with local communities in developing quality after-school programs for youth.

3. Intervention Programs for Youth at Risk

There is an urgent need to support local programs that can help redirect youth identified as needing early intervention. Effective university-community partnerships have been established in local SOS programs targeting high-risk communities and youth and through the Community-Based Alternative Program and the governor's One-on-One program. Resources are needed to extend more technical assistance, training, and curriculum materials to a greater number of counties to support these intervention programs.

4. Financial Management Program for Individuals, Families, and Family Businesses

Most individuals and families are poorly prepared for the financial responsibilities they face every day. Young adults and limited-resource families especially need assistance in developing the knowledge, skills, and discipline required to manage resources wisely and plan a sound financial future. Resources are sought to enhance the ability of extension educators to meet these needs.

B. Distance Education

Multimedia computer systems, global computer networks, the state's interactive video network (NC-REN), the North Carolina Information Highway, and videotape capabilities have made it possible to deliver both traditional classroom education and a wide range of nontraditional educational opportunities to learners across the state. Through these technologies, learners are becoming able to access the vast information and educational resources of the university at times and places convenient to them. To take education further beyond its traditional bounds of space and time, resources are needed to redesign educational programs for interactive online delivery and to provide the necessary technologies and support personnel.

C. Outreach and Distance Education in Support of K-12 Education

Educators are seeking to tap the potential of the university through outreach and distance education to benefit our state's K-12 youth and their families. The Department of 4-H Youth Development has had great success with both approaches through its school enrichment and after-school program designs. Additional funding is needed to make grade-appropriate curriculum materials available in electronic form and to train K-12 educators in use of science-based curricula via the statewide interactive video network so that these valuable university resources can be made available to all school systems regardless of wealth.

D. Rural Tourism

Tourism generates more than $9 billion annually to the North Carolina economy and has been identified as the state's second largest industry. Although urban areas have the resources needed to promote, develop, and manage tourism, rural residents need assistance in developing the political support, public policies, infrastructure, and resources necessary for positive tourism development. Funding is needed for research and extension programs that will focus on infrastructure requirements for tourism, overcoming barriers to tourism development, the role that tourism can play in community revitalization and development, and training of underemployed rural residents for careers in the tourism industry.

... educating future leaders of commerce, government, education and industry ...

NC State's unique **management** program teaches managers how to lead science-and-technology-based businesses and industries, helping them create new jobs for North Carolinians. Our **design** program trains students to design buildings, landscaping, publications and products that are functional and attractive. Our dedicated **education and psychology** faculty conduct research and create outreach partnerships that support and enhance K-12 and community college programs and teacher effectiveness ... aimed at ensuring the best education for all of our children.

Physical and biological science programs boast strengths in areas such as marine sciences, waste management and meteorology, addressing the environmental issues facing municipalities, agriculture, river basins, coastal areas and the people who make a living in them. Their work also provides more accurate advance warning of hurricanes and other life-threatening weather events.

Superb programs in the **social sciences, humanities and basic sciences** provide students the foundation they need to understand the basic historical, ethical, technological, scientific and communications principles necessary for success as leaders and the ability to apply them.

Larry K. Monteith
Chancellor
919/515-2191

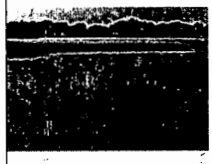
June M. Brotherton
Assistant to the Chancellor
919/515-2191

Durward F. Bateman
Dean
College of Agriculture & Life Sciences
919/515-2668

For additional information, conta

ATTACHMENT II

People are talking about...



NC STATE UNIVERSITY

...Environment

...Education

...Technology

...Economic Development

People are talking about NC State.

Yes, NC State. The state's only Research I land-grant university with historic strengths in science and technology ... complemented by strong social sciences and humanities programs. The People's University. A public university uniquely created to apply its laboratory discoveries in practical solutions to the problems of the state's people, government, communities, industries and businesses. A university that prepares our state's young people to become innovative — yet practical — leaders.

Engineering, agriculture, textiles, and forestry ... programs that support the traditional major industries of the state. NC State has one-of-a-kind, comprehensive programs in these areas. Our faculty and staff continue to create new knowledge that helps our industries maintain their cutting edge, competitive leadership ... while protecting and enhancing the environment and quality of life for the state's citizens. NC State graduates lead many of these firms and industries.

The knowledge generated at NC State is the future of this state and its people ... **educating** future leaders of commerce, government, education and industry ... **creating and discovering new knowledge** to make our state more prosperous and increase the quality of life for citizens ... and **extending the mind power of the state's only Research I land-grant university** to solve practical problems.

... the total list of projects submitted by the UNC Board of Governo... ...e General Assembly, the following requests are of special interest and high priority to NC State:

1997-99 Expansion Budget Priorities

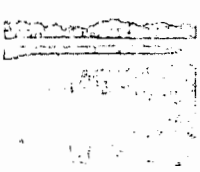
	1997-98	1998-99
Achieve and maintain competitive faculty salaries ▪ Academic Affairs Budget ▪ Agricultural Programs Budget	 $8.6 M $2.5 M	 $9.8 M $2.6 M
	$11.1 M	**$12.4 M**
1. Eliminate 2% reversion from Academic Affairs Budget (requires no new funds)	$4.3 M	$4.3 M
2. Invest in Graduate Education and Research ▪ Eliminate transfer of 10% of overhead receipts from Academic Affairs Budget ▪ Tuition remission for more graduate students	$9.0 M (total for the UNC Universities)	$9.0 M
3. Provide salary equity & support to agricultural researchers and Cooperative Extension field faculty in Agricultural Programs Budget	$3.1 M	$3.1 M
4. Eliminate 2% reversion from Agricultural Programs Budget (requires no new funds)	$1.6 M	$1.6 M

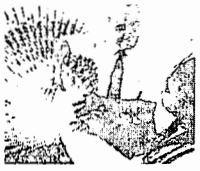
1997-99 Capital Improvement Budget Priorities

	Amount	Category
1. Nelson Hall Renovation - Phase II	$ 8.3 M	increase current capacity critical to accreditation
2. Toxicology Facility - Centennial Campus	$14.6 M	increase current capacity
3. Research & Teaching Feed Mill	$ 2.6 M	special purpose use
4. Undergraduate Science Teaching Labs - Phase I	$21.9 M	enhance program quality
5. Riddick, Mann, Daniels & Burlington Hall Renovations	$ 8.6 M	enhance program quality
6. College of Veterinary Medicine Main Building Addition	$24.3 M	increase current capacity
7. David Clark Laboratories Addition & Renovation	$ 10 M	increase current capacity

Complete Listing of 1997-99 Expansion Budget Request

NC State University





.mic Affairs	98	1998-99
Eliminate required 2% reversion *(no new funds required)*	$ 4.3 M	$ 4.3 M
Eliminate required transfer of 10% of overhead receipts	$ 1.5 M	$ 1.5 M
New funds required for the following:		
Technology – Computing and Telecommunications		
Enhance Teaching and Learning	$ 1.9 M	$ 1.9 M
Improvements in Services & Cost-Effectiveness	$ 1 M	$ 1 M
Library Improvements	$ 1.5 M	$ 1.5 M
Inter-Institutional Programs		
Sea Grant Program	$ 83 K	$ 83 K
Water Resources Research Institute	$ 100 K	$ 100 K
Total — Academic Affairs	**$4.5 M**	**$4.5 M**

Agricultural Programs	1997-98	1998-99
Eliminate required 2% reversion *(no new funds required)*	$ 1.6 M	$ 1.6 M
Program Enhancements – Faculty Salary Equity & Support	$ 3.1 M	$ 3.1 M
Agricultural Production & Life Sciences Industries	$ 1.4 M	$ 1.4 M
Natural Resources and the Environment	$ 900 K	$ 900 K
Communities & Rural Development	$ 600 K	$ 600 K
Total — Agricultural Programs	**$6 M**	**$6 M**

...ity of North Carolina
1997-99 Budget Requests

	1997-98	1998-99
Faculty Salaries (6% each year)	**$ 48 M**	**$ 100 M**
Current Operations		
1. Enrollment Changes	$ (1.9 M)	$ (1.9 M)
2. Funding Equity	$ 21 M	$ 21 M
3. Information Technology -- Computing & Telecommunications	$ 19 M	$ 20 M
4. Libraries	$ 13 M	$ 12 M
5. Rewarding Teaching Excellence	$ 6 M	$ 6 M
6. University Outreach to Public Schools	$ 6 M	$ 6 M
7. New Degree Programs	$ 3 M	$ 3 M
8. Graduate Education & Research	$ 9 M	$ 9 M
9. Area Health Education Centers	$ 4 M	$ 4 M
10. Administrative Support for New Processes	$ 900 K	$ 900 K
11. Remove 2% Reversion Requirement	No appropriation needed	
12. Distinguished Professors Endowment Trust Fund/State Match	$ 2 M	$ 2 M
13. Inter-institutional Programs	$ 2 M	$ 2 M
Total — Current Operations	**$ 84 M**	**$ 96 M**

Capital Improvements	1997-99
1. Repairs and Renovations	$ 130 M
2. Fire Safety Improvements, Student Residence Halls	$ 70 M
3. 1997 University-Wide Facilities Plan	$ 643 M
Total — Capital Improvements	**$ 843 M**

ATTACHMENT III

TOXICOLOGY

NORTH CAROLINA

Benefits and Needs

Today, billions of dollars are brought into our state's economy through the many institutes and companies related to or dependent upon toxicology . . .

NC State University

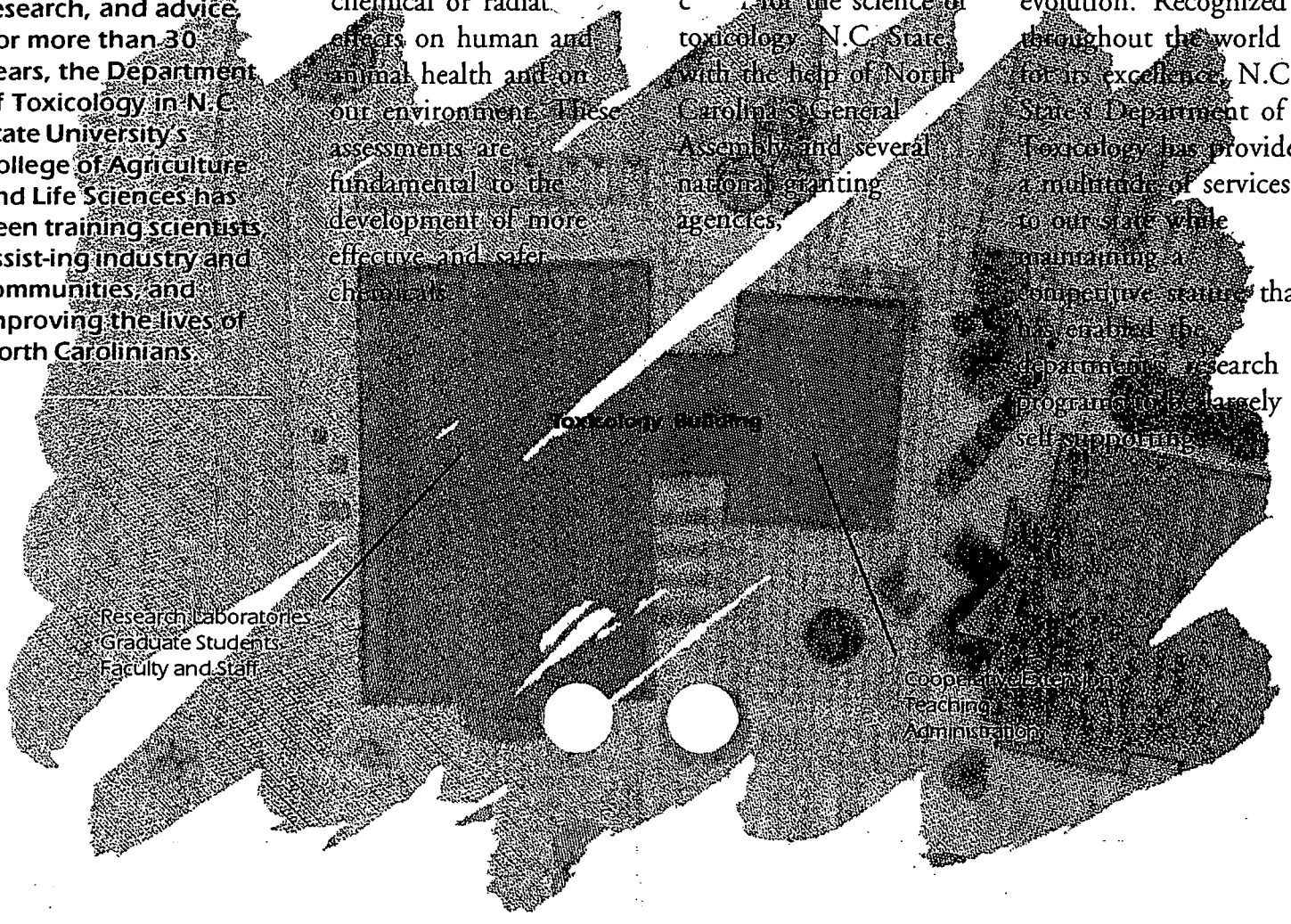
. . . Tomorrow, new technology-based industries will require sound, objective toxicological teaching, research, and advice. For more than 30 years, the Department of Toxicology in N.C. State University's College of Agriculture and Life Sciences has been training scientists, assist-ing industry and communities, and improving the lives of North Carolinians.

Toxicology and North Carolina

Toxicology is the study and assessment of chemical or radiat effects on human and animal health and on our environment. These assessments are fundamental to the development of more effective and safer chemicals.

North Carolina is the f ost international c for the science of toxicology. N.C. State, with the help of North Carolina's General Assembly and several national granting agencies,

has played an important role in this science's evolution. Recognized throughout the world for its excellence, N.C. State's Department of Toxicology has provided a multitude of services to our state while maintaining a competitive stature that has enabled the department's research programs to be largely self-supporting.



Recent Research Highlights

- Environmental fate and distribution of agricultural and industrial chemicals in waterways, ground water, and air
- Molecular biology and biochemistry of enzyme systems that metabolize pesticides in mammals and insects with emphasis on resistance of insects to insecticides and on human metabolism of pesticides
- Use of advanced genetic techniques in studies of chemical carcinogenesis and in the study of the induction of enzymes that metabolize pesticides
- Sensitivity of female mice to skin cancer providing new insight into the mechanism of cancer development and, indirectly, into new understanding of the hair follicle and production of hair fiber
- Effect of environmental chemicals on hormone status

Toxicology Tomorrow

N.C. State's toxicology program has served North Carolina well in the past, but its continued success will require the resources and facilities to respond aggressively and efficiently to the toxicological problems and risks that lie in North Carolina's tomorrow.

The department's future contributions to our state will be limited by one key factor—the lack of appropriate facilities. Today, faculty members and research labs are scattered among four buildings which are shared with other departments. Despite its international stature, N.C. State's Department of Toxicology lacks both teaching classrooms and laboratories.

Recognizing the excellence, the contributions, and the needs of the toxicology program, the General Assembly provided funds for the planning of a new building in 1995. These funds have been used to develop a detailed, exciting concept for a building, sited for N.C. State's Centennial Campus, that will bring together the entire department and permit its continued enhancement of our state's human, environmental, and economic health.

With the new biennium comes the perfect opportunity to turn the plan into a reality, to begin the necessary steps for the building's construction, to ensure the continuation of objective, scientific responses from our state's largest public university to potential dangers. The time is right to fund the construction of N.C. State's toxicology building.

N.C. State's Toxicology Program at Work

- This vibrant, progressive department combining teaching, research, and extension provides information and objective judgement in many areas of importance to agriculture, industry, the general public, and government officials. This information is essential to economic development and quality of life in North Carolina.
- A strong commitment to teaching is evident throughout the department. For example, toxicology faculty members have authored two nationally acclaimed and widely adopted textbooks, both now in their second editions. Graduate and undergraduate students from departments such as biochemistry, chemistry, crop science, entomology, food science, poultry science, veterinary medicine, and zoology take toxicology courses. Toxicology faculty also participate in undergraduate honors programs.
- The department's proximity to other departments and agencies on N.C. State's Centennial Campus and corporations in the Research Triangle will be ideal for cooperative programs and for the placement of graduates. In fact, N.C. State's toxicology graduates occupy positions of responsibility in many of North Carolina's most highly regarded institutions, companies, and universities including:
  - BASF
  - Chemical Industry Institute of Toxicology
  - Duke University
  - Glaxo-Wellcome
  - National Institute for Environmental Health Sciences
  - N.C. Department of Health, Environment, Natural Resources
  - N. C. State University
  - Research Triangle Institute
  - Rhone-Poulenc Ag
  - University of North Carolina at Chapel Hill
  - University of North Carolina at Wilmington
  - Environmental [illegible]ction Agency
- The recently established and successful North Carolina Cooperative Extension Service program in toxicology brings the benefits of toxicology research to businesses, industries, agribusinesses, communities, and the general public. The department also offers a course in toxicology specifically for county Cooperative Extension staff.
- The Pesticide Residue Research Laboratory, a strong influence for more effective pesticide use and now a part of the Department of Toxicology, is also a model for cooperative research. The addition of [illegible]alytical toxicology [illegible]atory in 1993 brought the department into the mainstream of national trends. This laboratory is largely self-supporting through external funds.

- **N.C. State's Department of Toxicology is:**
- The only one of its kind in any land-grant university in the nation – a first for the state of North Carolina
- The principal unit in the joint N.C. State-East Carolina University Agromedicine Program, designed to improve the health status of everyone involved in North Carolina's agricultural industry
- A major contributor to biomedical research and teaching with a strong program in cancer-related areas
- Highly competitive in the race for external funds, earning $1.50 in outside funding for every dollar received in state funds
- The leading department for studies in pesticide resistance, a serious problem for North Carolina farmers

NC State University

Ag Programs – 1997-99 Expansion Budget

I. Agricultural research and extension equity funds — $3.1 million

II. Agricultural production and life sciences industries — $1.4 million

III. Natural resources and the environment — $900,000

IV. Communities and rural development — $600,000

Agricultural Research and Extension Equity Funds – $3.1 million

- Research and extension faculty paid from Ag Programs budget were excluded from recent salary increase appropriations:
  - Extra increment for teaching faculty in FY 95
  - Additional 0.5% for teaching faculty in FY 96 (Short Session)
  - Increases in late 1996 from institutional enhancement funds
- Increases for research & teaching faculty were given from program reductions, carryovers, campus loan
- $3.1 million needed to make salary adjustments permanent and repay campus loan, avoiding further program reductions

II. Agricultural Production and Life Sciences Industries – $1.4 million

A. Value-added products and processes

B. Cropping systems and precision agriculture

C. Animal production systems

D. Turf and ornamental plants

III. Natural Resources and the Environment – $900,000

A. Water quality issues in fisheries management

B. Water and air quality

C. Sustainable forest management

IV. Communities and Rural Development — $600,000

A. Youth and family programs

B. Distance education

C. Outreach and distance education in support of K-12 education

D. Rural tourism

NORTH CAROLINA STATE UNIVERSITY | COLLEGE OF FOREST RESOURCES | BIENNIAL REPORT

From the Dean

Exemplary faculty and staff, bright students, outstanding facilities, committed friends and supporters – these are the variables in our Equation for Excellence at North Carolina State University's College of Forest Resources. Each variable is an integral part of our success and our plans for the future.

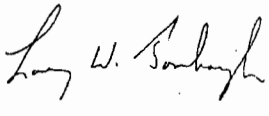
The College is home to three prominent departments: Forestry; Wood and Paper Science; and Parks, Recreation and Tourism Management. Each of these, in turn, is home to programs that range from the molecular biology of trees to environmentally sound methods of paper production to national park management and beyond. These departments are ranked among the top few nationally in their fields. It takes enormous work and care to maintain excellence in such a wide array of subjects, but by focusing relentlessly on our four variables, we believe we have done just that.

Pictured left to right: Larry W. Tombaugh, dean; J. Douglas Wellman, associate dean for academic affairs; and Jackson B. Jett, associate dean for research and outreach

This report highlights some of the people and facilities that are part of our Equation for Excellence and some of the achievements of the past two years. They are just part of the College's story, but they well illustrate the learning, research and service that occur here.

While each of our equation's variables is essential to our success, we are mindful that none is more important than the commitment of friends and supporters. Their guidance, hard work and financial help ensure that we will constantly strive to find better ways to educate our students, discover new knowledge and serve the state and our diverse clientele in business and industry.

Sincerely,



Larry W. Tombaugh
Dean, College of Forest Resources
North Carolina State University

BRIGHT STUDENTS

COMMITTED FRIENDS AND SUPPORTERS

EXEMPLARY FACULTY AND STAFF

+

OUTSTANDING FACILITIES

for

Our faculty is committed to students and to scholarship. Our professional staff is dedicated to the College's programs. From the strength of these commitments comes excellence.

The scope of our faculty's work is wide; the stories we highlight in this year's report are emblematic of that breadth.

Many of our faculty are internationally known researchers in the basic sciences whose work has led to an understanding of and solutions for real-world issues. Ellis Cowling, a pioneer in precipitation chemistry, and Ron Sederoff, a leader in the molecular genetics of trees, are currently the only forestry faculty in the nation to be members of the prestigious National Academy of Sciences (NAS). Cowling's research helped lay the groundwork for national air and precipitation monitoring programs, and Sederoff's work is opening the doors to genetically improved trees.

Josef Gratzl's research into the oxygenation of lignin has played a pivotal role in the creation of environmentally sound methods of pulping and bleaching wood. In 1995 the American Chemical Society honored him with a three-day, international symposium in his name. Elisabeth Field Wheeler's research into the fossil record of trees has led not only to important understandings of forest dynamics over time but has brought excitement to the undergraduate classroom. She is the College's 1995-96 Outstanding Teacher.

Teaching, of course, is one of our core missions, so much so that we titled our previous report *We Teach*. Over the past two years, 12 of our faculty members have received awards from the College or the University for excellence in teaching. One of the College's leaders in education is Carol Love, who has helped students travel the world both physically and via electronic resources. Her multimedia presentations have also helped first-year students learn about all of NC State University's colleges and make informed choices about their futures.

Electronic media play an increasing role in all of education and research, and Hugh Devine, one of the forc behind the University's Geographic Information Systems (GIS) lab, housed at the College, is helping to make tha technology available to the entire University community. The lab serves an equally important role as a resource for professionals, who come to learn or stay abreast of the latest GIS advances.

Our faculty also serves the state through extension services. The work of Craig McKinley and his team to nurture and protect North Carolina's Christmas tree industry, a $100 million-a-year wholesale business, embodies the science, service and education that are the heart of extension. Whether through helping a plywood producer find an economic use for waste material, playing a leadership role in organizing the North Carolina Senior Games, advising private forest landowners of the value of their timber resource or in dozens of other ways, the faculty of the College of Forest Resources helps the citizens of North Carolina.

These efforts, of course, depend for their success on the skills and performance of the College's professional staff — the people who, day to day, ensure that our programs operate effectively.

All of this effort comes at a time of increasing enrollment. During the past six years, enrollment in the College of Forest Resources has grown by 42 percent. The College's professional support staff has shown extraordinary creativity and resolve in seeing to it that these students experience excellent programs that run smoothly. And while accommodating more students with outstanding teaching and advising, the faculty has managed to attract well over $100,000 in grants and contracts per member. Our faculty does not represent a cost to North Carolina. Rather, the outside funding it garners is twice as much as the funding provided by the state. These funds are used to pay the stipends of graduate students, buy specialized scientific instruments and conduct research. The work of all these people and more, an exemplary faculty and staff, is an essential part of our Equation for Excellence.

Support is Part of the Equation

We are fortunate to have an excellent professional support staff as part of our equation. Each year, the College recognizes one of these professionals with its Outstanding Performance Award.

Chris Hunt (pictured on right) was our outstanding staff member of 1994-95. As a research technician with the Tree Improvement Program, a university-industry cooperative research effort, Hunt has shown an extraordinary level of personal initiative. He has gone out of his way to learn new skills in such areas as computerized record keeping and laboratory analytical techniques and to acquire new knowledge in sophisticated principles of plant physiology to improve his already excellent work.

Brenda Flood, (pictured on left) secretary and bookkeeper for Wood Products Extension, received the Outstanding Performance Award for 1995-96. Her high standards and enthusiasm for her work are contagious and raise the level of work of all those who come in contact with her. Extension services are an essential part of a land-grant institution's mission, and through them the College helps improve the lives of thousands of North Carolinians. Flood's pride in her work reflects the College's pride in its mission.

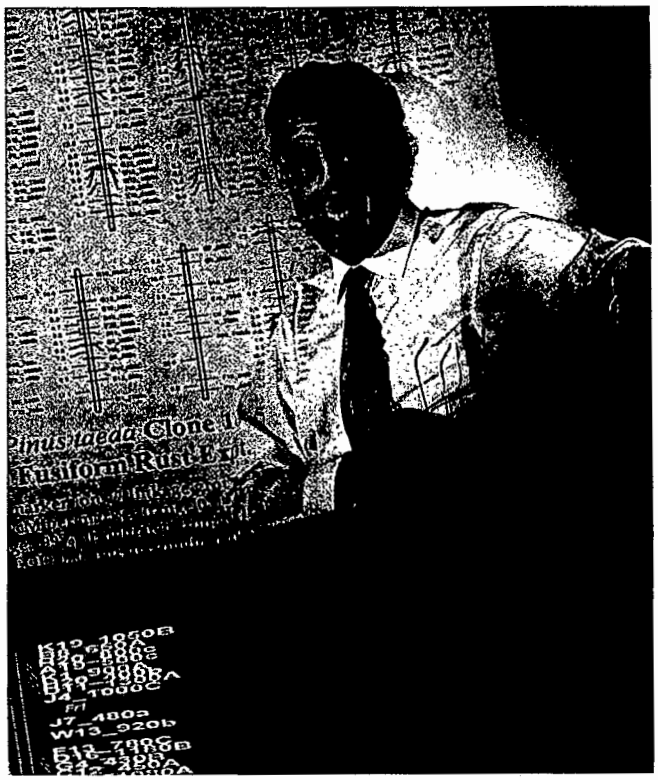
The Soup We Breathe

All the nutrient elements needed for tree growth can be found in the atmosphere. Trees — and the rest of us — live in a chemical bath. Early in his career, Ellis Cowling, professor of plant pathology and forestry and University Distinguished Professor at Large, began exploring human-induced changes in that chemical climate and the effects they have on trees. Along the way he pioneered the development of precipitation chemistry monitoring in the United States.

Among other projects, Cowling now heads the Southern Oxidants Study, a public-private effort that looks for policy-relevant findings in ozone pollution research.

"We study factors that lead to the accumulation of toxic ozone in the lower atmosphere," he says. "It's not simply a matter of humans polluting through emissions, although that's important. Among other things, vegetation fixes airborne carbon and releases it back into the atmosphere as an ozone precursor. The problem is quite complex, and governing bodies need to know just what is occurring or they will be shooting in the dark when they craft policy."

Harvesting the Genetic Revolution



"There's an ongoing revolution in every area of biology that has to do with understanding DNA and the ability to isolate and manipulate genes," says Ron Sederoff, professor of Forestry and head of the Forest Biotechnology Group. "We asked, why shouldn't we use these techniques with trees?"

The answer resulted in the formation of the pioneering biotechnology group, which has advanced the understanding of trees dramatically since its formation in 1987.

Sederoff's team has uncovered the genetic basis of fusiform rust disease in loblolly pine, which costs the timber industry in the Southeast $100 million annually. It is now working toward developing trees resistant to the disease.

The group has also discovered a naturally occurring mutation in loblolly pine that reduces lignin content and is working to breed a line of such trees. Trees with a lower lignin content could be pulped and bleached more efficiently than others.

These advances barely scratch the surface of the group's work, which includes isolating all of the functioning genes in a pine tree. For his work, Sederoff was elected to the National Academy of Sciences in 1995.

Giving Students the World

The goal of education is to help students achieve a holistic and global view of their field and themselves as well as to gain specific skills. For Carol Love [pictured left], associate professor in the Department of Parks, Recreation and Tourism Management, the leisure and recreation industries are avenues to the goal. Her students have undertaken jobs, internships and exchanges as far away as Saudi Arabia, Alaska, Africa and Australia.

When they are not traveling literally, they travel virtually on the Internet in Love's class "Leisure and World Cultures." She has turned the computer into a vehicle that joins communities and has brought that vehicle to people who need it.

"Last year I served as a university administrative intern with NC State's new First Year College," she says. "I created multimedia programs to introduce the First Year College students to the University's other colleges, where they will be heading. The goal is to help them gain an understanding of other communities. It's the same process that can be used in schools, recreation centers and elsewhere."

In the future, she hopes to lead students on international tours focusing on recreational and social customs, while others accompany them virtually on the WorldWide Web.

How Trees Are Built

Trees that remain only as fossils in North America have living counterparts in Southeast Asia, South America and Europe. The anatomy of the fossil record tells a story of climatic change across large time spans and vast forests that once grew in regions that are now deserts. The job of Elisabeth Field Wheeler, professor in the Department of Wood and Paper Science, is to unravel this record and understand long-term relationships among trees, climate and time.

Along the way, the wood anatomist has uncovered knowledge with direct commercial applicability. She has, for example, examined the relationship of wood structure and a tree's susceptibility to bacterial infection. Infected wood areas are weak and tend to warp as boards are cured. Wounding a tree through poor logging practices is often outwardly unnoticeable but will give bacteria an opening into wood fiber.

Her students come to Wheeler for an education in wood anatomy — how trees are built. They learn the factors that affect the texture of wood and how the wood can best be grown and worked for a desired use. The big picture of change that is Wheeler's passion as a scientist is an intellectual bonus for them, and one they appreciate. In 1995-96, Wheeler received the College's Outstanding Teacher Award and was elected to the International Academy of Wood Science.

EXEMPLARY FACULTY AND STAFF

Making Paper, Helping the Environment

Thirty-five years ago, Josef S. Gratzl set out to find uses for the byproducts of the wood-pulping and bleaching processes. His experiments into the oxygenation of lignin as a method of removing it from wood pulp in the paper-making process were outside the mainstream of wood chemistry. Lignin was then removed in chlorine processes, which left behind toxic waste. In the past 10 years, the studies by Gratzl, Elis-Signe Olsson Professor in Pulp and Paper Science and Technology, have contributed substantially to our understanding and establishment of modern, environmentally benign pulping and bleaching processes.

"My work started as very basic chemistry," he says. "When the country began to focus more on the environment, what I was doing became very useful."

Gratzl has been active in the developing world for the past 10 years. Presently he is working with the United Nations Industrial Development Organization (UNIDO) to establish a demonstration plant for chlorine-free bleaching of wheat straw pulp in China. Through UNIDO he is also studying lignin waste as a fertilizer in developing countries.

In 1995 the Paper and Textiles Division of the American Chemical Society recognized Gratzl's work with its highest honor, the Anselme Payne Award.

Managing Resources With Digital Imaging

"All natural resource management is based on maps," says Hugh Devine. "Traditionally, people developed maps through hand drafting, which is very expensive and time-consuming. This is no longer economically feasible, and Geographic Information Systems (GIS), computerized mapping programs, are a solution to this problem."

Devine is a professor in the Department of Parks, Recreation and Tourism Management and one of the forces behind the College's extensive GIS lab. He says GIS provides a means of accessing digital imagery from satellites and air photo data, it then draws on extensive computer libraries to create maps. These mapping systems can produce visual records of demographics, vegetation types, urban development, and virtually anything else.

The center serves an extensive in-house and external clientele. For the University community, its ambition is to make GIS technology and software available to every desktop computer on campus. Among its other external projects, the GIS facility serves as a Field Technical Support Center for the National Park Service in the Mid-Atlantic region and, increasingly, across the nation.

The Science of Christmas

Fraser firs — Christmas trees — bring an estimated $100 million in wholesale business to western North Carolina every year. North Carolina produces about 30 percent of the Christmas trees sold in the eastern United States. In the eastern part of the state, Virginia pine, white pine, and red cedar tree farms have an increasingly important impact on the economy.

Prior to 1900, there were an estimated 405,000 acres of Fraser fir in natural stands in the United States, most of them in North Carolina. By 1988, only an estimated 66,000 acres remained. The culprits were a bug — the balsam wooly adelgid — acid rain, overharvesting and pollution stress, among others.

Craig McKinley, associate professor of forestry and extension forestry specialist, and his team of scientists and educators are working hard to ensure the health of all these species.

"In 1994 we collected seeds from 530 natural Fraser fir stands that were isolated from one another," McKinley says. "We gathered enough for a gene preservation effort. We also undertook a major program to graft natural branches onto commercial root stock in selected orchards and produced enough seed to sell commercially."

And in 1995, the team began a Christmas tree genetics program that includes eastern North Carolina species as well.

New Faculty

Philip H. Mitchell, Assistant Professor, Wood Products Extension Specialist, Department of Wood and Paper Science. Ph.D. Forestry and Forest Products, 1981, Virginia Polytechnic Institute and State University.

Heather McRae Cheshire, Assistant Professor, remote sensing, Department of Forestry. Ph.D. Forestry, 1995, NC State University.

Craig R. McKinley, Associate Professor and Extension Forestry Specialist. Ph.D. Forestry/Genetics, 1973, Texas A&M University.

Bailian Li, Visiting Associate Professor, Tree Improvement Program, Department of Forestry. Ph.D., 1986, NC State University.

[Not pictured] Craig L. Forbes, Assistant Professor, Wood Products Extension Specialist, Department of Wood and Paper Science. Ph.D. Forest Products Marketing/Management, 1995 Virginia Polytechnic Institute and State University.

George Hess, Assistant Professor, biomathematics and ecology, Department of Forestry. Ph.D. Biomathematics and Ecology, 1994, NC State University.

Perry N. Peralta, Assistant Professor, wood products, Department of Wood and Paper Science. Ph.D. Wood Science and Forest Products, 1990, Virginia Polytechnic Institute and State University.

Ben A. Bergman, Visiting Assistant Research Professor, tissue culture, Department of Forestry. Ph.D. Forestry/Genetics, 1992, NC State University.

Edwin K. Lindsay, Instructor, Sports Management, Department of Parks, Recreation and Tourism Management. Ph.D. candidate, Adult and Community College Education, NC State University.

Gary R. Hodge, Visiting Associate Research Professor, CAMCORE, Department of Forestry. Ph.D., 1986, NC State University.

[Not pictured] Jeffrey Hance Owen, Extension Specialist, Department of Forestry. M.A. Forestry, 1984, Duke University.

Faculty Honors and Awards

H. LEE ALLEN
University of Maine Distinguished Alumnus Award

GARY BLANK
1995-96 Alumni Distinguished Undergraduate Professor Award

RICHARD BRAHAM
1995-96 Board of Governors Award for Excellence in Teaching

CRAIG FORBES
A. B. Massey Honorarium Award from Virginia Polytechnic Institute and State University

JOSEF GRATZL
1995 Anselme Payne Award of the American Chemical Society Cellulose, Paper and Textile Division

JOSEF GRATZL
Honorary Doctor of Science degree from St. Petersburgh Forestry Academy, Russia

RICKEY HAMILTON
Forest Farmers Extension Forester of Year Award

HASAN JAMEEL
David Wetherhorn Award from TAPPI Pulp Manufacturing Division

HASAN JAMEEL
1994-95 College of Forest Resources Alumni Distinguished Undergraduate Professor Award

LARRY JERVIS
1994-95 College of Forest Resources Outstanding Teacher Award

EDWIN JONES
North Carolina State University Outstanding Extension Award

BOHUMIL KASAL
1995 Cray Research Fellowship

ROBERT KELLISON
Carl Alwin Schenck Endowed Professorship in Forestry

JAN LAARMAN
Jackson Rigney International Service Award

RICHARD LANCIA
1994-95 Alumni Distinguished Undergraduate Professor Award

CAROL LOVE
Provost's African-American Award for Professional Development

RONALD SEDEROFF
Elected to the National Academy of Sciences, becoming the second member of the Academy on the faculty of the College of Forest Resources. Dr. Ellis Cowling has been an Academy member for several years.

RONALD SEDEROFF
Edwin F. Conger Endowed Professorship in Forestry

LARRY TOMBAUGH
1995 Outstanding Alumnus of the Penn State College of Agricultural Sciences

ROGER WARREN
1994-95 Board of Governors Award for Excellence in Teaching

ELIZABETH WHEELER
Fellow, International Academy of Wood Science

BRIGHT STUDENTS

+ COMMITTED FRIENDS AND SUPPORTERS

+ EXEMPLARY FACULTY AND STAFF

+ OUTSTANDING FACILITIES

= EQUATION FOR EXCELLENCE

Our 942 students have a strong preference for learning in a hands-on environment. They also have a desire to make a mark in their field. When they leave they are a direct measure of the College's success.

Most of our 722 undergraduate students want practical courses, curricula and careers. Like first-year student Melvin Easley, some develop an interest in forest resources only after a presentation at their high school by a local forest products company or one of our faculty members. We actively use our endowed scholarships to attract and recruit bright students.

Many of our students participate in internships or in cooperative education programs and divide their college years between campus and an employer. Often employers gain as much from these students as the students do from their work. As Melissa Ricks, class of '96, says, interns are willing to ask questions often overlooked by professionals and sometimes are more up to date on new computer software and other technological tools. The students, of course, have their eyes opened to the complexities and richness of the working world, as Mark Rawls, class of '97, did when he observed operations as an intern at the fabled Grove Park Inn.

When they leave the College, our students are ready to make a contribution to their industry, often in unexpected ways. As Eliot Malak, class of '96, says, an education that focused on making presentations and working in groups — as well as on technical issues — has been invaluable at his first job at a paper mill. Jennifer Willoughby, also class of '96, found that the transition between field work as a student and as a professional forester was smooth. Hers happened to be enhanced before graduation by experiments in growing California redwoods in North Carolina.

Employers find that College graduates have strong skills and a desire to advance. Our alumni occupy a disproportionately large number of positions at the vice-president level and above in corporations throughout the nation. Others fill positions of leadership in a wide variety of public organizations.

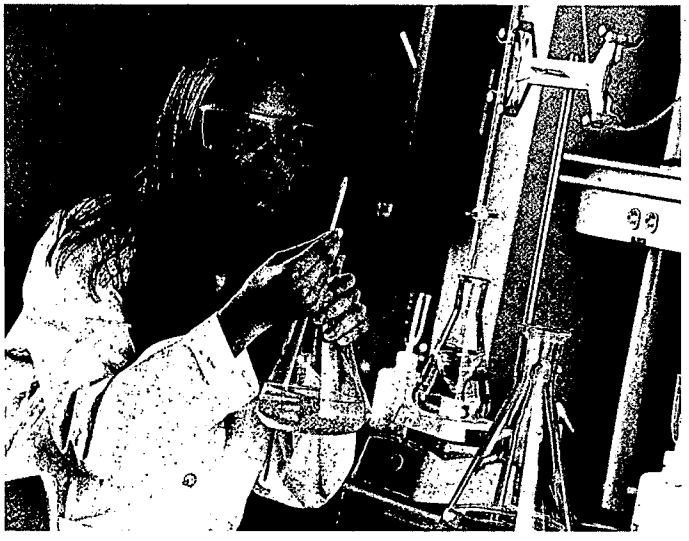
We are also home to one of the largest graduate programs in the nation, with 220 graduate students. Most of them are attracted to the College because of the faculty's international reputation. They come here from around the world, contributing to a rich, cosmopolitan, intellectual environment. In addition to being talented and committed to their field of scholarship, many of our graduate students serve as volunteers in domestic charitable institutions, while others work in international settings to meet the needs of local people.

Their research is as wide ranging as the faculty's. Mike Jacobson, a native South African and a forestry doctoral candidate, brings an international background to local forest resource issues. He studies the decisions and attitudes of forest owners in relation to local and regional planning policy.

Nancy Bell-Edwards (M.S. '96) moved outward geographically with her research. She not only studied the impact that protected-area projects in Costa Rica had on the local populace, she facilitated training for a group of visiting Chinese professors who had come to the College to learn about preserving and managing land in their country.

These students take part in a strong tradition at the College: excellence. One measure of our graduates' success is the Wallenberg Prize, the equivalent of a Nobel Prize in forestry and forest products. This prestigious award is presented each year by the King of Sweden. To date, there have been only three Wallenberg recipients from the United States. All three of these outstanding scientists have a degree from NC State University. Their place in our equation is fundamental.

What Students Bring to Their Jobs



"This summer I'm doing an internship with Betz PaperChem, working with the salespeople, all of whom are pulp and paper engineers," says Melissa Ricks. "We've been doing polymer trials to improve fiber retention in paper and improve brightness.

"My main responsibilities include data collection and analysis during various trials run on several paper machines. I have also been involved with the preparation of key presentations for mill personnel. During the compilation of the data and the organization of the presentations, my knowledge of computer software has helped greatly. Although the salespeople know more about the pulp and paper business, I know more about getting much needed information from the mill's computers and how to present correlations graphically. I believe that students come out of the College with a good understanding of how to use current software and are prepared to conquer new software with little difficulty."

"I'd say the other thing that we bring to our jobs, in addition to the good grounding in the technical and business sides of the industry, is new ideas. We're willing to ask a lot of questions about variables that are generally taken for granted."

Melissa Ricks earned her B.S. in Pulp and Paper Science in 1996 and is finishing her degree in chemical engineering.

How to Manage a Major Resort

"The Grove Park Inn is like a small city unto itself," says Mark Rawls, a senior majoring in commercial tourism and an intern at the fabled inn. "About 950 people work here, and there are 510 guest rooms, which means we could have 1,000 or more guests at any one time.

"We can have four or five weddings on a weekend and five to ten business conferences during the week. The inn employs everything from doormen to telecommunications specialists — every guest room is wired for Internet access.

"Managing all of the services that our guests are paying for is an enormous undertaking, and at a place like the Grove Park everything must run smoothly, or more than smoothly. One thing that has particularly impressed me is the professionalism of the staff. They're trained to help run the inn seamlessly. Just training the staff is a huge task; all of the supervision and the service must be consistent. My goal is to become the general manager of a large tourism-based organization, and an internship like this gives me the best model imaginable."

Mark Rawls graduates from the Department of Parks, Recreation and Tourism Management in spring 1997.

Discovering a Field and a Fascination

Melvin Ealey entered NC State in fall 1995 to work toward degrees in wood and paper science and chemical engineering. A year earlier, a career in forest products was the farthest thing from his mind.

"To tell the truth, I'd never even considered it," the South Carolina native says. "Then a representative from Bowater Inc. came to my high school to encourage students to enter the field. Math and science were always my best subjects, so I looked into it. Now I find the process of paper making fascinating.

"I'm a cooperative education student, and after my first semester here I worked at Bowater for two semesters. I helped collect samples of pulp and chemicals for testing, and I gained an appreciation for the way a mill works when I assisted with some basic maintenance.

"What I like best is learning the process hands-on, getting involved. I also like being in a field where there will be good jobs at the end of school."

Melvin Ealey is a recipient of a Pulp and Paper Foundation scholarship. As a dual degree, cooperative education student, he hopes to graduate in five years.

Prepared to Make a Mark

Eliot Malak, class of '96, focused his senior-year projects on extended delignification and strength improvements of recycled paper. Now he works as a project engineer in an International Paper pulp and paper mill.

"What I do here is really an extension of what I did in school," he says. "I'm on a team that intends to optimize the paper-making process however we can. Essentially, we support production by finding ways to improve the process and by recommending capital improvements.

"I was ready to go to work when I got here, because I gained a lot of technical knowledge through my studies in pulp and paper science at the College and through my summer internships. I also learned how to work in teams and make effective presentations, which have turned out to be integral parts of the job.

"We also learned about the international context of the industry at NC State. Here we are trying to keep costs down not just for the U.S. market but for the world market. When prices are down in one part of the world, the company explores others. There are international opportunities out there for me when I want them."

Malak received dual B.S. degrees in pulp and paper science and chemical engineering.

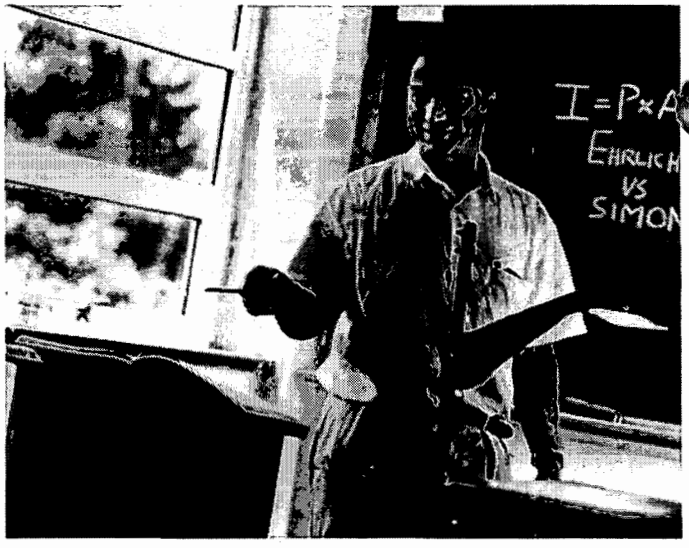
Bringing International Experience to Local Issues

Mike Jacobson, a Ph.D. candidate in forestry, returned to school because he wants to teach. He became a member of NC State's prestigious Training the Professorate program and divides his time among his own research, class work and teaching.

Unlike many students, who use the College and University as a doorway between their limited experience and the wider world, Jacobson arrived with an international background and focused his work locally. The native South African had worked in Lesotho, Africa, on land management and in a crop and tree nursery for the Peace Corps. Later he worked with the World Bank and the Tropical Forest Foundation on forest policy. Recently he has surveyed non-industrial forest owners in eastern South Carolina on landscape management.

"It's a little like looking at urban planning issues, but with forests," he says. "Are owners willing to take into consideration their neighbors plans or practices when they set their own priorities? What are their goals? Almost every city and county make land-use decisions that involve forests, and it's important to know how the forest owners make their own decisions."

Jacobson brings his real-world and research experience with him to the courses he had begun to teach: "Introduction to Natural Resources" and "Tropical Forestry" in fall 1996.



BRIGHT STUDENTS

Learning by Doing

"One of the best things the Department of Forestry did for me was to provide a work-study scholarship that had me working at the College's forests," says Jennifer Willoughby, class of '96. "I considered myself a very average student in the classroom, but the hands-on experiences made me feel I was accomplishing something."

Willoughby accomplished much. She was president of the Forestry Club and was named one of NC State University's Outstanding Women her senior year. She was also the first student to receive the Dan S. Spears Endowed Work Scholarship, a unique award that carries with it a commitment to try and grow California redwoods in North Carolina.

"Mr. Spears and his wife loved redwoods," Willoughby says. "She has grown several to a height of eight-to-ten feet on her property, and I grew seedlings in the greenhouse. We distributed them to other students' homes, and they will keep in touch with her and the person who receives this scholarship next year. There's not been much research in this area. It will be interesting to watch."

Willoughby now works as a professional forester for Union Camp in Nashville, North Carolina, a job that keeps her in the forest: "That's what I wanted."

Helping the World Protect Resources

Nancy Bell-Edwards' research for an M.S. in Parks, Recreation and Tourism Management took her to Costa Rica, where she studied the training that national park personnel receive from the Costa Rican government. During her graduate work, she also coordinated a program for five university professors from the Peoples Republic of China who had come to the College to develop training programs for protected-area personnel in their own country.

"People who work in protected areas in developing countries face issues that U.S. personnel don't often have to face," she says. "In many countries, protecting land from development results in changing the ways local people traditionally have made their living, by hunting, for instance, or harvesting. Preservation of the land and of plant and animal species may be essential for protection of a watershed, for example, but governments also have to help their local populations create ways to make a living from the new arrangement, whether by employing them directly or helping them create businesses that serve researchers and ecotourists that come to the protected areas. There's direct survival pressure with which the local people, and thus the park personnel, must deal. In my work in Costa Rica, I found that the employees wanted more training in biodiversity issues, so that they could educate the community on the real need to preserve the land. These training issues are important ones as the needs to protect critical areas from development and to allow people to make a living increasingly collide." Nancy Bell-Edwards received her M.S. in 1996.

Student Honors and Awards

NANCY BELL-EDWARDS
Outstanding Graduate Student

SUSAN COHEN
IC State Outstanding Graduate Teaching Assistant

CONCHITA MARIA GREEN
Outstanding African American Graduate Student in the College of Forest Resources

ELIZABETH GRIFFITH
Thomas I. Hines Outstanding Senior Award

KAREN HALL
NC State Outstanding Graduate Teaching Assistant

ALEXANDER KRINGS
NC State Outstanding Graduate Teaching Assistant

TONY STEPHENSON
Thomas I. Hines Outstanding Senior Award

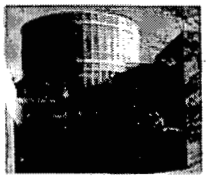
TERI WHYTE
Outstanding African American Graduate Student in the College of Forest Resources

JENNIFER WILLOUGHBY
NC State Outstanding Women Award

SUE YERKES
"Going the Extra Mile Award"

OUTSTANDING FACILITIES

Faculty and students depend on the College's facilities just as a craftsperson depends on his or her shop and tools. We are fortunate to have a variety of outstanding facilities, and they are essential not only to our Equation for Excellenc but to the success of our missions in research, education and outreach. Among them are the largest forest holdings o any forestry college in the nation and the Brandon P. Hodges Wood Products Laboratory.



The College has nearly 89,000 acres of forest at seven sites around the state. All of our forestry and wildlife undergraduates spend weeks at a time in the forests during their summer field work. Some help to maintain these resources as work-study students or assist in research projects within them. Graduate students and the faculty conduct numerous research and demonstration projects at these sites.

In early 1996 we acquired one of the largest remaining tracts of undeveloped private waterfront property on North Carolina's Albemarle Sound for use as a wetlands research site. The Bull Neck Swamp Research Forest covers 5,500 acres, including more than seven miles of rare, undisturbed shoreline. Here our students and faculty will study critical environmental issues, including coastal water quality, wildlife management, forest regeneration and environmentally sound timber management.

The 2,450-acre Hill Demonstration Forest in Durham County is the College's longest-held forest and the site of Camp Slocum, where all rising juniors in the Forestry Program spend seven weeks of intensive summer field work. We have managed this forest for 62 years as a teaching laboratory, where students learn to survey, measure, identify vegetation, perform water and soil tests and undertake the myriad other tasks that are part of every forester's job. Like all of our forests, the Hill is self-sustaining economically through timber sales and usage fees.

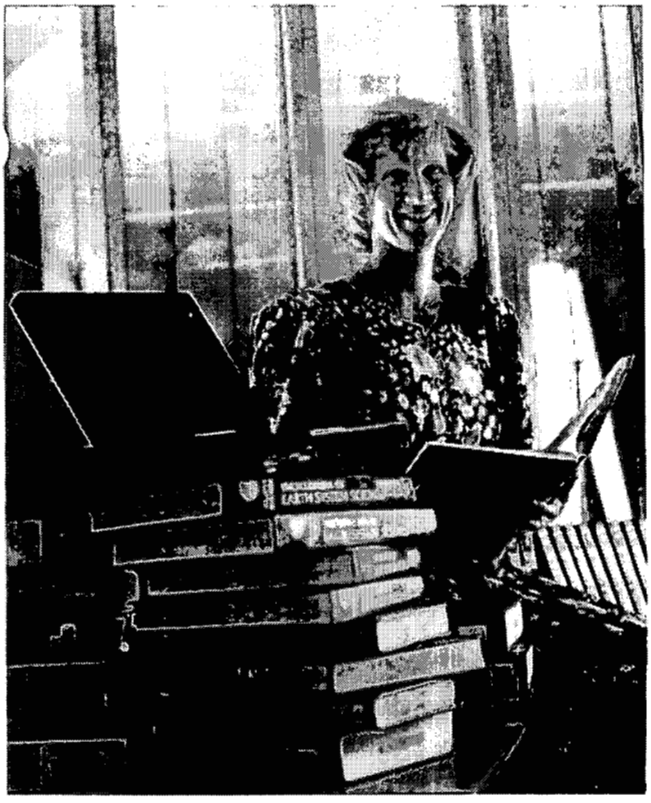
The Hodges Wood Products Lab focuses on wood further along the tree-to-product continuum. Each summer, students in the Wood Products Program learn the fundamentals of wood machining, gluing, furniture manufacturing and finishing through hands-on experience at the lab. Our industry partners in manufacturing send the lab a steady flow of wood and composite specimens for testing and evaluation. The NC State Wood Machining and Tooling Research/Education Progra is also located here. This project focuses on real-world industry problems in wood-machining technology. This research is aimed at improving efficiencies for the American woodworking industry in a highly competitive international market.

Add to these resources advanced computer facilities, the College's state-of-the-art pilot paper plant, extensive labs for both basic and applied research, and more. These reflect not only our dedication to excellence but the dedication of the College's supporters to our shared missions.

NC State University Forests

PROPERTY	ACREAGE	DATE OF ESTABLISHMENT
Bull Neck Swamp Research Forest	5,500	1996
James Goodwin Forest	1,169	1968
Hill Demonstration Forest	2,450	1929
Hofmann Forest	78,927	1929
Hope Valley Experimental Forest	345	1941
Wilfred Hosley Forest	250	1994
Schenck Memorial Forest	247	1936
Total	88,948	

Natural Resources Library



The College's Natural Resources Library (NRL) supports faculty, students, and staff with more than 34,000 volumes and an array of services. A daily NC State University delivery service provides the NRL's users with rapid access to the extensive holdings of the University's D. H. Hill Library and four other branches.

NRL offers computer-based access to many electronic databases, and as part of the nationwide Geographic Information Systems (GIS) literacy project, NRL provides a high-speed workstation connected to the campus network for the use of GIS software, tutorials and data.

"Libraries and computers are important elements of the scholarly enterprise, but it is gifted research librarians like Carolyn Argentati that makes them work," says Dean Larry Tombaugh.

OUTSTANDING FACILITIES

The Hill Forest serves as one of the College's outdoor classrooms where students gain hands-on experience and learn to integrate theory with practice. Such facilities and experiences insure that NC State graduates will be competent and confident young professionals.

COMMITTED FRIENDS AND SUPPORTERS

EXEMPLARY FACULTY AND STAFF

INNOVATIVE CURRICULUM

EQUATION FOR EXCELLENCE

OUTSTANDING FACILITIES

The support of friends is indispensable to excellence in education here. The College of Forest Resources is a shared venture. Our faculty, students, graduates and supporters need each other to achieve their own and our collective goals. The commitment of friends also makes it possible for us to provide students with the margin of excellence that distinguishes our program from others.

Even though NC State University is state supported, state appropriations account for only 48 percent of the College's total annual expenditures. It takes the work of hundreds of organizations, companies and individuals to fully support all the work done here.

The lion's share of support is coordinated through two foundations that exist for the sole purpose of supporting the College and its programs: the Pulp and Paper Foundation Inc. and the North Carolina Forestry Foundation Inc.

"We were chartered in 1954 to raise funds, recruit students and faculty, advise the College on curriculum, help bring the latest equipment to the program, provide summer jobs for students, and do whatever else we could to support the Pulp and Paper Program at NC State," says Ted Owens, president of the foundation and executive vice president with Inland Container Corporation. "The health of our industry depends on attracting top notch students and professionals. We consider the College part of our Equation for Excellence."

The Pulp and Paper Foundation provides 99 merit scholarships to undergraduates at the College. Ten of these were initiated in the past two years.

The Forestry Foundation, formed in 1929, is responsible for the 78,000-acre Hofmann Forest, a living endowment for the College. The Hofmann is a working forest as well as a classroom and laboratory, with about 50,000 acres of commercial timber land.

Under the leadership of foundation president Robert J. Beason of International Paper Company, the Hofmann is a source of pride to the state and to the industry, with careful attention given to water quality, watershed management, long-term productivity, wildlife habitat and the safety of workers. The forest now generates more than $1 million annually. After a portion of the funds is plowed back into forest improvement, a significant amount remains for support of the College.

"We're about to completely update the buildings at the Hofmann, so that students and faculty will have a first-class facility to live and work in while they study and conduct research here," says Samuel M. Hughes, chairman of the foundation's Land Management Committee and senior consultant with F&W Forestry Services Inc. of New Bern, North Carolina.

Over the past decade, the Forestry Foundation has expanded its activities and become increasingly active in student and faculty recruitment and curriculum enhancement. It now funds 57 undergraduate scholarships, four of which were created in the past two years.

Our faculty and students interact constantly with industry and with organizations that have a stake in the nation's and the world's forests. One of our responsibilities is to serve them well. Their support of the College is an investment in research and education that benefit us all.

Buckman Laboratories Endows New Professorship

In 1995, Buckman Laboratories International Inc. of Memphis, Tennessee, its chairman and chief executive officer, Robert Buckman, and his wife, Joyce Mollerup, pledged a gift of $1 million to endow the Buckman Laboratories Distinguished University Professor of wet-end chemistry in the College's Pulp and Paper Science and Technology Program.

"We selected NC State for this gift in recognition of its status as an active, innovative partner of industry," Robert Buckman says. "It has the resources and the commitment to take research and teaching on wet-end chemistry, an area of great importance to our company and our industry, forward into the next century."

The chemical processes of pulp-making and the early wet stages of paper-making are crucial ones for the quality of the end product. The new professorship will allow the College, already nationally known for faculty expertise in wood and lignin chemistry, to push the bounds of knowledge further and to bring that knowledge to industry.

We are currently engaged in the search for the outstanding teacher and researcher who will become the first Buckman Professor.

Ted A. Owens, Executive Vice President, Paperboard Group, Inland Container Corporation and President, Pulp and Paper Foundation, Inc.

Robert J. Beason, Manager of Logging and Fiber Supply, International Paper Company and President, North Carolina Forestry Foundation, Inc.

Research Cooperatives: Our Partnerships in the Field

The College is home to four public-private cooperatives aimed at improving forest management and production through research. Together they include forty-eight active industry and government agency members in North, Central, and South America. Total expenditures for the cooperatives reached $1.4 million in 1994-95 and $1.6 million in 1995-96.

CAMCORE (Central America and Mexico Coniferous Resources Cooperative) is dedicated to the protection and improvement of rare and threatened forest species and populations native to Mexico and Central America. Some of these already play important social and economic roles, and others have the potential to do so. By 1995 CAMCORE had established nearly five hundred breeding and management field trials. In the past three years it has had a 41 percent increase in membership, with eighteen current active members. Membership has recently expanded to include organizations from Indonesia, New Zealand, South Africa and Zimbabwe that face issues similar to those of the original membership.

The Forest Nutrition Cooperative is committed to discovering new knowledge and disseminating information to improve the production efficiency and the sustainability of southern pine stands through the silvicultural manipulation of site resources. Coop membership doubled to eighteen between 1993 and 1995. More than seventy-five of the almost four hundred field experiments installed since 1972 are still active, and three new large field trials are being established.

The Hardwood Research Cooperative focuses its research activities on increasing production in both natural stands and plantations of hardwoods. The cooperative is delving into the basic science of hardwood growth and health, recognizing the need for increasingly sophisticated breeding and management techniques if the nation's hardwood-based industry is to remain competitive with off-shore enterprises. The coop comprises fifteen members.

The North Carolina State University - Industry Cooperative Tree Improvement Program is, at 40, the oldest of the coops. Its goal has always been to economically increase forest productivity through genetic manipulation of pine populations. Over the past five years, the coop's seed orchards produced enough seed to regenerate 4 million acres, 1.6 million of which were planted with second-generation seedlings. Plantations grown from second-generation orchard seed are predicted to produce 16 percent more timber than plantations grown from wild seed. As significant as these figures might be to forest productivity, the future holds even greater promise as the breeding and selection for third-generation seed orchards rapidly near completion.

COMMITTED FRIENDS AND SUPPORTERS

1994-96 Individual Supporters

INDIVIDUALS

$10,000 AND UP

Dr Daniel O Adams
R H. Buckman & Joyce Mollerup
Dr. Hou-Min Chang
Mr C Allen Dykes
Dr Ronald B. Estridge
Dr Irving S Goldstein
Mr Wilfred Hosley
Phillip B Jackson Mem Fund
Mr. John L Moore
Mr Sture G Olsson

$1,000 TO $9,999.99

Mr W Michael Arnick
Mr. Blas P Arroyo
Dr Mack W Bailey
Mr Jerry H. Ballengee
Mr Charles C Brown
Mr John E. Chrise
Dr Fred W Cubbage
Mr. Joe K. Donald
Ms Cynthia Estridge
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Mr Jack M Frank
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Dr Charles D Holder Jr
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Mr Robert L. Jones
Mr G E. Lennon
Mr James C Lovin
Mr. John E McClendon
Mr Wayne A McFee
Mr Richard E. Milovicz
Mr. Wendell H. Murphy Sr
Mr. Jeffery D Murray
Dr Gene Namkoong
Mr Larry C. Norton
Mr. Roger W. Ogden
Mr. Ted A. Owens
Dr Richard B. Phillips
Mrs Linda Prichard
Mr. John F. Prichard
Mr. John S Pritchard
Mr Edmond I Roberts Jr
Mr Scott R Robertson
Prof. Charles N. Rogers
Mr. Daniel R. Shouvlin Jr
Mr. Gregory C Smith
Mr Walton R Smith
Dr. Kevin L Speight
Dr. Shelton H Short III
Mr Edgar A Spears Jr
Mr Kenneth E. Steppe
Mr. Charles N Stinnett Jr
Mr. Gary L Stewart
Dr Larry W. Tombaugh
Mr Edward A Turner
Mr Robert A Thomas Jr
Mr. James B Vining
Mr. J C Watson

$100 TO $999.99

Dr H. Lee Allen Jr
Mr. Laurice G Altman Jr
Dr Keith A. Argow
Mr Randolph B Austin
Mr William W. Austin, III
Mr William Charles Bannan
Mr. Jeffery B Barker
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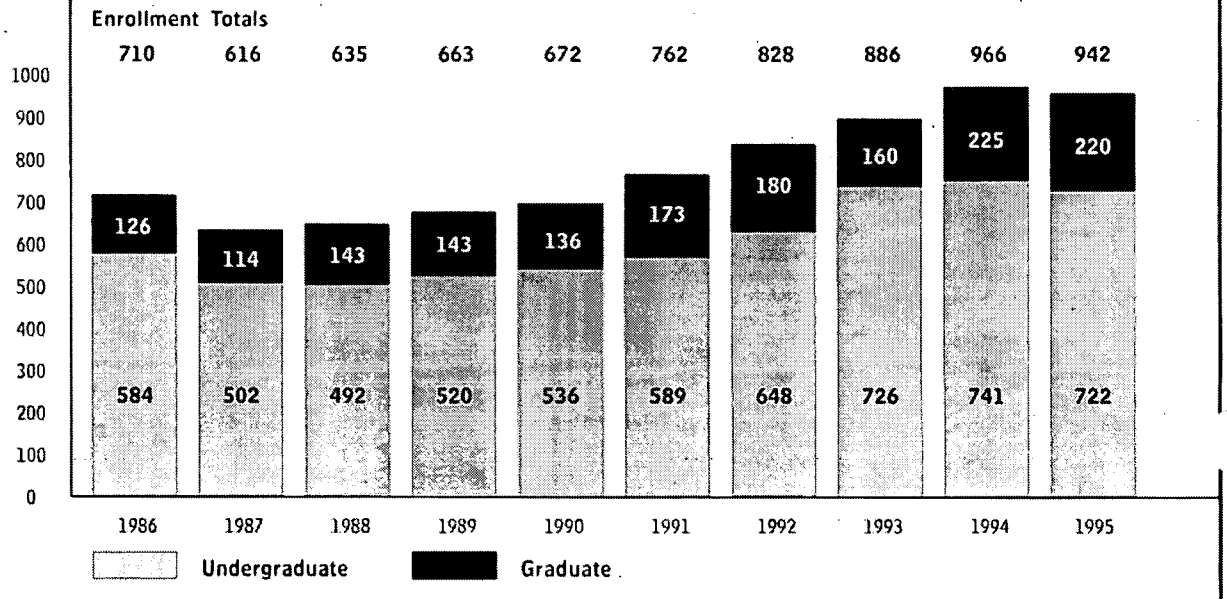
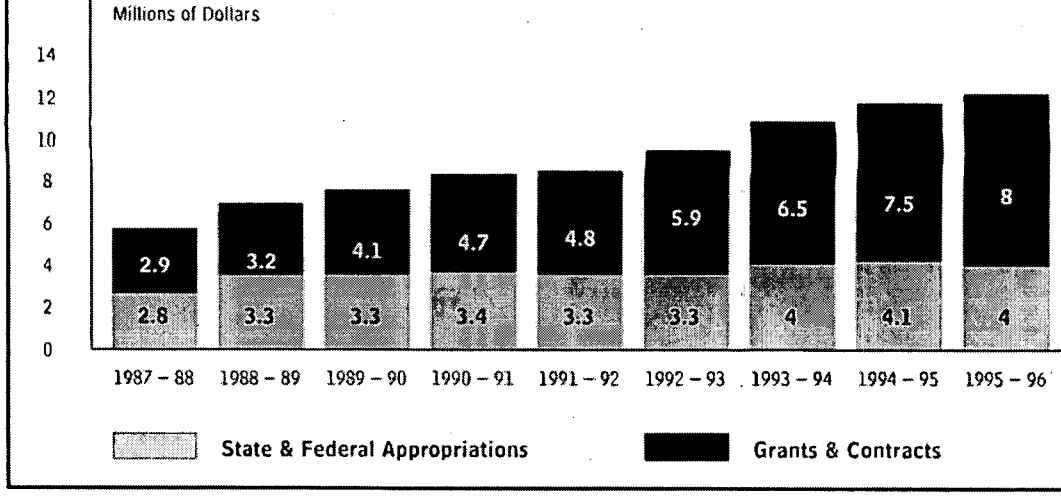
Enrollment By Programs

	Fall, 1994			Fall, 1995		
	UNDERGRAD.	GRADUATE	TOTAL	UNDERGRAD.	GRADUATE	TOTAL
Forestry	182	116	298	151	117	268
Natural Resources	118	0	118	111	0	111
Wildlife Biology	0	10	10	0	8	8
Pulp & Paper Technology	237	0	237	211	0	211
Wood Products	41	39	80	52	39	91
Parks, Recreation & Tourism	144	60	204	167	56	223
Undesignated	10	0	19	30	0	30
Totals	**741**	**225**	**966**	**722**	**220**	**942**

College of Forest Resource Profiles



Research and Sponsored Extension Expenditures



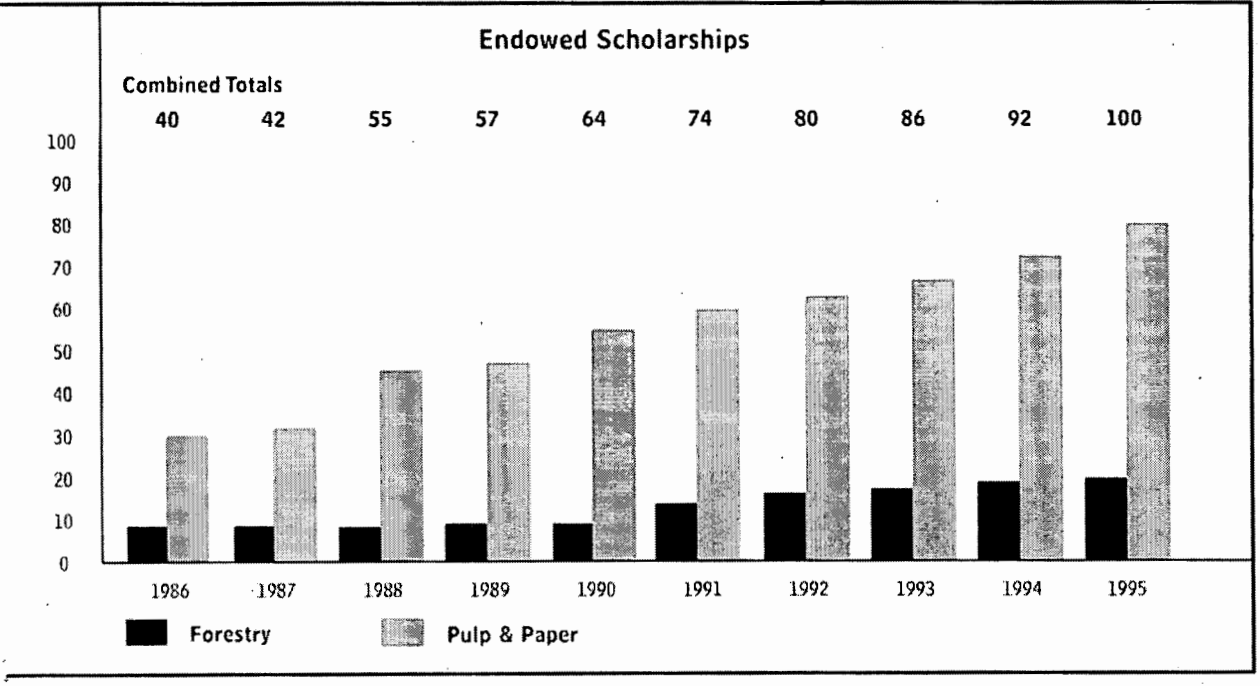
Income by Source

	1994-95		1995-96	
State Appropriations (teaching)	3,807,743	25%	3,832,720	24%
State Appropriations (research)	2,366,173	15%	2,376,128	15%
State Appropriations (extension)	1,055,981	7%	995,846	6%
Federal Appropriations	670,809	4%	633,508	4%
Federal & State Grants & Contracts	3,779,635	24%	3,807,010	24%
Private Grants & Contracts	2,744,289	18%	2,990,376	19%
Private Gifts & Endowments	389,703	3%	574,805	4%
Sale of Products	685,858	4%	861,418	5%
Total	**15,500,191**	**100%**	**16,071,811**	**100%**

Expenditures by Purpose

	1945-95		1995-96	
Instruction	3,003,633	19%	3,270,484	20%
Research	9,131,831	59%	9,008,592	56%
Extension & Outreach	1,299,333	8%	1,380,021	9%
Student Support	697,235	4%	988,119	6%
Forest Management	606,575	4%	599,782	4%
Operations & Maintenance	632,446	4%	674,263	4%
Foundation Management	129,138	1%	150,550	1%
Total	**15,500,191**	**100%**	**16,071,811**	**100%**

Endowed Scholarships



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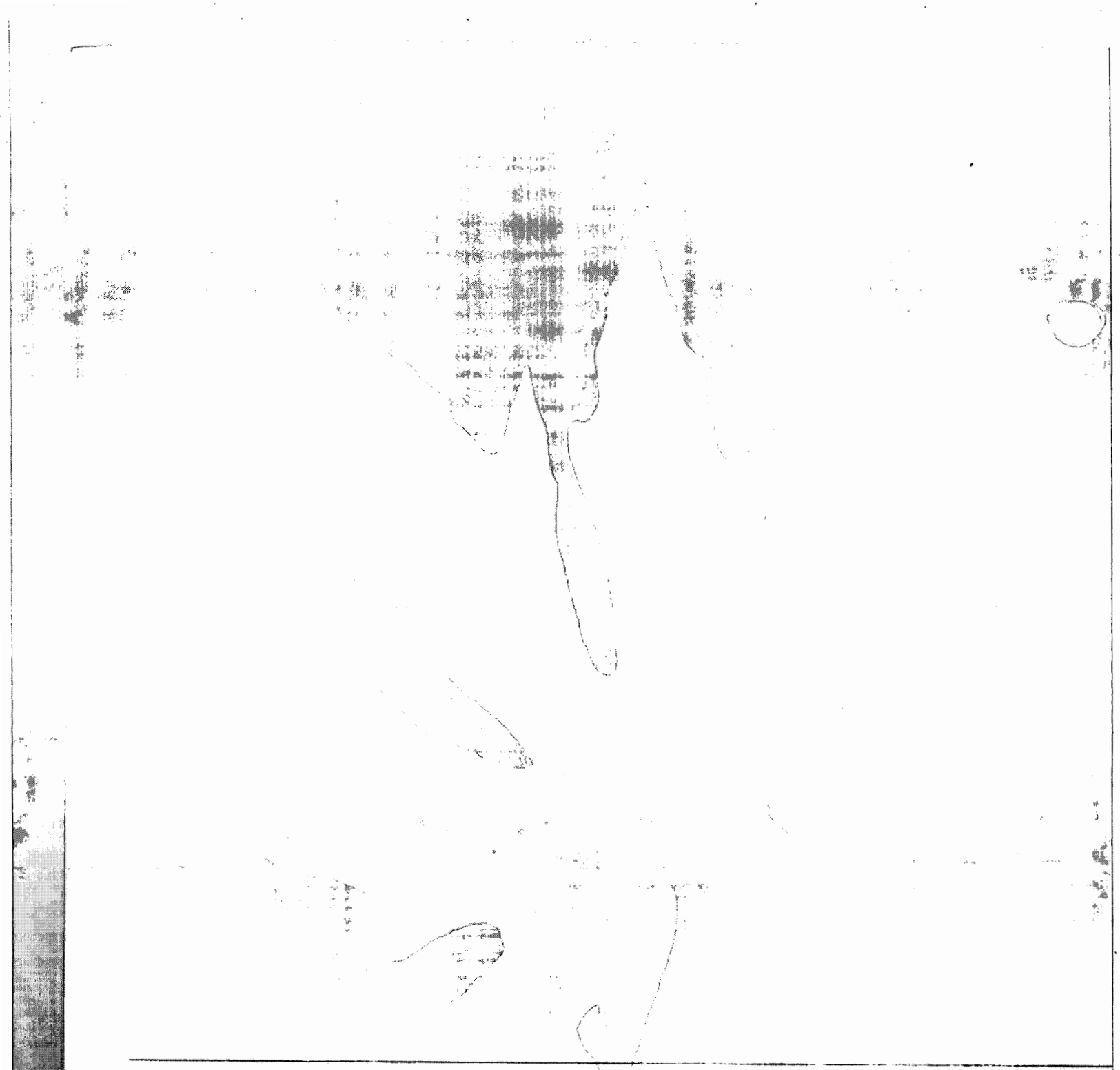

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VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — Name of Committee

FEBRUARY 18, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Steve Jernigan	Agri. Alliance of N.C.
Bill Buffaloe	Agribusiness Alliance of NC
Paul T. Dean	N.C. Agribusiness
John Cyrus	N.C. State Grange
Larry Monteith	NC State Univ.
Ben Allen	NCDA PA
Peter Daniel	NCDA
Jane Brothers	UNC Gen Admin / NC State - Ag Progs.
Larry Tombaugh	NC St-t Univ.
Bob Slocum	NC Forestry Assn.
Andy Sills	NC Farm Bureau
Julian Philpott	NC Farm Bureau
Paula Upton	NC Farm Bureau
L. Rogers	FANC
Roger Bone	Bone + Assoc / TI-Box Coal

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Suzanne Williams	Baker Assoc. / T.I / Pork Council

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **Tuesday, February 25, 1997**

TIME: **10:00 a.m.**

LOCATION: **Room 1425**

The following bills will be considered (Bill # & Short Title):
HB 61 Proposed Changes/Chapter 106
HB 96 Livestock Medical Supplies Exempt
HB 210 Ag Dept. Name Change
HB 240 Remove Odor Control Study Match

Respectfully,

Representative John W. Brown
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **3:15 p.m.** on **February 20, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

Anna P. Kidd (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE
FEBRUARY 25, 1997

I. CALL MEETING TO ORDER

II. REMARKS BY CHAIRMAN

III. INTRODUCTION OF PAGES

IV. HB 61 PROPOSED CHANGES/CHAPTER 106
SPONSOR REP. BROWN

V. HB 96 LIVESTOCK MEDICAL SUPPLIES EXEMPT
SPONSOR REP. DICKSON

VI. HB 210 AG DEPT. NAME CHANGE
SPONSOR REP. BROWN

VII. HB 240 REMOVE ODOR CONTROL STUDY MATCH
SPONSOR REP. MITCHELL

VIII. ANNOUNCEMENTS

IX. ADJOURNMENT

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

FEBRUARY 25, 1997

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, February 25, 1997 at l0:00 a.m. Representative John Brown, Chairman, presided at the meeting with twenty House Members present, five House Members absent and, one House Member excused.

Chairman Brown introduced the pages serving the Committee and welcomed guests.

The following bills were discussed:

House Bill #61, entitled: **AN ACT TO REPEAL OBSOLETE SECTIONS OF CHAPTER 106 OF THE NORTH CAROLINA GENERAL STATUTES**.was explained by Representative John W. Brown. This bill was recommended to the General Assembly by the Agriculture and Forestry Awareness Study Commission. The bill repeals various obsolete provisions in Chapter 106 of the General Statutes. Representative Arlie Culp sent forward an amendment. Representative Rex Baker moved that the amendment be adopted.

The amendment attached was adopted. Representative Rex Baker moved that the bill be reported favorably, as amended. The bill passed, as amended.

House Bill #96 entitled: **AN ACT TO EXPAND THE SALES TAX EXEMPTION FOR MEDICINE USED ON LIVESTOCK AND POULTRY TO INCLUDED VETERINARY SUPPLIES** was explained by Representative Dickson. This bill amends G.S.105-164.13(2a) expanding the State sales tax exemption for various agricultural supplies to included veterinary supplies and equipment. This act is effective when it becomes law. Representative Yongue stated that this bill simplifies book keeping and moved for approval. Representative Dewey Hill sent forward an amendment. Representative Hill moved that the amendment be adopted and the bill be re-refereed to finance.

The amendment attached was adopted. The bill passed, as amended.

House Bill #240 entitled: **AN ACT TO REMOVE THE MATCHING FUNDS REQUIREMENT FOR THE FUNDS APPROPRIATED IN 1996 TO CONDUCT AN ODOR CONTROL TECHNOLOGY STUDY, AS RECOMMENDED BY THE**

ENVIRONMENTAL REVIEW COMMISSION was explained by Representative Frank Mitchell. Representative Mitchell stated that this bill amends Section 27.3 of Chapter 18 of the 1996 Session Laws transferring funds from DEHNR to the North Carolina Agricultural Research Service to conduct research into odor control technologies. As originally enacted, the appropriation of $600,000 in Section 27.3 required matching funds from private sources. House Bill #240 removes the requirement that matching funds be obtained for the funding to be available for the study. This act is effective when it becomes law.

Several questions were taken from the members. Representative John Nichols moved that the bill be given a favorable report. The bill was voted upon and given a favorable report.

House Bill #210, entitled: **AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE TO THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES** was explained by Representative Brown. This bill changes the name of the Department of Agriculture to the Department of Agriculture and Consumer Services. The rationale for the name change is that it more accurately reflects the mission and duties of the Department, which in additional to agriculture, is also responsible for administering the Oil and Gas laws, Chapter 119 of the General Statutes, the Animal Welfare Act, Chapter 19A of the General Statutes, and the food and drug safety laws of the State.

The name of the Commissioner of Agriculture is not changed in this legislation. The Commissioner of Agriculture is an elective officer within the executive branch of government, Article III, Section 7 of the North Carolina Constitution, and a constitutional amendment would be necessary to change the title.

The act is effective when it becomes law.

After several questions from the members, Representative Dewey Hill moved that the bill be given a favorable report. The bill was voted upon and was given a favorable report with two NO votes.

The meeting adjourned at 10:30 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 61 A BILL TO BE ENTITLED AN ACT TO REPEAL OBSOLETE SECTIONS OF CHAPTER 106 OF THE NORTH CAROLINA GENERAL STATUTES.

☐ 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 GENERAL ASSEMBLY
AMENDMENT
House Bill 61

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H61-ARF-245-97d

Date_____,1997

Comm. Sub. [ ]
Amends Title [ ]

moves to amend the bill on page 1, lines 15 - 18 by rewriting those lines to read:

"Section 11. G.S. 106-436 through G.S. 106-451.1 are repealed.; and

further amends the bill by renumbering the remaining section accordingly".

SIGNED _____
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) **John W Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 96 A BILL TO BE ENTITLED AN ACT TO EXPAND THE SALES TAX EXEMPTION FOR MEDICINE USED ON LIVESTOCK AND POULTRY TO INCLUDE VETERINARY SUPPLIES.

☐ 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 GENERAL ASSEMBLY
AMENDMENT
House Bill 96

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H96-ARF-246-97d

Date_____,1997

Comm. Sub. [ ]
Amends Title [ ]

1 moves to amend the bill on page 1, line 6,
2 by deleting the term "onanimals" and substituting the phrase "on
3 animals"."

SIGNED _____
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) **John W. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 210 A BILL TO BE ENTITLED AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE TO THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.

☒ 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)

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 240 A BILL TO BE ENTITLED AN ACT TO REMOVE THE MATCHING FUNDS REQUIREMENT FOR THE FUNDS APPROPRIATED IN 1996 TO CONDUCT AN ODOR CONTROL TECHNOLOGY STUDY, AS RECOMMENDED BY THE ENVIORNMENTAL REVIEW 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 (#), ☐ 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)

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — Name of Committee

FEBRUARY 25, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Suzanne Williams	Bode Assoc. / TI & Pork Council
Ronald Tomes	Dept. of Revenue
Claude Gilbert	Cabinet Office
Bill Holman	CCNC / Soil & Lds
Dale Mitchell	SCENIC NC
June Brotherton	UNC General Admin/NC State – Ag Programs
Jerry Hadesty	NC Pork Council
Vernon James	NC Grange
John Cyrus	N.C. State Grange
Henry Jones	Attorney Raleigh
Cindy Ellen	NC Farm Bureau
Charles Daugh	"
Peter Daniel	NCDA
Maurice Weaver	NCDA
Wilbur Ramm	NCDA
Jerry Schill	NC Fisheries Assoc.
Clayton Bone	Bode & Assoc / NC Pork Prod

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MARCH 4, 1997**

TIME: **10:00 AM**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **11:00 AM** on **THURSDAY, FEBRUARY 27, 1997.**

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE

MARCH 4, 1997
ROOM 1425
10:00 AM

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

COMMISSIONER JAMES A. GRAHAM
DEPARTMENT OF AGRICULTURE

ANNOUNCEMENTS

ADJOURNMENT

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

MARCH 4, 1997

The House Committee on Agriculture met on Tuesday, March 4, 1997 at 10:00 a.m. in Room 1425 of the Legislative Building. Representative John W. Brown, Chairman of the House Agriculture Committee presided with twenty two House Members present and four House Members absent.

Chairman Brown introduced the pages and welcomed all the guests to the Agriculture meeting. At this time, Mr. Brown turned the meeting over to James A. Graham, Commissioner of the Department of Agriculture for the State of North Carolina.

Commissioner Graham gave an overview of "Goodness Grows in North Carolina" and stated that every citizen is affected in some way with the Department of Agriculture. North Carolina's agriculture industry, including food, fiber, and forestry, contributes over $46 billion annually to the state's economy. It also accounts for over 27 percent of the state's income, and employs 21 percent of the work force (Attachment I).

The Commissioner further stated that we live in a global society which creates international trade as well as domestic trade with millions of dollars in revenue. He stated that the legislatures support is vital to the state. Several questions were taken from members.

At this time, Mr. Graham introduced Dr. Don Eaddy, Director of the Agronomic Division with the Department of Agriculture. Dr. Eaddy stated to the members that under the auspices of the North Carolina Department of Agriculture, the Agronomic Division (Attachment II) works to:

- Increase Productivity.
- Promote Responsible Land Management.
- Protect The Environment.

The department also offers services in four interrelated categories:

1. Soil Testing Services.
2. Plant, Waste, and Solution Advisory Services.
3. Nematode Advisory Services
4. Field Advisory Services.

Dr. Eaddy asked that members support the requests for funding the Department of Agriculture. He promised that the funds would be effectively and efficiently used.

Commissioner Graham next introduced Mr. Bob Murphy, Director of Statistics Division for the Department of Agriculture. Mr. Murphy stated that the department wishes to reach more people via the Internet. This area would reach the children of the state in "Kids Korner". They would provide food safety and the nutritional sides of food. They would provide consumer services and finally they would provide consumer alert. This all would help commodities on the world wide web. Several questions followed.

Commissioner Graham next introduced Maurice Weaver, Deputy Commissioner of the Department of Agriculture. Mr. Weaver asked the members support in a center for Environmental Farming Systems. The center will be the first of its kind in the state: a facility dedicated to the development of farming systems that are environmentally, economically, and socially sustainable.

Mr. Weaver stated that the location of the center will be at the Cherry Farm near Goldsboro. The farm is owned and operated by the North Carolina Department of Agriculture (Attachment III). This center will help develop profitable agricultural systems that satisfy two inescapable needs:

A Clean Environment.
A Safe, high quality supply of Food and Fiber.

At this time, Commissioner Graham introduced Wayne Miller, Director, Division of Marketing. Mr. Miller stated that "Goodness Grows in North Carolina" is the official marketing program of the North Carolina Department of Agriculture (Attachment IV). The program is divided into two categories:

<u>General</u>
Food Products
Nursery Item
Specialty Items

<u>Associate</u>
Grocery Stores
Restaurants
Specialty Stores.

Mr. Miller noted that "Goodness Grows in North Carolina" generated $60 million for the state last year. Mr. Miller further stated that the growth of agriculture exports in the past 5 years has grown tremendously:

Pork 505%
Cotton 467%
Poultry 278%

In conclusion, Mr. Miller noted that North Carolina will be a major player in feeding the world.

The meeting adjourned at 10:55 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

something to crow about

ATTACHMENT I

major NC farm commodities

RANK	ITEM	1995 CASH RECEIPTS (MILLION DOLLARS)
1	Hogs	1,274
2	Broilers	1,152
3	Tobacco	1,049
4	Greenhouse/Nursery	858
5	Turkeys	532
6	Cotton	314
7	Eggs	203
8	Dairy Products	192
9	Soybeans	186
10	Corn	179
11	Cattle & Calves	152
12	Wheat	110
13	Peanuts	103
14	Sweetpotatoes	58

These commodities account for 92 percent of the total cash receipts from all farm commodities.

1995 CASH RECEIPTS ALL COMMODITIES $6.99 BILLION

th Carolina's agriculture industry, including food, fiber and forestry, contributes over $45 billion annually to the state's economy, accounts for over 27 percent of the state's income, and employs 21 percent of the work force.

NORTH CAROLINA DEPARTMENT OF AGRICULTURE

JAMES A. GRAHAM, COMMISSIONER

Internet Address: http://www.agr.state.nc.us

how north carolina agriculture compares with other states

1995 production

RANK	ITEM	PRODUCTION		EXCEEDED BY
1	Total Tobacco	485	(Mil Lbs)	None
	Flue-Cured Tobacco	474	(Mil Lbs)	None
	Sweetpotatoes	4,800	(000 Cwt)	None
	Turkeys Raised	61.2	(Mil Hd)	None
2	Number of Hogs on Farms (6-1-96)	8.9	(Mil Hd)	Iowa
	Cucumbers for Pickles	72	(000 Tons)	Mich
	Trout Sold	5,143	(000 Lbs)	Idaho
	Net Farm Income	$2,880	(Mil $)	Calif
3	Poultry & Egg Products Cash Receipts	$2,056	(Mil $)	Ark, Ga
	Greenhouse & Nursery Receipts	$853	(Mil $)	Calif, Fla
4	Commercial Broilers	670	(Mil Hd)	Ark, Ga, Ala
	Peanuts	347	(Mil Lbs)	Ga, Tex, Ala
	Strawberries	192	(000 Cwt)	Calif, Fla, Ore
	Blueberries	13,000	(000 Lbs)	Mich, NJ, Ore
6	Burley Tobacco	10.4	(Mil Lbs)	Ky, Tenn, Ohio
7	Catfish Sold	2,348	(000 Lbs)	Miss, Ala, Ark
	Watermelons	1,488	(000 Cwt)	Fla, Ga, Tex
	Rye	500	(000 Bu)	S Dak, Ga, Okla
	Apples	270	(Mil Lbs)	Wash, Mich, NY
	Cash Receipts from Livestock, Dairy & Poultry	$3,735	(Mil $)	Tex, Nebr, Calif
8	Cash Receipts from All Commodities	$6,387	(Mil $)	Calif, Tex, Iowa
	Peaches	32	(Mil Lbs)	Calif, SC, Ga
	Cotton	798	(000 Bales)	Tex, Calif, Ga
	Pecans	8,300	(000 Lbs)	Ga, Tex, N Mex
9	Eggs	8,152	(Mil Eggs)	Calif, Ohio, Pa
	Chickens (12-1-95), (Excludes Broilers)	18.8	(Mil Hd)	Calif, Ohio, Ga
	Cash Receipts from Crops	$3,251	(Mil $)	Calif, Ill, Iowa
12	Grapes	1,300	(Tons)	Calif, Wash, NY
13	Export Shares	$1,358	(Mil $)	Calif, Tex, Ill
14	Number of Farms	58	(000)	Tex, Mo, Iowa
15	Sweet Corn	314	(000 Cwt)	Fla, Calif, Ga
	Tomatoes	210	(000 Cwt)	Fla, Calif, Ga
16	Soybeans	26.8	(Mil Bu)	Iowa, Ill, Minn
	Sorghum Grain	650	(000 Bu)	Kans, Tex, Nebr
	Corn for Grain	74.9	(Mil Bu)	Iowa, Ill, Nebr
17	All Potatoes	3,177	(000 Cwt)	Idaho, Wash, Wisc
	Winter Wheat	28.2	(Mil Bu)	Kans, Wash
18	Barley	1.8	(Mil Bu)	N Dak, Mo
20	Oats	2.0	(Mil Bu)	N Dak, Wisc
26	Milk	1,417	(Mil Lbs)	Calif, Wisc, NY
31	Number of Cattle on Farms (1-1-96)	1,200	(000 Hd)	Tex, Kans, Nebr
35	Hay	1,286	(000 Tons)	S Dak, Calif, Tex

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- In response to public concerns and government regulations, the Division has been asked to play an increasing role in the management of municipal and industrial wastes. Indiscriminate use of these wastes—which may contain significant levels of heavy metals and nutrients—threatens land productivity, surface- and groundwater quality, food safety, and human health. Since 1983, the number of samples analyzed by the Plant, Waste, and Solution Advisory Section has increased by 350%.
- Plant analyses guide the wise use of nitrogen and other nutrients in the production of intensively managed strawberries valued at over $7 million. As a result, growers enhance yield and quality while minimizing nutrient applicat and protecting the environment.
- The Division has developed predictive soil-testing methodologies (Mehlich-1 and -3) that are used throughout the world to improve land-management efficiency.
- Division-sponsored field days have brought together growers, agronomists, and agribusiness dealers to clarify problems, exchange ideas, and implement improved production practices.

For Additional Information

For additional information and details on the proper method of submitting samples, contact the NCDA Agronomic Division; 4300 Reedy Creek Road; Raleigh, NC 27607-6465. Phone: (919) 733-2655.

Published by
NCDA Agronomic Division
Donald W. Eaddy Director

James A. Graham
Commissioner
NCDA

10,000 copies of this document were printed in March of 1995 at a cost of $.09 per copy.

Agronomic Division

ATTACHMENT II

Agronomic Services

Improving Agricultural Productivity & Environmental Quality

N.C. Dept. of Agriculture

What is the Agronomic Division?

Under the auspices of the North Carolina Department of Agriculture (NCDA), the Agronomic Division works to increase crop productivity, promote responsible land management, and protect the environment. To achieve those ends, we provide diagnostic and advisory services for all North Carolina citizens. We also work closely with educational institutions and agribusinesses.

Established in 1938 as the Soil Testing Division, the Agronomic Division was renamed in 1973 to denote the increased range of services we provide. These fall into four interrelated categories:

- Soil Testing Services
- Plant, Waste, and Solution Advisory Servi
- Nematode Advisory Services
- Field Advisory Services

To assist growers most effectively, each service applies the most recent scientific advances in soil fertility, plant nutrition, plant disease control, water quality, and waste management.

Why an Agronomic Division?

From both an economic and an environmental standpoint, agricultural efficiency is important to every North Carolinian. Declines in such efficiency impose a widening circle of social costs: growers lose money, consumers are denied safe and affordable food and fiber, the state as a whole suffers from environmental problems, and future generations inherit a degraded resource base.

The Agronomic Division helps to avoid these problems by providing science-based land-management information to all those who need it—from large-scale farmers to homeowners and weekend gardeners. Rather than relying on guesswork or trial and error, growers can thus make informed decisions about fertilization, liming, pest control, irrigation, waste management, and related matters.

Reliable agronomic information increases production and efficiency while safeguarding th environment. It forms the foundation for policies that protect the immediate interests of consumers and producers without jeopardizing the land resources upon which future generations will depend.

What is the Soil Testing Service?

This section analyzes soil samples and makes recommendations concerning optimal fertilizer and lime requirements for plants grown throughout the state. By clarifying a soil's relative nutrient-supplying power, soil tests help maximize amendment efficiency. Growers thus avoid nutrient deficiencies without applying economically wasteful and environmentally unsound fertilizer excesses.

Soil tests reveal fertility status with regard to pH, acidity, and nutrient level. Recommendations are based on crop requirements, soil type, and soil fertility. The service also analyzes problem soils during the cropping season, thus providing growers with a source of emergency information.

Because production on many North Carolina s is limited by variables other than fertility, amendment recommendations are not designed to achieve a projected yield goal, but to prevent fertility from limiting yield. Recommendations have been developed from numerous field studies designed to predict crop requirements under typical climatic conditions. All soil tests are provided free of charge.

Soil testing is a key to efficient land management.

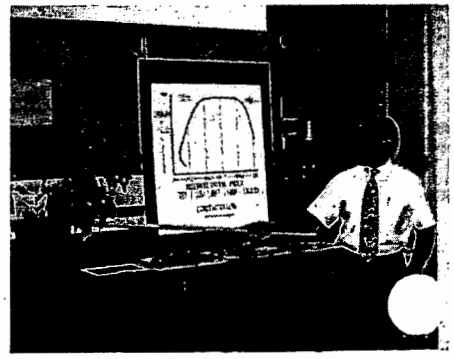
What are Plant, Waste & Solution Services?

Healthy plants contain predictable concentrations of essential nutrients. Chemical tests performed by the *Plant Advisory Service* help growers monitor these concentrations and thus avoid a variety of nutrient-related production and environmental problems.

Recommendations help growers correct nutrient deficiencies *before they reach a critical stage*. Growers who rely only on visual cues forfeit this safeguard. Indeed, by the time such cues are apparent, irrecoverable losses in yield and quality are likely to have occurred.

The *Waste Advisory Service* facilitates the wise use of farm, municipal, and industrial wastes and by-products. Growers can thus make responsi decisions about how to use these materials to supply crop nutrients. Predictions of first-crop nutrient availability are provided according to various application methods (for example, surface broadcasting, soil incorporation, injection, or irrigation).

In municipal and industrial wastes, potentially harmful elements like nickel, cadmium, and lead are monitored to prevent their accumulation in the soil. In addition, the neutralizing value of some waste products is determined to evaluate their suitability as lime.



Agronomic Division scientists work to educate growers about plant analysis (above) and other services.

Accurate waste-management information is essential to protecting food, water, and the environment. Efficiently managed, waste products can serve as a valuable source of crop nutrients. Recent studies indicate that N.C. livestock waste can supply 19, 66, and 42% of the nitrogen, phosphate, and potash, respectively, required by the state's row crops.

The *Solution Advisory Service* monitors surface- and groundwater quality, and nutrient solutions, for such varied agricultural purposes as irrigation, fertilization, livestock and poultry production, pesticide preparation, pond management, and aquaculture.

The importance of this service is becoming and more apparent as population growth and rialization increase the demand for the state's ited water supplies. All North Carolinians benefit from a reliable means of monitoring water quality. Such monitoring helps to maintain production standards and protect the resources vital to future generations. Each plant, waste, or solution analysis costs $4.00.

What is the Nematode Advisory Service?

Variously referred to as eelworms, roundworms, nemas, or threadworms, plant-parasitic nematodes cost North Carolina growers more than $80 million per year. Ranging in size from 1/100 to 1/12 of an inch, nematodes feed on plant roots, thus reducing water- and nutrient-uptake efficiency. They also increase the likelihood that plants will be infected by disease-causing bacteria, fungi, and viruses.

In general, nematode problems cannot be identified solely on the basis of plant symptoms. Instead, growers must consult professionals trained to conduct *nematode assays*—microscopic analyses of soils and roots to determine the presence of various nematode species.

The Nematode Advisory Service performs these s for all state citizens. Growers are thus able *to* whether nematodes pose a threat to the next crop (current crops may not be affected) and *to diagnose* whether nematodes contribute to problems that are already apparent.

Assay results and recommendations enable growers to select management strategies best suited

Compare two corn plants grown in the same field: nematode-damaged plant (left), healthy plant (right).

to their particular problems and needs. Emphasis is placed on developing economically feasible and environmentally sound remedies. These typically include a combination of biological, cultural, chemical, and mechanical control measures. Each nematode assay costs $2.00.

What are the Field Advisory Services?

A state-wide network of agronomists provide on-site assistance to help growers implement management recommendations in a cost-effective and environmentally sound manner. The eight Regional Agronomists provide hands-on expertise in coping with a variety of location-specific problems. They also help growers establish reliable sampling programs.

By helping to convert technical information into applied knowledge, Regional Agronomists increase productivity and protect the resource base. By maintaining communications between growers the Division's scientific and laboratory staff, they also insure that the Division remains responsive to current problems. Regional Agronomists are available for farm visits to address a wide range of agricultural, economic, and environmental concerns.

What Impact Has the Division Had?

- Each year the Division prevents $11.5 million in crop losses from nematode damage.
- Each year, the Division saves growers $5.5 million by clarifying what areas do *not* require nematicides. These recommendations keep needless chemicals off food and fiber supplies on more than 140,000 acres.
- By optimizing lime rates, the Division improves farm efficiency. Studies show, for example, that soybean yields in optimally limed plots are 84% higher than in unlimed plots. In 1993, analysis of 77,800 soil samples helped farmers see that about half the land used to grow corn, soybeans, and ll grains was being inadequately limed.
- obacco growers rely on solution analysis to evaluate water quality and adjust nutrient solutions in the production of transplants valued at $28 million annually.
- The Division has helped prevent waste-related production and environmental problems despite a 32% growth in state livestock numbers and a 22% reduction in application sites since 1984.
- By quantifying plant nutrient needs, the Division protects the environment and cuts farm expenses without reducing yields. When Divisional studies revealed that tobacco growers were applying too much phosphorus, for example, average application rates decreased from 185 to 86 pounds per acre. This reduction saves growers $60 per acre. Yields have remained stable.
- By monitoring soil fertility, the Division helps growers maintain yields while employing technologies such as no-till planting, which can reduce erosion by more than 90% when compared to conventional practices.
- By quantifying the nutrient content of waste ducts, the Division promotes the responsible of 145 million pounds of farm-generated rients valued at $30 million.
- By analyzing more than 7,500 plant samples annually and identifying nutrient problems *before* they reach a critical stage, the Division helps prevent incalculable farm losses.

Teamwork

In addition to involving faculty, staff, and students from our institutions, projects at the center will be conducted by teams that will include farmers as partners. The center will rely upon an advisory council representative of North Carolina's cultural and agricultural diversity. This council will be composed of faculty members, farmers, and representatives from citizens' groups, farm organizations, and agencies.

With the council's guidance, projects will be planned and directed using a "systems" approach. This approach will enable us to evaluate results using a range of agronomic, economic, social, and environmental factors.

The Benefits

We believe that our center for environmental farming systems will help us develop profitable agricultural systems that satisfy two of our inescapable needs: a clean environment and a safe, high-quality supply of food and fiber.

As an educational facility, gathering place, and focal point, the center will also increase public understanding of agriculture and its relationship with the environment.

In our view, the health and prosperity of future generations depends upon a mutually beneficial partnership of agriculture, environment, and consumers. At our new center for environmental farming systems, this partnership will find a home.

Faculty Coordinators

Central, whole-farm demonstration project

Dr. J. Paul Mueller
Crop Science Extension
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No-till component

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ATTACHMENT III

a center for Environmental Farming Systems

North Carolina State University
College of Agriculture and Life Sciences

North Carolina A&T State University
School of Agriculture

North Carolina Department of Agriculture

The citizens of North Carolina

Our Goal

In partnership with the farmers and citizens of North Carolina, we are making a joint commitment to agriculture that respects the environment.

Our new center for environmental farming systems will be the first of its kind in the state: a facility dedicated to the development of farming systems that are environmentally, economically, and socially sustainable.

Our goal is to protect and enhance North Carolina's environmental quality, we sustain the long-term productivity and profitability of its farms.

Our Program

Our organizations are committed to farming practices and farming systems that focus on ensuring the viability of North Carolina farms and farmers. At our center for environmental farming systems, we will study and demonstrate an array of technologies and strive to integrate them into sustainable farming systems.

- A *central, whole-farm demonstration project* will focus on biological aspects of agricultural sustainability. This component will emphasize integration of crop and livestock production enterprises into a viable, productive farming system. We will integrate crop rotation, nutrient cycling, integrated pest management (IPM), and other strategies to reduce or eliminate negative environmental impacts. This project will not only serve as a demonstration focal point, but it will also serve the overall program by identifying research needs, supporting specific research projects, and enabling the incorporation of new research findings into the dynamic farming system.
- A *no-till program* (conservation tillage) will focus on optimizing crop production efficiency and profitability in reduced-tillage cropping systems. These activities support efforts to obtain maximum profitable yields while enhancing the environment both on-site and off-site, and will promote soil conservation. Special attention will be given to assessing the impacts of reduced tillage, high-yield production systems on water quality and wildlife populations. Appropriate technologies developed in this program will be integrated into other research and educational activities at the center.
- An *organic* component will develop farming strategies that do not use conventional agrochemicals. This component will involve diversified cropping systems based on planned rotations, use of cover crops, organic soil amendments, and biological and mechanical methods of pest management. A major focus of the organic component will be to improve soil quality through holistic studies of the soil ecosystem. Promising strategies developed in the organic system may be implemented into the whole-farm project or tested in conjunction with reduced tillage approaches.

The Location

The center will be at the Cherry Farm near Goldsboro. The farm is owned and operated by the North Carolina Department of Agriculture.

The Cherry Farm is large enough to provide for a whole-farm demonstration as well as for the component studies. Long-term research can be conducted on a scale necessary to simulate conditions on a modern commercial farm. And the size will allow us to isolate various components, so that management practices used on one field will not necessarily affect another.

Additionally, the Cherry Farm's varied landscapes and soil and water resources will accommodate a diverse mix of field crops, animals, horticultural crops, and non-traditional enterprises. This diversity will also allow us to monitor the effects of our farming practices on a range of ecosystems. Most importantly, the center will be accessible to the faculty, students, extension workers, farmers, and citizens it will serve.

Goodness Grows in North Carolina
UPDATE
Vol. IV No. 3 Fall / Winter 1994

Commissioner's Corner

115 Vie For 2nd Annual Title

The *Goodness Grows in North Carolina Update* is a quarterly newsletter that is distributed to general and associate members of the program. Our members benefit through listings of current and upcoming promotional activities. The newsletter also includes a promotional calendar for the coming three months. New *Goodness Grows in North Carolina* members are highlighted in each issue of the *Goodness Grows in North Carolina Update.* The newsletter also offers ideas on ways to incorporate *Goodness Grows in North Carolina* into your marketing strategies.

The *Goodness Grows in North Carolina* program is divided into two categories:

General

- Food Products
- Nursery Items
- Specialty Items

Associate

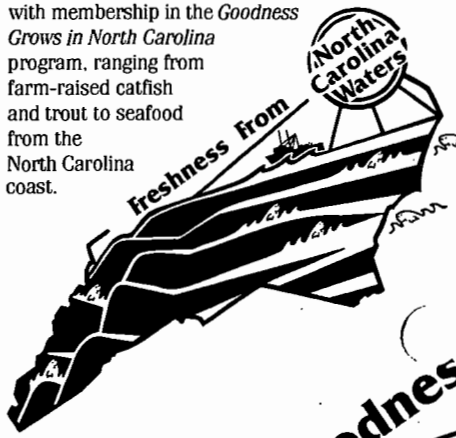
- Grocery Stores
- Restaurants
- Speciality Stores

(Associate Members sell GGINC products. They do not produce their own product.)

"The *Goodness Grows in North Carolina* program has been a tremendous success for North Carolina. Launched in 1985, it showcases Tar Heel agricultural products that are grown and manufactured in our state. The North Carolina Department of Agriculture's Division of Marketing developed the program and works with hundreds of companies across our state. The *Goodness Grows in North Carolina* logo is a symbol of outstanding quality and is recognized at retail outlets statewide. Goodness really does grow in North Carolina."

James A. Graham

The Freshness From North Carolina Waters program is the sister program of *Goodness Grows in North Carolina.* The Freshness From North Carolina Waters logo can be used on any aquaculture product with membership in the *Goodness Grows in North Carolina* program, ranging from farm-raised catfish and trout to seafood from the North Carolina coast.



For more information on the *Goodness Grows in North Carolina* program, or to receive a product application, please call Warren A. Williams at the Division of Marketing at (919) 733-7912. Or, you may fax us at (919) 733-0999.

ATTACHMENT IV

the official

Marketing Program

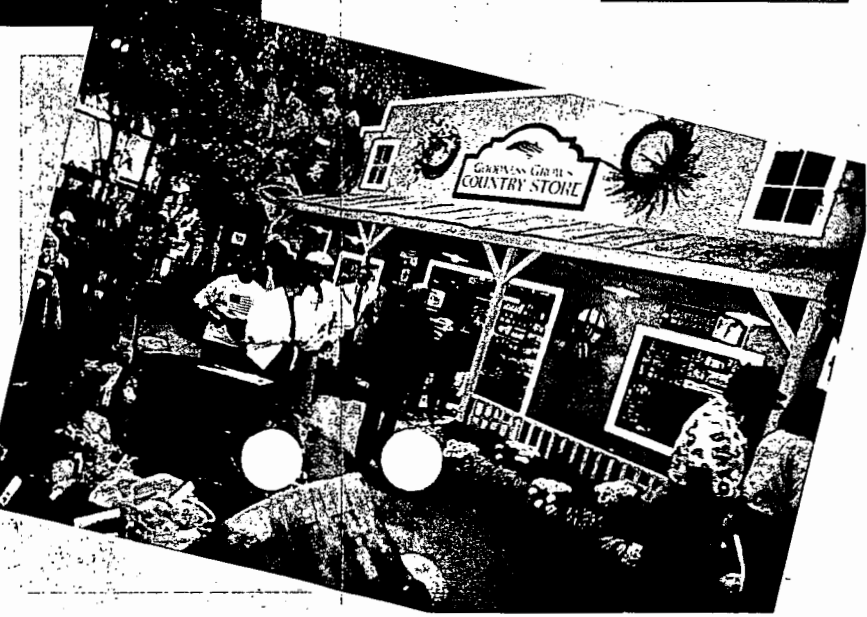
of the

N epartment of Agriculture

...es A. Graham, Commissioner of Agriculture
M. Wayne Miller, Director, Division of Marketing

Criteria for General Membership

- Product must be top quality
- Product must be produced or processed in North Carolina
- If the item is processed, it must contain North Carolina agricultural products when available



The major emphasis of the *Goodness Grows in North Carolina* program is to heighten awareness and availability of North Carolina food and nursery products. With increased sales of these local products, the eventual benefactors will be the North Carolina farmers and economy.

Special features of membership in the *Goodness Grows in North Carolina* program include the following:

- Consultation with Marketing Specialists to Discuss Your Company's Marketing Strategies and Goals
- Umbrella and Cooperative Advertising Opportunities Through Electronic, Print and Outdoor Advertising
- Comprehensive Marketing and Media Programs Throughout the State
- [illegible]sumer Directed Promotions
- [illegible]ounted Participation Rates for Trade Shows and Food Shows
- Special Presentations to the Food Industry
- Consultation with Trade Specialists for Retail, Foodservice, Instutional, Speciality and International Markets

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — MARCH 4 , 1997
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Allen Jernigan	Agri Business of N.C.
[illegible]	NCDA
James T Green	NCSU - Crop Sci. Dept
[illegible]	NCRC
Gahan Cypress	N.C. State Grange
[illegible]	Co-op Council of NC
Peter Daniel	NCDA
Wayne Miller	NCDA
Bob Murphy	NCDA
Don Eddy	NCDA
Don Hatcher	NCDA
Harry T. Daniel	NCDA
Maurice Weaver	NCDA
Ansley Ellen	NC Farm Bureau

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MARCH 11, 1997**

TIME: **10:00 AM**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):
HB 238 FACILITATE ANIMAL WASTE MGT. RESEARCH

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **3:00 PM** on **THURSDAY, MARCH 6, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE

MARCH 11, 1997
ROOM 1425
10:00 AM

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

HB #238 FACILITATE ANIMAL WASTE MGT. RESEARCH
SPONSOR REP. MITCHELL

ANNOUNCEMENTS

ADJOURNMENT

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

MARCH 11, 1997

The House Committee on Agriculture met on Tuesday, March 11, 1997 at 10:00 a.m. in Room 1425 of the Legislative Building. Representative John W. Brown, Chairman of the House Agriculture Committee presided with eighteen House Members present and eight House Members absent.

Chairman Brown introduced our page and welcomed all the guests to the Agriculture meeting. At this time, Chairman Brown turned the meeting over to Representative Frank Mitchell to speak on House bill #238. Rep. Mitchell explained that HB #238 entitled: AN ACT TO ENCOURAGE OWNERS AND OPERATORS OF ANIMAL WASTE MANAGEMENT SYSTEMS TO PARTICIPATE IN CERTAIN RESEARCH STUDIES DIRECTED BY THE GENERAL ASSEMBLY BY LIMITING ENFORCEMENT ACTIONS FOR UNINTENTIONAL AND NONNEGLIGENT VIOLATIONS OF WATER QUALITY STANDARDS THAT ARE IDENTIFIED IN THE COURSE OF THOSE RESEARCH STUDIES AND TO CLARIFY THE REPORTING DATES FOR THOSE RESEARCH STUDIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

HB #238 would restrict the Department of Environment, Health, and Natural Resources' enforcement actions where unintentional and nonnegligent violations are found during research studies that were mandated by the General Assembly last summer. Chapter 18 of the 1995 Session Laws (Second Extra Session). These studies include:

1. Odor control technology;
2. Groundwater impacts of lagoons;
3. Atmospheric deposit of nitrogen in the Neuse Estuary;
4. Sources of nitrogen through isotope markers; and
5. Alternative animal waste management technologies.

Enforcement actions for negligence, intentional violations and violations posing an immediate threat to public health or the enviornment are not limited.

At this time, Representative Rex Baker sent forth and amendment. Several questions followed.

Representative Mitchell explained that Section 2 of the bill limits the provisions of G.S. 142-215.10E(a) that require State employees to report to the Division of Environmental Management certain violations observed while on a farm. Specifically, this section provides that a State employee would not be required to report unintentional or nonnegligent situations involving:

1. Any discharge of waste into the waters of the State;
2. Any deterioration or leak in a lagoon system that poses an immediate threat;
3. Failure to maintain adequate storage capacity; and
4. Overspraying animal waste.

Section 3 of the bill requires the primary investigator on each study to file reports with the Environmental Review Commission.

The act is effective when it becomes law.

A lengthy discussion followed. Representative Hardaway felt the bill needed some work and should go to a subcommittee.

Chairman Brown introduced Mr. Bill Holman CCNC/Sierra Club Lobbyist, who stated that the Conservation Council of North Carolina agree with Representative Mitchell but don't necessarily think the bill is necessary. The state already provides the necessary provisions. He further stated that he felt the bill should go to a subcommittee.

Representative Baker moved that his amendment be adopted. Motion passed.

Representative Arlie Culp moved for a favorable report to House Bill #238 as amended. Motion passed. One No vote.

Representative Culp moved for an unfavorable report to the original bill and a favorable report to the subcommittee. Motion passed.

There being no further business, the meeting adjourned at 10:35 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 238 A BILL TO BE ENTITLED AN ACT TO ENCOURAGE OWNERS AND OPERATORS OF ANIMAL WASTE MANAGEMENT SYSTEMS TO PARTICIPATE IN CERTAIN RESEARCH STUDIES DIRECTED BY THE GENERAL ASSEMBLY BY LIMITING ENFORCEMENT ACTIONS FOR UNINTENTIONAL AND NONNEGLIGENT VIOLATIONS OF WATER QUALITY STANDARDS THAT ARE IDENTIFIED IN THE COURSE OF THOSE RESEARCH STUDIES AND TO CLARIFY THE REPORTING DATES FOR THOSE RESEARCH STUDIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW 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 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 D

HOUSE BILL 238*
Proposed Committee Substitute H238-PCS8067

Short Title: Facilitate Animal Waste Mgt. Research. (Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE OWNERS AND OPERATORS OF ANIMAL WASTE MANAGEMENT SYSTEMS TO PARTICIPATE IN CERTAIN RESEARCH STUDIES DIRECTED BY THE GENERAL ASSEMBLY BY LIMITING ENFORCEMENT ACTIONS FOR UNINTENTIONAL AND NONNEGLIGENT VIOLATIONS OF WATER QUALITY STANDARDS THAT ARE IDENTIFIED IN THE COURSE OF THOSE RESEARCH STUDIES AND TO CLARIFY THE REPORTING DATES FOR THOSE RESEARCH STUDIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Department of Environment, Health, and Natural Resources shall not take any enforcement action against any person for any unintentional and nonnegligent violation of water quality standards that are identified in the course of any of the research studies directed by Sections 27.3 (odor control technology), 27.7 (groundwater impacts of lagoons), 27.9 (atmospheric deposition of nitrogen in the Neuse Estuary), 27.32(b) (sources of nitrogen through isotope markers and other topics), and 27.35 (alternative animal waste technologies) of Chapter 18 of the 1995 Session Laws (Second Extra Session). This section shall not be construed to limit an enforcement action for any negligent or intentional act or for any violation that poses an immediate threat to public health or the environment. This section shall not be construed to relieve any person from any duty otherwise imposed by law to take remedial or corrective action to correct the violation.

Section 2. Notwithstanding the provisions of G.S. 143-215.10E(a), an employee of a State agency or unit of local government who identifies an unintentional or nonnegligent violation listed in subdivisions (1) through (4) of G.S. 143-215.10E(a) that is identified in the course of any of the research studies listed in Section 1 of this act shall not report the violation to the Division of Water Quality of the Department of Environment, Health, and Natural Resources unless the violation poses an immediate threat to public health or the environment.

Section 3. The Primary Investigator or Researcher for each of the research studies listed in Section 1 of this act shall report to the Environmental Review Commission on the progress of the research study and on any preliminary results of the research study on 1 January and 1 July of each year, beginning 1 July 1997, until the research study is concluded. The Primary Investigator shall make a final report, including final results and any recommendations, to the Environmental Review Commission at the conclusion of the research study.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 238*

Short Title: Facilitate Animal Waste Mgt. Research. (Public)

Sponsors: Representatives Mitchell; Weatherly and Nichols.

Referred to: Agriculture, if favorable, Judiciary II.

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE OWNERS AND OPERATORS OF ANIMAL WASTE MANAGEMENT SYSTEMS TO PARTICIPATE IN CERTAIN RESEARCH STUDIES DIRECTED BY THE GENERAL ASSEMBLY BY LIMITING ENFORCEMENT ACTIONS FOR UNINTENTIONAL AND NONNEGLIGENT VIOLATIONS OF WATER QUALITY STANDARDS THAT ARE IDENTIFIED IN THE COURSE OF THOSE RESEARCH STUDIES AND TO CLARIFY THE REPORTING DATES FOR THOSE RESEARCH STUDIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

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Section 1. The Department of Environment, Health, and Natural Resources shall not take any enforcement action against any person for any unintentional and nonnegligent violation of water quality standards that are identified in the course of any of the research studies directed by Sections 27.3 (odor control technology), 27.7 (groundwater impacts of lagoons), 27.9 (atmospheric deposition of nitrogen in the Neuse Estuary), 27.32(b) (sources of nitrogen through isotope markers and other topics), and 27.35 (alternative animal waste technologies) of Chapter 18 of the 1995 Session Laws (Second Extra Session). This section shall not be construed to limit an enforcement action for any negligent or intentional act or for any violation that poses an immediate threat to public health or the environment. This section shall not be construed to relieve any person from any duty otherwise imposed by law to take remedial or corrective action to correct the violation.

Section 2. Notwithstanding the provisions of G.S. 143-215.10E(a), an employee of a State agency or unit of local government who identifies an

unintentional or nonnegligent violation listed in subdivisions (1) through (4) of G.S. 143-215.10E(a) that is identified in the course of any of the research studies listed in Section 1 of this act is not required to report the violation to the Division of Water Quality of the Department of Environment, Health, and Natural Resources.

Section 3. The Primary Investigator or Researcher for each of the research studies listed in Section 1 of this act shall report to the Environmental Review Commission on the progress of the research study and on any preliminary results of the research study on 1 January and 1 July of each year, beginning 1 July 1997, until the research study is concluded. The Primary Investigator shall make a final report, including final results and any recommendations, to the Environmental Review Commission at the conclusion of the research study.

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 238 DATE 3/11/97

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Baker

Sen.)

1 moves to amend the bill on page 2, line 3

2 ( ) WHICH CHANGES THE TITLE

3 by _____

4 deleting the phrase " is not required to "

5 and substituting the phrase "shall not".

6 _____

7 and on page 3, line 4 by rewriting

8 that line to read

9 _____

10 " Quality of the Department of Environment

11 Health, and Natural Resources unless

12 the violation poses an immediate

13 threat to public health or the environment."

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

North Carolina General Assembly
Legislative Services Agency

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

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

Gerry F. Cohen, Director
Bill Drafting Division
Suite 100, 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, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 11, 1997

MEMORANDUM

TO: House Agriculture Committee

FROM: Barbara Riley, Committee Counsel

RE: House Bill 238: Facilitate Animal Waste Mgt. Research

House Bill 238, introduced by Representative Mitchell, would restrict the Department of Environment, Health, and Natural Resources' enforcement actions where unintentional and nonnegligent violations are found during during research studies that were mandated by the General Assembly last summer. Chapter 18 of the 1995 Session Laws (Second Extra Session). These studies include:

1. Odor control technology;
2. Groundwater impacts of lagoons;
3. Atmospheric deposit of nitrogen in the Neuse Estuary;
4. Sources of nitrogen through isotope markers; and
5. Alternative animal waste management technologies.

Enforcement actions for negligence, intentional violations, and violations posing an immediate threat to public health or the environment are not limited.

Section 2 of the bill limits the provisions of G.S. 142-215.10E(a) that require State employees to report to the Division of Environmental Management certain violations observed while on a farm. Specifically, this section provides that a State employee would not be required to report unintentional or nonnegligent situations involving:

1. Any direct discharge of waste into the waters of the State;
2. Any deterioration or leak in a lagoon system that poses an immediate threat;
3. Failure to maintain adequate storage capacity; and
4. Overspraying animal waste.

Section 3 of the bill requires the primary investigator on each study to file reports with the Environmental Review Commission.

The act is effective when it becomes law.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — Name of Committee

MARCH 11, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
T W Aldridge	
Michelle Cook	Weyerhaeuser
Bob Sloan	NC Forestry Assoc.
Tom Hoke	Hoke & Assoc / NPC
Jeanne Williams	Hoke & Asso / Zeb Alley, PA
David Simmons	
DAVID HERRING	State Planning
Jeanette Cox	NCPC
Glenn Gilchrist	UNC - Gen Admin - NC State Ag Rep
Mark Gibbs	Gov's Office
Robert J. Gulley	ENVIRONMENTAL IMPACT (RC&D)
John Carruth	Wilmington, NC
Allen Harlan	Electric Cities
RD	NCDA
Jon Holman	CCNC / Sierra Club
Mark Steinfort	Fayetteville Observer-Times
R Lynn McCaskill	Environmental Impact RC&D
Don Thompson	RC&D
Diane Cleary	FHNR

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MARCH 18, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):
H.B. 409 AGRICULTURE EMPLOYER APPEALS/AB.
H.B. 457 AMEND FOREST DEVELOPMENT ACT/AB.

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **4:00 P.M.** on **WEDNESDAY, MARCH 12, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE

MARCH 18, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

HB #409 AGRICULTURAL EMPLOYER APPEALS/AB.
SPONSOR REP. YONGUE

HB #457 AMEND FOREST DEVELOPMENT ACT/AB.
SPONSOR REP. WEATHERLY

ANNOUNCEMENTS

ADJOURNMENT

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. DOUGLAS YONGUE**

OFFICE: **ROOM 1305**

DATE: **WEDNESDAY, MARCH 12, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MARCH 18, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:
H.B. #409 AGRICULTURAL EMPLOYER APPEALS/AB.

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. JOHN WEATHERLY**

OFFICE: **ROOM 503**

DATE: **WEDNESDAY, MARCH 12, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MARCH 18, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:
H.B.#457 AMEND FOREST DEVELOPMENT ACT/AB.

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

MARCH 18, 1997

The House Committee on Agriculture met on Tuesday, March 18, 1997 at 10:00 a.m. in Room 1425 of the Legislative Building. Representative John W. Brown, Chairman of the House Agriculture Committee presided with eighteen House Members present, six Members absent and two Members excused.

Chairman Brown introduced our page and welcomed all the guests to the Agriculture meeting. At this time, Chairman Brown turned the meeting over to Representative Douglas Yongue the sponsor for House Bill #409.

Representative Yongue explained that HB #409 entitled: AN ACT CLARIFYING WHERE APPEALS FROM AGRICULTURAL EMPLOYERS WILL BE HEARD shifts appeals from citations under the Migrant Housing Act from the Office of Administrative Hearing to the Health and Safety Board. He further explained when the Migrant Housing Act, Article 19 of Chapter 95 of the General Statutes, was first enacted in 1989, the act established that appeals from citations issued by the North Carolina Department of Labor would be the Office of Administrative Hearings. According to the Department, agriculture interests asked back in 1993 to have appeals shifted to the Board. Although legislation was passed during the 1993 Session, it apparently did not make the necessary changes to transfer jurisdiction of the appeals.

Section 1 of the bill deletes from G.S. 95-227 a reference to G.S. 95-137(b)(4) which removed appeals from citations under the Migrant Housing Act from the Health and Safety Board.

Section 2 of the bill amends G.S. 150-1(e) which lists those agencies exempt from the contested case provisions of the Administrative Procedures Act. The amendment deletes the exception within OSHA appeals for agricultural employers. The act is effective when it becomes law.

After several questions from the members, Representative Rex Baker moved that the bill be given a favorable report. The bill was voted upon and was given a favorable report.

The meeting adjourned at 10:25 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 409 A BILL TO BE ENTITLED AN ACT CLARIFYING WHERE APPEALS FROM AGRICULTURAL EMPLOYERS WILL BE HEARD.

☒ 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)

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — MARCH 18, 1997

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Wilda Denny	NCDA
John Cyrus	N.C. State Grange
[illegible]	DOL
Peter Daniel	NCDA
PG	DOL
L. ROGERS	EHNR
P. Morris	OSHNC
Angela Swaringen	OSHNC
Becky Brown	Labor
Ed Bowe	Self
Michelle Cook	Weyerhaeuser

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. JOHN WEATHERLY**

OFFICE: **ROOM 503**

DATE: **THURSDAY, MARCH 20, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MARCH 25, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:
H.B.#457 AMEND FOREST DEVELOPMENT ACT/AB.

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. BILL OWENS**

OFFICE: **ROOM 608**

DATE: **THURSDAY, MARCH 20, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MARCH 25, 1997**

TIME: **10:00 A.M.**

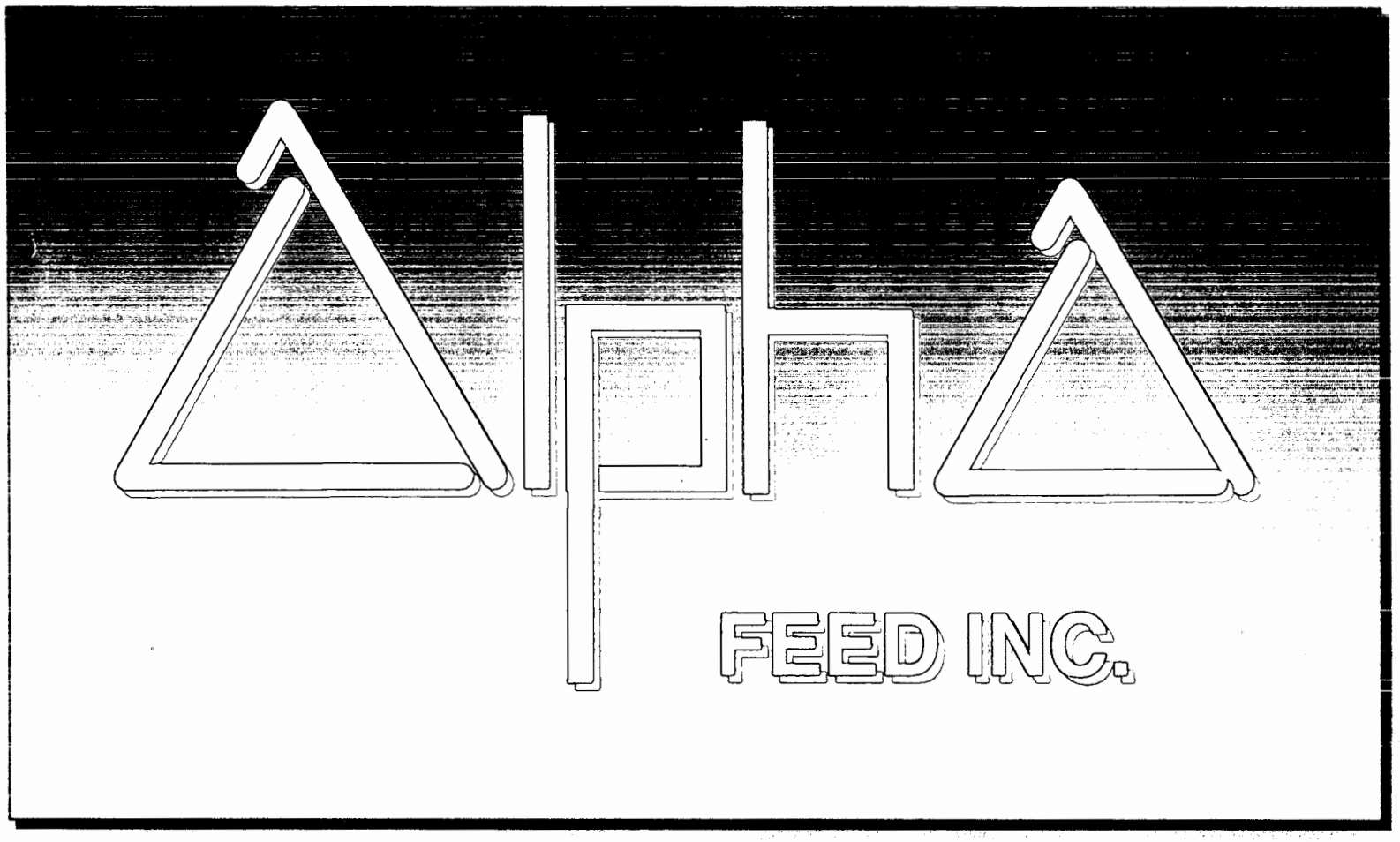
LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:
H.B.#463 FARM PRODUCTS WEIGHT EXEMPTIONS

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)



Attachment 1

Alpha Feed, Inc. is a private company incorporated under the laws of North Carolina and whose address is 331 Third Street NW, Hickory, NC 28601

Alpha Feed, Inc. is demonstrating technologies that capture the power of the Sun using photosynthesis to grow plants used to make FDA approved animal and fish food (algae) off of Hog Waste economically.

Alpha Feed, Inc. is under contract with North Carolina State University to demonstrate Alpha Feed's POWER (Purified Odor and Water, Enhanced Revenue) System at a Farm in North Carolina.

The feed products manufactured in the POWER process have monetary values exceeding those of Soy Protein and Corn as substitute feed products. FDA sponsored feed studies will confirm this.

The POWER process also addresses numerous environmental issues facing the farming industry. Odors associated with waste water will virtually be eliminated. Waste waters will be cleaned to substantially reduce or eliminate altogether the threat of waste water runoff. The current practice of spraying fields with waste water can be significantly reduced or eliminated completely. Nutrient loading of soils will no longer be an issue with this process. Air quality coming off the waste treatment system will be controlled. Air and water quality in the houses will improve with the POWER process.

Alpha Feed's POWER Systems has a target capital investment payback of 5 to 10 years. This will make an economically attractive process to many of the existing farms in our region as well as allow for growth of the farming industry without the current threats to the environment and concerns of the public.

Upon completion of the demonstration with North Carolina State University, Alpha Feed, Inc. will be capable of full scale implementation for Hog Farms through the country.

331 Third Street NW, Hickory, NC 28601
Tel (704) 328-9989 Fax (704) 328-6252 Mobile (704) 612-0387

ALPHA FEED, INC.

331 3RD ST. N.W., Hickory, N.C. 28601
Tel: 704-328-9989 FAX: 704-328-6252

Hog Waste to Animal Feed Revenue Process

Attached please find the flow diagram for Alpha Feed's Animal Waste Treatment and Biomass Production Facility.

You will notice a very straightforward and "conventional" process diagram upon initially scanning our proprietary treatment system. This must be the case in order to bring an economical solution to the animal waste problem.

Existing conventional waste treatment methodologies have been incorporated into our design to optimize biomass growth, provide an economic delivery tool, and create a "user friendly" delivery system. This however, is the only trait we have in common with any existing waste treatment system every conceived or in operation.

To understand the fundamentals of our waste treatment system and how we have transformed red bacteria and green algae into acceptable protein and fat supplements rich in amino acids we must begin with the differences between Alpha Feed's waste treatment and standard conventional waste treatment technology.

They are:

1. In conventional waste treatment, biomass production is minimized while water quality is maximized.
2. In Alpha Feed's proprietary process biomass production is maximized while water quality is maximized.

Consequently, the first undertaking was to optimize the environmental conditions under which the red and green biomass would grow and be harvested. Several years ago a proof of principle experiment was carried out under Lawrence C. Sherman's direction at Olin Corporation. Raw poultry waste was fed to red bacteria and green algae in series to discover if in fact reductions in BOD (Biological Oxidation Demand) and TSS (Total Suspended Solids) could be achieved. The experiment was a success as BOD and TSS were reduced from over 80,000 ppm and 50,000 ppm respectively to under 5 ppm for both BOD and TSS. This occurred over four years ago and in fact Olin Corporation spent 3.4 million dollars on the animal waste problem from both a scientific and marketing venue.

The first part of the optimization process was to isolate the optimum growth conditions for the red biomass. Literally hundreds of variables were utilized to determine the cause and effect of growth of the red biomass while increasing the nutrient uptake of the raw Hog waste. Hog waste was utilized in lieu of Poultry waste based on a nearer term customer need in the Hog industrial marketplace than in the Poultry marketplace. Ammonia, pH, Total Organic Carbon, Carbon Dioxide, Sunlight and other factors were rank ordered in a regression analysis to provide optimum growth conditions

for the red biomass. These optimum conditions have been achieved. The red biomass' toxic levels and feed rate levels are now understood together with the mean cell residence time or the optimum time to keep the red biomass in contact with the Hog waste prior to harvesting.

For every 30,000 gallon of Hog waste per day 1.66 tons of dry weight red biomass will be produced.

The green algae was then optimized under the same rigorous research design. Here it was noted that among the major factors of Ammonia, pH, Total Organic Carbon, Sunlight and available Carbon Dioxide a vastly different rank order of toxicity and nutrient uptake was noted in the green biomass when compared to the red biomass.

The green biomass step is a polishing step where final BOD and TSS will be reduced to under 5 ppm respectively.

For every 30,000 gallons of Hog Waste produced .83 tons of dry weight green biomass will be produced.

For both the red and green biomass, the ratio of light to dark exposure together with optimum duration periods for each have been discovered. The red biomass is a proprietary consortium of several red bacterial cultures with known amino acid, fat and protein feed benefit profiles. The green biomass started out as a green algae (Chlorella) with known amino acid and protein feed benefit profiles and evolved after acclimating itself to the Hog waste environment.

We started our research design with the knowledge that a five year capital payback would be necessary in order to make our system viable in the marketplace. The only way to achieve this was to start from the solution (a revenue generating product that would be a feed product) and work backwards into an economic delivery process.

Alpha Feed will patent the actual biomass together with the unique delivery system for a proprietary use patent to keep our system unique. This delivery system and optimum environmental conditions under which the organisms proliferate can be patented under this same patent use strategy.

Since the system has already been optimized, the market identified, and specific customers qualified to purchase under a given set of capital pay back conditions, the next step is to scale up the Photosynthetic System and provide this unit to our customers prior to full scale delivery.

The process diagram enclosed is really a scale up diagram showing biomass harvesting via sedimentation or air flotation. We have left this as an open ended item that will be optimized during scale up. The red and green biomass reactors are fitted with internal lights that together with natural sunlight optimize the biomass growth and water purification.

We are prepared to enter the market utilizing a user friendly system for revenue generation with the added benefit of pollution abatement.

Our contracts will be written with the following flexibility to ensure we meet the existing needs of our customers. We will either:

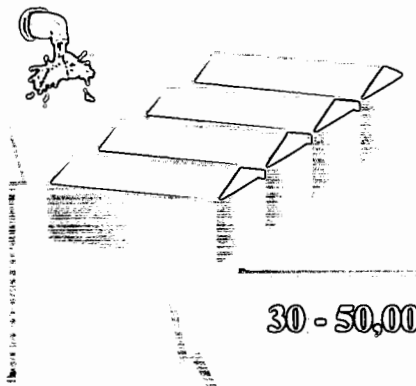
A. Sell our system outright at a profit, or

B. Provide a fully privatized waste treatment system with contracts in place for protein feed delivery and the first right of refusal for the customer's Hog waste already in hand prior to contract signature and ground breaking, or
C. Receive Royalties as recurring revenue from the ongoing sale of protein and fat feed by providing our system at a marginal discount to the customer.

In either of the aforementioned cases the customer receives the capital payback within five years based on the projected cost of our system and the existing protein and fat feed commodity price in existence today.

We have spent over five years on the technological, marketing and product positioning solutions for the next generation of waste treatment systems. These very products that create revenue streams for our customers will create value added for our shareholders. This next generation of waste treatment technology will be available on a full scale basis in 1997 and from only one company, Alpha Feed, Inc.

TYPICAL 2400 SOW FtoF HOG FARM
- FLUSH TYPE -



700 - 800 ppm BOD

700 - 800 ppm BOD

Lagoon

To spray fields

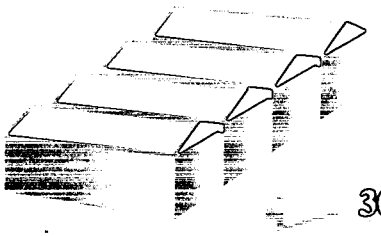
30 - 50,000 ppm BOD

30,000 GPD
Make up
(Fresh Water)

125 Tons of Animal Feed
from Feed Mill

- Approximately 300,000 Gal/Day Waste Stream
- 25 MM Gal Lagoon 83 Day Retention Time
- Pit-Type Produces Smaller Total Waste Stream in Gallons but Higher BOD/Gallon.

ALPHA PHASE



200-400 ppm BOD

30 - 50,000 ppm BOD

Lagoon 200-400 ppm BOD

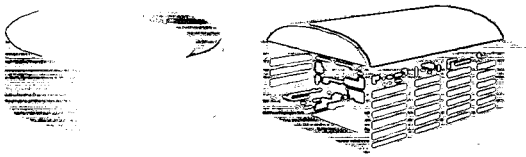
200-400 ppm BOD

To spray fields

Feed Production

Harvest / Drying

500 - 600 ppm BOD



125 Tons of Animal Feed from Feed Mill

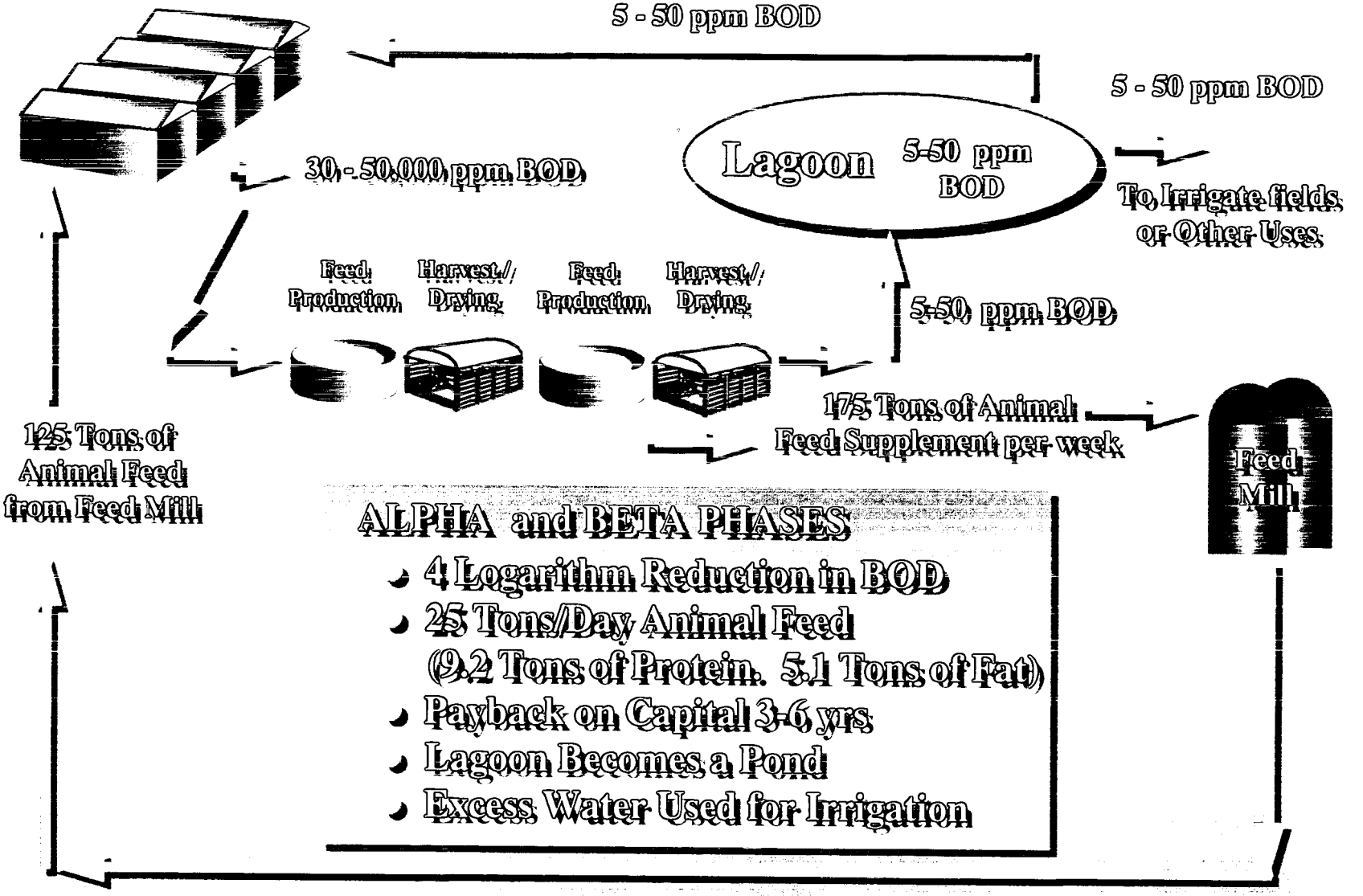
116 Tons of Animal Feed Supplement per week

Feed Mill

ALPHA PHASE

- 2 Logarithm Reduction in BOD
- 16.6 Tons/Day Animal Feed (4.6 Tons of Protein. 5.1 Tons of Fat)
- Payback on Capital 2-4yrs
- Nutrient Loading Reduced by 1-2 logarithms on Spray Fields

ALPHA and BETA PHASES



ALPHA and BETA PHASES

- 4 Logarithm Reduction in BOD
- 25 Tons/Day Animal Feed
  (9.2 Tons of Protein, 5.1 Tons of Fat)
- Payback on Capital 3-6 yrs
- Lagoon Becomes a Pond
- Excess Water Used for Irrigation

JUSTIN SHEPARD BLICKENSDERFER, JR.
331 Third Street N.W.
Hickory, NC 28601
(704) 328-6864
(704) 328-9989
(704) 328-6252 - Fax

PROFESSIONAL OBJECTIVE

To demonstrate my proven ability in sales/marketing and management for the long term benefit of fellow employees, owners and shareholders of Alpha Feed, Inc.

ACCOMPLISHMENTS

Directed a history of successful programs in technical sales and management with end use customers in heavy industry, municipal and federal governments and agricultural environments.

Proven track record as a leader in business development thrusts making them highly focused early on and generating cash flow ahead of plan.

PROFESSIONAL EXPERIENCE

Biotechna, USA — 1/96 to present
St. Petersburg, FL

Accomplishments included directing R&D efforts to concentrate exclusively on the Hog waste situation in North Carolina with emphasis on a user friendly, revenue generating solution. Additional proven success in marketing chemical reactor vessels to the chemical industry and photobioreactors that manufacture algae to the shellfish industry.

Olin Recovery Systems — 1/95 to 1/96
St. Petersburg, FL

Southeast Regional Manager- Responsible for new product development within the industrial farm market in the Southeast U.S. Accomplishments included redirecting corporate efforts away from anaerobic digestion technology for farm use and redirecting efforts toward Hog waste revenue producing solutions.

Tailored Foam, Inc. — 8/88 to 1/95
Hickory, N.C.

General Manager- Responsible for the ongoing operations of an environmental construction and contracting firm. Directed all efforts from finance, operations and construction to business development, marketing and compliance with State and Federal codes. Responsible for profit and loss. Set up national network of insulation companies.

Olin Water Services — 12/77 to 8/88
Overland Park, KS

Area Manager- Responsible for market development and account retention in the Southeast and Mid-Atlantic States. Products included municipal waste treatment and industrial effluent purification. Consistently finished in the top ten nationally for profitability.

Garrett-Callahan Company 1/76 to 12/77
Millbrae, CA

District Sales Representative - Responsibilities included sales of process chemicals to paper, textile and heavy equipment industries. Emphasis on efficiency improvement and pollution control. Finished among top ten in nation.

Drew Chemical Corporation 1/72 to 1/76
Parsippany, New Jersey

District Sales Representative - Responsible for boiler water and cooling water chemical treatment applications. Changed companies for more remuneration.

Bulkley, Dunton, Linde, Lathrop, Inc., 1/70 to 1/72
New York, N.Y.

Sales Training - Received extensive training in sales and account management. Responsible for operations of a large sales-service department.

EDUCATION
Virginia Military Institute-B.S. Biology 1970.
North Carolina State University- Textile and Management Courses
New York University- Commercial Printing Courses

PERSONAL
Married, two children, auto racing enthusiast

CURRICULUM VITAE

LAWRENCE C. SHERMAN
3014 Ashland Terrace
Clearwater, Florida
Tel: 813 789-6029 Fax: 813-789-5096

Education:

Graduate Penn St. Program for Executive Development 1991
Master of Science - Marketing, The American University 1985
Bachelor of Science- Chemistry, The University of Connecticut 1981

Patents:

U.S. Patent Number 5,389,254 "Reverse Osmosis and Ultraviolet Purification".

Patent Application to be assigned to Alpha Feed, Inc. for "Photosynthetic Purification of Animal Wastes".

Employment:

December 1995 to Present:
Biotechna Environmental Technologies Corporation
Serving as Managing Director Mr. Sherman initiated and invented the Photosynthetic Animal Purification Revenue Generating concept and protocol. Mr. Sherman is responsible for world-wide product development, research, and marketing for Biotechna.

June 1980 to December 1995
Olin Corporation
Mr. Sherman began his career in Pittsburgh, Pennsylvania as a Sales and Service engineer working for Olin Water Services division. This is where he learned the valuable lesson to allow customers to buy rather than try to sell in the competitive water treatment field. After finishing number one in the country in sales productivity, Mr. Sherman was promoted to district manager in Washington, DC. Here Mr. Sherman was responsible for profitability in the mid-Atlantic region. Mr. Sherman's district became the most profitable in the nation and Mr. Sherman was awarded "Person of the Year" at Olin.

Mr. Sherman was then promoted to the Olin Corporation Lobbying office in Washington, DC. Here Mr. Sherman gained valuable experience in the lobbying of elected officials and foreign diplomats. His success turned into an opportunity to serve as Director, Middle East Marketing where Mr. Sherman began his International career.

Mr. Sherman was then promoted to Director, Water Technology, in St. Petersburg, FL. Here global marketing and international agent

networks were set up for waste water and drinking water systems.

This position grew into Director, Olin Recovery Systems where Mr. Sherman began his quest for a Photosynthetic Animal Purification System that created Revenue for its customers.

Alpha Feed, Inc. is now the benefactor for Mr. Sherman's prior work in the Photosynthetic Animal Purification Treatment market.

Personal: Mr. Sherman is an enthusiastic executive whose leadership style allows him to enjoy "the doing" as much as the managing.

Mr. Sherman currently lives in Clearwater, Florida with his wife Janice and two children, Charles 9 and Corinne 7.

Date of Birth: December 4, 1957.

AGENDA

HOUSE AGRICULTURE COMMITTEE

MARCH 25, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

HB #457 AMEND FOREST DEVELOPMENT ACT/AB.
SPONSOR REP. WEATHERLY

HB #463 FARM PRODUCTS WEIGHT EXEMPTION
SPONSOR REP. OWENS

ALPHA FEED, INC.
JUSTIN "BLICK" BLICKENSDERFER

ANNOUNCEMENTS

ADJOURNMENT

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

MARCH 25, 1997

The House Committee on Agriculture met on Tuesday, March 25, 1997 at 10:00 a.m. in Room 1425 of the Legislative Building. Representative John W. Brown, Chairman of the House Agriculture Committee presided with twenty four members present and two members absent.

Chairman Brown introduced the pages serving the Committee and welcomed guests. Chairman Brown turned the meeting over to Representative John Weatherly the sponsor for House Bill #457.

Representative Weatherly explained that HB #457 entitled: AN ACT TO ALLOW RECOVERY OF FUNDS PAID AS FOREST DEVELOPMENT COST-SHARING PAYMENTS WHEN TREES ARE NOT MAINTAINED AT LEAST TEN YEARS AND TO CONVERT THE FOREST DEVELOPMENT FUND TO ONE THAT ACCRUES INTEREST makes two changes to the Forest Development Act, Article 11 of Chapter 113A of the General Statutes. He further stated that the Forest Development Act was enacted in 1977 in recognition of environmental impacts associated with forestry operations and that the demand for forest products could not be met through management of public and industry forest resources alone. G.S. 113A-177. The Forest Development Act provides financial assistance (forest cost-share funds) to eligible landowners to implement approved forestry practices to increase the productivity of their land.

Representative Weatherly stated that the bill adds a new limitation on the disbursement of funds. Landowners will be required to maintain the area and trees subject to the approved forest management plan for a minimum of 10 years. "Maintain" is defined as making every reasonable effort to protect the reforested area from destructive fire, insects, disease, and clearing other than for purposes outlined in the forest management plan. A landowners who fails to so maintain their forest land shall repay the Forest Development Fund all cost-sharing funds received for the area.

The bill also amends the Fund itself to make it nonreverting and to direst the State Treasurer to credit interest to the Fund.

The act becomes effective June 30, 1997.

After numerous questions and lengthy discussions from the members, it was felt that the bill was not suitable in it's wording. At this time, Representative Weatherly made a motion to take the bill off the calendar and work with the Forestry Department on it's wording.

Next Chairman Brown introduced Mr. Justin "Blick" Blickensderfer with the Alpha Feed, Inc. Mr. Blickensderfer stated that Alpha Feed, Inc. is a private company incorporated under the laws of North Carolina who demonstrated technologies that capture the power of the Sun using photosynthesis to grow plants used to make FDA approved animal and fish food (algae) off of Hog Waste economically.

He further stated that Alpha Feed, Inc. is under contract with North Carolina State University to demonstrate Alpha Feed's POWER (Purified Odor and Water, Enhanced Revenue) System at a Farm in North Carolina.

The Feed products manufactured in the POWER process have monetary values exceeding those of Soy Protein and Corn as substitute feed products. FDA sponsored feed studies will confirm this.

The POWER process also addresses numerous environmental issues facing the farming industry. Odors associated with waste water will virtually be eliminated. Waste waters will be cleaned to substantially reduce or eliminate altogether the threat of waste water runoff (Attachment I). The current practice of spraying fields with waste water can be significantly reduced or eliminated completely. Nutrient leading of soils will no longer be an issue with this process. Air quality coming off the waste treatment system will be controlled. Air and water quality in the houses will improve with the POWER process.

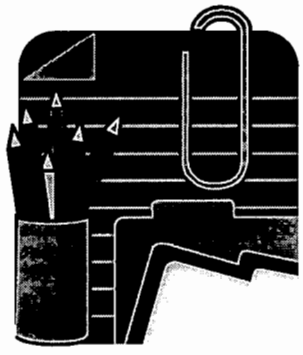
Several questions were taken from the members. Due to the fact that the committee ran out of time, it was suggested that Alpha Feed, Inc. be invited back

to speak further to the members at a later date.

The meeting adjourned at 11:00 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK



REMINDER

ONCE AGAIN THE HOUSE AGRICULTURE COMMITTEE MEMBERS WILL BE HAVING BREAKFAST ON WEDNESDAY, MARCH 26, 1997 AT THE FARMER'S MARKET.

THIS BREAKFAST IF BEING SPONSORED BY ZEB ALLEY ET AL.

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — Name of Committee
MARCH 25, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
KEITH HUNDLEY	WEYERHAEUSER CO.
John Cyrus	N.C. State Grange
Paul E Dew	N.C. Agribusiness Council
J. Carlyle Teague	Cooperative Council of NC
Jim Wilder	N.C. Soybean Producers Assoc.
Pete Daniel	NCDA-D
Bob Slocum	NC FORESTRY ASSOC.
David Meredith	NC State Grange
Julian Philpott	NCFB
Michelle Cook	Weyerhaeuser
Zeb Alley	ZDA PA
Alan Miles	Bailey & Dixon LLP
VL McBride	NCCPA
Mike Campbell	Mouree Van Allen
K Rogers	NCHSA DEHNR
Dervol Waldron	CFW

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 1, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):
H.B. #457 AMEND FOREST DEVELOPMENT ACT/AB.
H.B. #463 FARM PRODUCTS WEIGHT EXEMPTIONS

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **12:00 NOON** on **THURSDAY, MARCH 27, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. JOHN WEATHERLY**

OFFICE: **ROOM 503**

DATE: **THURSDAY, MARCH 27, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 1, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:
H.B.#457 AMEND FOREST DEVELOPMENT ACT/AB.

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. BILL OWENS**

OFFICE: **ROOM 608**

DATE: **THURSDAY, MARCH 27, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 1, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:
H.B.#463 FARM PRODUCTS WEIGHT EXEMPTIONS

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE
APRIL 1, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

HB #457 AMEND FOREST DEVELOPMENT ACT/AB.

HB #463 FARM PRODUCTS WEIGHT EXEMPTION

ANNOUNCEMENTS

ADJOURNMENT

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

APRIL 1, 1997

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, April 1, 1997 at 10:00 a.m. Chairman Brown presided with twenty two House Members present and four House Members absent.

Mr. Brown welcomed all the guests and introduced the pages serving the Committee.

House Bill #457, entitled: **AN ACT TO ALLOW RECOVERY OF FUNDS PAID AS FOREST DEVELOPMENT COST-SHARING PAYMENTS WHEN TREES ARE NOT MAINTAINED AT LEAST TEN YEARS AND TO CONVERT THE FOREST DEVELOPMENT FUND TO ONE THAT ACCRUES INTEREST** was explained by Representative John Weatherly. This bill was sent back to staff for further work at the last committee meeting.

A motion from the floor was made to adopt the Committee Substitute. Motion was passed.

At this time, staff explained to the Committee members the changes that were made to the committee substitute as to Section 2 Subsection (a)(b)and (c). Several questions and discussion followed. Representative Fox pointed out a typographical error on page 3 line 22. Representative Hardaway expressed the fact that this was a more amicable bill than the previous one. Representative Carpenter moved that the bill be given a favorable report as to committee substitute, unfavorable as to original bill and recommended that the committee substitute bill be re-referred to the Committee on Finance. Motion carried.

Next, Representative Brown introduced Rep. Owens to explain House Bill #463 entitled: **AN ACT TO INCREASE THE PERMISSIBLE WEIGHT OF AGRICULTURAL CROPS THAT MAY BE TRANSPORTED ON THE HIGHWAYS FROM THE FIELD TO A PLACE WITH CERTIFIED SCALES.** Representative Carpenter made a motion to adopt the committee substitute. Motion passed.

Representative Owens explained that the proposed committee substitute would amend G.S. 20-118(c)(12) to increase the weight exemption for trucks carrying agricultural products from the farm to first market within 35 miles of the farm from 88,0000 lbs to 90,000 lbs.. The bill also clarifies that the exemption does not apply to posed bridges.

The act is effective when it becomes law. Discussion and questions were taken from the members.

Representative Watson stated that this is a good bill and she supports it. Representative Watson then moved for a favorable report as to committee substitute bill unfavorable as to original bill. Motion carried.

The meeting adjourned at 10:30 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

HOUSE BILL 457

Short Title: Amend Forest Development Act/AB. (Public)

Sponsors: Representatives Weatherly; Brown, Kiser, Gulley, Mitchell, Morris, and G. Wilson.

Referred to: Agriculture, if favorable, Finance.

March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW RECOVERY OF FUNDS PAID AS FOREST DEVELOPMENT COST-SHARING PAYMENTS WHEN TREES ARE NOT MAINTAINED AT LEAST TEN YEARS AND TO CONVERT THE FOREST DEVELOPMENT FUND TO ONE THAT ACCRUES INTEREST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-178 reads as rewritten:

"**§ 113A-178. Definitions.**

As used in this Article:

(1) 'Approved forest management plan' ~~shall mean~~ means the forest management plan submitted by the eligible landowner and approved by the Secretary. Such plan shall include forest management practices to insure both maximum forest productivity and environmental protection of the lands to be treated under the management plan.

(2) 'Approved practices' ~~shall mean~~ mean those silvicultural practices approved by the Secretary for the purpose of commercially growing timber through the establishment of forest stands, or of insuring the proper regeneration of forest stands to commercial production levels following the harvest of mature timber. Such practices shall include those required to accomplish site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, and

cultivation of established young growth of desirable trees. In each case, approved practices will be determined by the needs of the individual forest stand. These practices shall include existing practices and such practices as are developed in the future to insure both maximum forest productivity and environmental protection.

(3) 'Department' ~~shall mean~~ means the Department of Environment, Health, and Natural Resources.

(4) 'Eligible landowner' ~~shall mean~~ means a private individual, group, association or corporation owning land suitable for forestry purposes. Where forest land is owned jointly by more than one individual, group, association or corporation, as tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purpose of this Article, as one eligible landowner and entitled to receive cost-sharing payments as provided herein only once during each fiscal year.

(5) 'Eligible ~~lands' shall mean~~ land' means land owned by an eligible landowner.

(6) 'Forest development assessment' ~~shall mean~~ means an assessment on primary forest products from timber severed in North Carolina for the funding of the provisions of this Article, as authorized by the General Assembly.

(7) 'Forest development ~~cost-sharing~~ cost-sharing payment' ~~shall mean~~ means financial assistance to partially cover the costs of implementing approved practices in such amounts as the Secretary shall determine, subject to the limitations of this Article.

(8) 'Forest development fund' ~~shall mean~~ means the special nonlapsing fund established in the Department of Environment, Health, and Natural Resources, designated as the Forest Development Fund, created by G.S. 113A-183.

(9) 'Secretary' ~~shall mean~~ means the Secretary of Environment, Health, and Natural Resources.

(10) 'Maintain' means to make every reasonable effort to protect the reforested area from destructive fire and grazing, insects, disease, noxious weeds, and being cleared or partially cleared of trees for any purpose other than as provided in an approved forest management plan."

Section 2. G.S. 113A-181 is amended by adding a new subsection to read:

"(d) For a 10-year period, eligible landowners shall maintain the areas and trees treated by the approved practices in accordance with the approved forest management plan, and any landowner who fails to do so shall repay to the Fund all cost-sharing funds received for the affected area."

Section 3. G.S. 113A-183 reads as rewritten:

"**§ 113A-183. Forest Development Fund.**

(a) ~~There is hereby~~ The Forest Development Fund is created in the Department of Environment, Health, and Natural Resources as a nonreverting ~~fund to be designated the Forest Development Fund,~~ fund, for which fiscal management and responsibility are ~~hereby~~ vested in the Secretary. The Fund is a special trust fund, and the State Treasurer shall credit interest to the Fund.

(b) This ~~fund~~ Fund shall be the depository for all revenue derived from the forest development assessment on primary forest product processors as authorized by the General Assembly, ~~and~~ for any funds appropriated specifically for the forest development program from the ~~general fund.~~ General Fund, for monetary contribution and donations, and for accrued interest. ~~Those funds appropriated from the general fund remaining in the Forest Development Fund at the end of any fiscal year shall revert to the general fund, but revenues~~ Revenues derived from the forest development assessment ~~shall not revert but~~ shall remain in the Forest Development Fund until expended under the provisions of this Article.

~~(c) In any fiscal year, expenditures from the Forest Development Fund shall be limited to four times the amount of the general fund appropriation for that year.~~

(d) In any fiscal year, no more than five percent (5%) of the available funds generated by the Primary Forest Product Processor Assessment Act shall be used for program support under the provisions of G.S. 113A-179(c).

(e) Funds used for the purchase of equipment under the provisions of G.S. 113A-179(d) shall be limited to appropriations from the general fund to the Forest Development Fund designated specifically for equipment purchase."

Section 4. This act becomes effective June 30, 1997.

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 457 A BILL TO BE ENTITLED AN ACT TO ALLOW RECOVERY OF FUNDS PAID AS FOREST DEVELOPMENT COST-SHARING PAYMENTS WHEN TREES ARE NOT MAINTAINED AT LEAST TEN YEARS AND TO CONVERT THE FOREST DEVELOPMENT FUND TO ONE THAT ACCRUES INTEREST.

☐ 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.

☐ 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)

Minutes

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 457
Proposed Committee Substitute H457-PCS2215

Short Title: Amend Forest Development Act/AB. (Public)

Sponsors:

Referred to:

March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW RECOVERY OF FUNDS PAID AS FOREST DEVELOPMENT COST-SHARING PAYMENTS WHEN TREES ARE NOT MAINTAINED AT LEAST TEN YEARS AND TO CONVERT THE FOREST DEVELOPMENT FUND TO ONE THAT ACCRUES INTEREST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-178 reads as rewritten:

"**§ 113A-178. Definitions.**

As used in this Article:

(1) 'Approved forest management plan' ~~shall mean~~ means the forest management plan submitted by the eligible landowner and approved by the Secretary. Such plan shall include forest management practices to insure both maximum forest productivity and environmental protection of the lands to be treated under the management plan.

(2) 'Approved practices' ~~shall mean~~ mean those silvicultural practices approved by the Secretary for the purpose of commercially growing timber through the establishment of forest stands, or of insuring the proper regeneration of forest stands to commercial production levels following the harvest of mature timber. Such practices shall include those required to accomplish site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, and

cultivation of established young growth of desirable trees. In each case, approved practices will be determined by the needs of the individual forest stand. These practices shall include existing practices and such practices as are developed in the future to insure both maximum forest productivity and environmental protection.

(3) 'Department' ~~shall mean~~ means the Department of Environment, Health, and Natural Resources.

(4) 'Eligible landowner' ~~shall mean~~ means a private individual, group, association or corporation owning land suitable for forestry purposes. Where forest land is owned jointly by more than one individual, group, association or corporation, as tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purpose of this Article, as one eligible landowner and entitled to receive cost-sharing payments as provided herein only once during each fiscal year.

(5) 'Eligible ~~lands' shall mean~~ land' means land owned by an eligible landowner.

(6) 'Forest development assessment' ~~shall mean~~ means an assessment on primary forest products from timber severed in North Carolina for the funding of the provisions of this Article, as authorized by the General Assembly.

(7) 'Forest development ~~cost sharing~~ cost-sharing payment' ~~shall mean~~ means financial assistance to partially cover the costs of implementing approved practices in such amounts as the Secretary shall determine, subject to the limitations of this Article.

(8) 'Forest development fund' ~~shall mean~~ means the special nonlapsing fund established in the Department of Environment, Health, and Natural Resources, designated as the Forest Development Fund, created by G.S. 113A-183.

(9) 'Secretary' ~~shall mean~~ means the Secretary of Environment, Health, and Natural Resources.

(10) 'Maintain' means to make every reasonable effort to protect the reforested area from destructive fire and grazing, insects, disease, noxious weeds, and being cleared or partially cleared of trees for any purpose other than as provided in an approved forest management plan."

Section 2. Article 11 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-180.1. Cost-share agreements.**

(a) In order to receive forest development cost-share payments, an eligible landowner shall enter into a written agreement with the Department describing the eligible land, setting forth the approved practices implemented for the area and

covered by the approved forest management plan, and agreeing to maintain those practices for a 10-year period.

(b) A landowner who fails to maintain the practice or practices for a 10-year period in accordance with the agreement set forth in subsection (a) of this section shall repay to the Fund all cost-sharing funds received for that area.

(c) If the landowner voluntarily relinquishes control or title to the land on which the approved practices have been established, the landowner shall:

(1) Obtain a written statement from the new owner or transferee in which the new owner or transferee agrees to maintain the approved practices for the remainder of the 10-year period; or

(2) Repay to the Fund all cost-sharing funds received for implementing the approved practices on the land.

If a written statement is obtained from the new owner or transferee, the original landowner will no longer be responsible for maintaining the approved practices or repaying the cost-sharing funds. The responsibility for maintaining those practices for the remainder of the 10 years shall devolve to the new owner or transferee."

Section 3. G.S. 113A-183 reads as rewritten:

"**§ 113A-183. Forest Development Fund.**

(a) ~~There is hereby~~ The Forest Development Fund is created in the Department of Environment, Health, and Natural Resources as a nonreverting ~~fund to be designated the Forest Development Fund,~~ fund, for which fiscal management and responsibility are ~~hereby~~ vested in the Secretary. The Fund is a special trust fund, and the State Treasurer shall credit interest to the Fund.

(b) This ~~fund~~ Fund shall be the depository for all revenue derived from the forest development assessment on primary forest product processors as authorized by the General Assembly, ~~and~~ for any funds appropriated specifically for the forest development program from the ~~general fund.~~ General Fund, for monetary contribution and donations, and for accrued interest. ~~Those funds appropriated from the general fund remaining in the Forest Development Fund at the end of any fiscal year shall revert to the general fund, but revenues~~ Revenues derived from the forest development assessment ~~shall not revert but~~ shall remain in the Forest Development Fund until expended under the provisions of this Article.

~~(c) In any fiscal year, expenditures from the Forest Development Fund shall be limited to four times the amount of the general fund appropriation for that year.~~

(d) In any fiscal year, no more than five percent (5%) of the available funds generated by the Primary Forest Product Processor Assessment Act shall be used for program support under the provisions of G.S. 113A-179(c).

(e) Funds used for the purchase of equipment under the provisions of G.S. 113A-179(d) shall be limited to appropriations from the ~~general fund~~ General Fund to the Forest Development Fund designated specifically for equipment purchase."

Section 4. This act becomes effective June 30, 1997.

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 463 A BILL TO BE ENTITLED AN ACT TO INCREASE THE PERMISSIBLE WEIGHT OF AGRICULTURAL CROPS THAT MAY BE TRANSPORTED ON THE HIGHWAYS FROM THE FIELD TO A PLACE WITH CERTIFIED SCALES.

☐ 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.

☐ 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 463

Short Title: Farm Products Weight Exemption. (Public)

Sponsors: Representatives Owens; and Starnes.

Referred to: Agriculture, if favorable, Finance.

March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PERMISSIBLE WEIGHT OF AGRICULTURAL CROPS THAT MAY BE TRANSPORTED ON THE HIGHWAYS FROM THE FIELD TO A PLACE WITH CERTIFIED SCALES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(c) is amended by adding a new subdivision to read:

"(13) Subsections (b) and (e) of this section do not apply to a vehicle that meets one of the following descriptions, is hauling agricultural crops from the farm where they were grown to the local market point where there is a set of scales certified by the North Carolina Department of Agriculture, and does not exceed its registered weight:

a. Is a five-axle combination with a gross weight of no more than 90,000 pounds, a single-axle weight of no more than 22,000 pounds, a tandem-axle weight of no more than 42,000 pounds, and a length of at least 51 feet between the first and last axles of the combination.

b. Is a four-axle combination with a gross weight that does not exceed the limit set in subdivision (b)(3) of this section, a single-axle weight of no more than 22,000 pounds, and a tandem-axle weight of no more than 42,000 pounds."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 463
Proposed Committee Substitute H463-PCS7185

Short Title: Farm Products Weight Exemption. (Public)

Sponsors:

Referred to:

March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PERMISSIBLE WEIGHT OF AGRICULTURAL CROPS THAT MAY BE TRANSPORTED ON THE HIGHWAYS FROM THE FIELD TO LOCAL MARKETS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(c)(12) reads as rewritten:

"(12) Subsections (b) and (e) of this section do not apply to a vehicle that ~~meets one of the following descriptions,~~ (i) is hauling agricultural crops from the farm where they were grown to first market, (ii) is within 35 miles of that farm, (iii) does not operate on an interstate highway or posted bridge while hauling the crops, ~~and does not exceed its registered weight.~~ and meets one of the following descriptions:

a. Is a five-axle combination with a gross weight of no more than ~~88,000~~ 90,000 pounds, a single-axle weight of no more than 22,000 pounds, a tandem-axle weight of no more than 42,000 pounds, and a length of at least 51 feet between the first and last axles of the combination.

b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.

c. Is a four-axle combination with a gross weight that does not exceed the limit set in subdivision (b)(3) of this section, a

single-axle weight of no more than 22,000 pounds, and a tandem-axle weight of no more than 42,000 pounds."

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

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — APRIL 1 , 1997
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Patty Berry	CCNC
David McDevitt	N.C. State Grange
Andy Eller	NC Farm Bureau
Jaffa Cypress	N.C. State Grange
Ed Bowe	Roger Bowe
Stan Adams	EHNR - DFR
Dianne Parrish	EHNR - Forestry
Bob Slocum	NC FORESTRY ASSOC.
Gordon Zeigler	NC DMV ENFORCEMENT
Maurice Weaver	NCDA
Chris Ross	N.C. Farmers Union
Peter Daniel	NCDA
Walter Dorman	NCDA
REMcNair Jr	Georgia-Pacific Corp

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 8, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):
S.B. #172 - NO SAFETY COURSE/DISABLED HUNTERS.

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **2:00 P.M.** on **THURSDAY, APRIL 3, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **SENATOR CHARLES W. ALBERTSON**

OFFICE: **ROOM 525**

DATE: **THURSDAY, APRIL 3, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 8, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:
S #172 NO SAFETY COURSE/DISABLED HUNTERS

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE

TUESDAY, APRIL 8, 1997
ROOM 1425
10:00 AM

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

S.B. #172 NO SAFETY COURSE/DISABLED HUNTERS
SPONSOR SENATOR CHARLIE ALBERTSON

ANNOUNCEMENTS

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 172
Corrected Copy 2/19/97

Short Title: No Safety Course/Disabled Hunters. (Public)

Sponsors: Senators Albertson; Carpenter, Carrington, Cooper, Dannelly, Foxx, Kincaid, Martin of Pitt, Martin of Guilford, Shaw of Guilford, Warren, and Wellons.

Referred to: Agriculture/Environment/Natural Resources.

February 18, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF HUNTING LICENSES FOR CERTAIN DISABLED HUNTERS WHO HAVE NOT COMPLIED WITH THE HUNTING SAFETY COURSE REQUIREMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-270.1A reads as rewritten:

"**§ 113-270.1A. Hunter safety course required.**

(a) ~~On~~ Except as provided in subsection (a1) of this section, on or after July 1, 1991, a person, regardless of age, may not procure a hunting license or hunt in this State without producing a certificate of competency or a hunting license issued prior to July 1, 1991, or signing a statement on a form provided by the Wildlife Resources Commission that he had such a license.

(a1) A person who qualifies for a totally disabled resident combination hunting-fishing license under G.S. 113-270.2(c)(12) need not comply with the requirements of subsection (a) of this section in order to receive that license, so long as the person does not make use of the license unless:

(1) The person is accompanied by an adult of at least 21 years of age who is licensed to hunt; and

(2) The adult hunter maintains a proximity to the disabled hunter which enables the adult to take immediate control of the hunting device at all times.

(b) The Wildlife Resources Commission shall institute and coordinate a statewide course of instruction in hunter ethics, wildlife laws and regulations, and competency and safety in the handling of firearms, and in so doing, may cooperate with any political subdivision, or with any reputable organization having as one of its objectives the promotion of competency and safety in the handling of firearms, including local rod and gun clubs.

(1) The Wildlife Resources Commission shall designate those persons or agencies authorized to give the course of instruction, and this designation shall be valid until revoked by the Commission. Those designated persons shall submit to the Wildlife Resources Commission validated listings naming all persons who have successfully completed the course of instruction.

(2) The Wildlife Resources Commission may conduct the course in hunter safety, using Commission personnel or other persons at times and in areas where other competent agencies are unable or unwilling to meet the demand for instruction.

(3) The Wildlife Resources Commission shall issue a certificate of competency and safety to each person who successfully completes the course of instruction, and the certificate shall be valid until revoked by the Commission.

(4) Any similar certificate issued outside the State by a governmental agency, shall be accepted as complying with the requirements of subsection (a) above, if the privileges are reciprocal for North Carolina residents.

(5) The Wildlife Resources Commission shall adopt rules and regulations to provide for the course of instruction and the issuance of the certificates consistent with the purpose of this section.

(c) On or after July 1, 1991, any person who obtains a hunting license by presenting a fictitious certificate of competency or who attempts to obtain a certificate of competency or hunting license through fraud shall have his hunting privileges revoked by the Wildlife Resources Commission for a period not to exceed one year.

(d) Nothing in this section shall be construed to prohibit the sale of lifetime licenses as provided in G.S. 113-270.2(c)(1a). Pending satisfactory completion of the hunter safety course, persons who possess such licenses may exercise the privileges thereof when accompanied by an adult at least 21 years of age who is licensed to hunt in this State. For the purpose of this section, 'accompanied' is defined as being able to take immediate control of the hunting device."

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

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

APRIL 8, 1997

The House Committee on Agriculture met on Tuesday, April 8, 1997 at 10:00 a.m. in Room 1425 of the Legislative Building. Chairman John W. Brown presided with nineteen members present and seven members absent.

Representative Brown welcomed guests and introduced the page serving the Committee. Next, Chairman Brown turned the meeting over to Representative Arlie Culp to explain Senate Bill #172 for Senator Charlie Albertson, sponsor of the bill, who was unable to attend the meeting.

Representative Culp explained that SB #172 entitled: AN ACT TO AUTHORIZE THE ISSUANCE OF HUNTING LICENSES FOR CERTAIN DISABLED HUNTERS WHO HAVE NOT COMPLIED WITH THE HUNTING SAFETY COURSE REQUIREMENT would exempt those that are totally disabled from the requirement of completing a hunter safety course in order to obtain a hunting license.

To qualify for the exemption, the disabled hunter must be accompanied by an adult who is at least 21 years old and licensed to hunt and the adult hunter must at all times remain close enough to the disabled hunter to take immediate control of the weapon.

Representative Culp stated that under G.S. 113-270.2(c)(12) totally disabled is defined as "physically incapable of being gainfully employed." The act is effective when it becomes law.

A lengthy discussion followed. Several amendments were presented. It was not clear as to what would constitute "physically disabled and handicap". None of the amendments presented were voted upon.

At this time, Representative Culp recognized Chairman Brown who made a motion to take SB#172 off the calendar and table it for the next meeting so that the sponsor may be present to decided if he would accept the amendments that were presented. Motion carried.

The meeting adjourned at 10:35 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — APRIL 8, 1997
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
MT Burnett	GACPD - DOA
Jeb Allen	"
Ed Bowen	RW Boone
John Cyrus	N.C. State Grange
David Meredith	N.C. State Grange
Bob Stoecum	NC FORESTRY #580
PD	NC Farm Bureau
Maurice Weaver	NCDA
Peter Daniel	"
Wilbur Dunn	NCDA
Paul T Peterson	NC Agribusiness

AGENDA

HOUSE AGRICULTURE COMMITTEE

TUESDAY, APRIL 15, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

S.B. #172 - NO SAFETY COURSE/DISABLED HUNTERS
SPONSOR - SENATOR CHARLES W. ALBERTSON

ANNOUNCEMENTS

ADJOURNMENT

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 15, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

S.B. 172 - NO SAFETY COURSE/DISABLED HUNTERS

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **11:00 A.M.** on **THURSDAY, APRIL 10, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **SENATOR CHARLES W. ALBERTSON**

OFFICE: **ROOM 525**

DATE: **THURSDAY, APRIL 10, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 15, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

S.B. #172 NO SAFETY COURSE/DISABLED HUNTERS

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

APRIL 15, 1997

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, April 15, 1997 at 10:00 a.m. Chairman Brown presided at the meeting with nineteen House Members present and seven House Members absent.

Mr. Brown introduced the page serving the Committee and welcomed guests.

Representative Brown turned the meeting over to Senator Charles Albertson to speak on Senate Bill #172. Senator Albertson explained SB #172 entitled: AN ACT TO AUTHORIZE THE ISSUANCE OF HUNTING LICENSES FOR CERTAIN DISABLED HUNTERS WHO HAVE NOT COMPLIED WITH THE HUNTING SAFETY COURSE REQUIREMENT to the Members.

Representative Buchanan moved to adopt the Committee Substitute. Motion was carried.

Senator Albertson stated that the wording in the Committee Substitute in Section 2 would be as follows: Notwithstanding the provisions of Section l of this act, locations where hunting safety is taught shall not be relieved of their obligation to make the our accessible to person with disabilities who wish to take the course. He went on to explain to the members that a constituent who has a disabled child would like to take him hunting. The child will not be able to pass the required test when he turns 16. His only recourse would be for this bill to pass. Senator Albertson stated that the father of the child would accompany him on his hunting trips. Several questions followed.

Mr. Richard B. Hamilton, Assistant Director of the Wildlife Resources Commission, stated that this bill would affect very few people. Wildlife has no problems with this amendment and supports the bill. Several more questions were taken from the floor.

At this time, Representative Charles Buchanan moved that the bill be given a favorable report as to committee substitute be given an unfavorable to original bill and recommended that the committee substitute bill be re-referred to the Committee on Judiciary I.

Motion carried with one NO vote.

The meeting adjourned at 10:30 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
S.B. 172 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ISSUANCE OF HUNTING LICENSES FOR CERTAIN DISABLED HUNTERS WHO HAVE NOT COMPLIED WITH THE HUNTING SAFETY COURSE REQUIREMENT.

☐ 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 House committee substitute bill, unfavorable as to original bill and recommendation that the ~~committee~~ House 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.

☐ 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 172
Corrected Copy 2/19/97
Proposed Committee Substitute S172-PCS7738

Short Title: No Safety Course/Disabled Hunters. (Public)

Sponsors:

Referred to:

February 18, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF HUNTING LICENSES FOR CERTAIN DISABLED HUNTERS WHO HAVE NOT COMPLIED WITH THE HUNTING SAFETY COURSE REQUIREMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-270.1A reads as rewritten:

"**§ 113-270.1A. Hunter safety course required.**

(a) ~~On~~ Except as provided in subsection (a1) of this section, on or after July 1, 1991, a person, regardless of age, may not procure a hunting license or hunt in this State without producing a certificate of competency or a hunting license issued prior to July 1, 1991, or signing a statement on a form provided by the Wildlife Resources Commission that he had such a license.

(a1) A person who qualifies for a totally disabled resident combination hunting-fishing license under G.S. 113-270.1C(b)(3) need not comply with the requirements of subsection (a) of this section in order to receive that license, so long as the person does not make use of the license unless:

(1) The person is accompanied by an adult of at least 21 years of age who is licensed to hunt; and

(2) The adult hunter maintains a proximity to the disabled hunter which enables the adult to take immediate control of the hunting device at all times.

(b) The Wildlife Resources Commission shall institute and coordinate a statewide course of instruction in hunter ethics, wildlife laws and regulations, and competency and safety in the handling of firearms, and in so doing, may cooperate with any political subdivision, or with any reputable organization having as one of its objectives the promotion of competency and safety in the handling of firearms, including local rod and gun clubs.

(1) The Wildlife Resources Commission shall designate those persons or agencies authorized to give the course of instruction, and this designation shall be valid until revoked by the Commission. Those designated persons shall submit to the Wildlife Resources Commission validated listings naming all persons who have successfully completed the course of instruction.

(2) The Wildlife Resources Commission may conduct the course in hunter safety, using Commission personnel or other persons at times and in areas where other competent agencies are unable or unwilling to meet the demand for instruction.

(3) The Wildlife Resources Commission shall issue a certificate of competency and safety to each person who successfully completes the course of instruction, and the certificate shall be valid until revoked by the Commission.

(4) Any similar certificate issued outside the State by a governmental agency, shall be accepted as complying with the requirements of subsection (a) above, if the privileges are reciprocal for North Carolina residents.

(5) The Wildlife Resources Commission shall adopt rules and regulations to provide for the course of instruction and the issuance of the certificates consistent with the purpose of this section.

(c) On or after July 1, 1991, any person who obtains a hunting license by presenting a fictitious certificate of competency or who attempts to obtain a certificate of competency or hunting license through fraud shall have his hunting privileges revoked by the Wildlife Resources Commission for a period not to exceed one year.

(d) Nothing in this section shall be construed to prohibit the sale of lifetime licenses as provided in G.S. 113-270.2(c)(1a). Pending satisfactory completion of the hunter safety course, persons who possess such licenses may exercise the privileges thereof when accompanied by an adult at least 21 years of age who is licensed to hunt in this State. For the purpose of this section, 'accompanied' is defined as being able to take immediate control of the hunting device."

Section 2. Notwithstanding the provisions of Section 1 of this act, locations where hunting safety is taught shall not be relieved of their obligation to make the course accessible to persons with disabilities who wish to take the course.

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

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — APRIL 15, 1997
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Vernon James	NC State Grange
Frank Rose	Wildlife Comm
Richard Hamilton	Wildlife
MT Burnette	GNCPT
Ken Franklin	GNCPT
Bob Stevens	NC Forestry Association
John Cyrus	N.C. State Grange
Paul T Dees	N.C. Farm Bureau
Donna Reynolds	wife Rep. Dennis Reynolds
Peter DANICA	NCDA
Jay Hardesty	NC. Pork Council
Charles Fullwood	NC Wildlife
David Medlock	N.C. State Grange

AGENDA

HOUSE AGRICULTURE COMMITTEE

TUESDAY, APRIL 22, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

H.B. #935 - PROMOTE LLAMA BREEDING
SPONSOR - REPRESENTATIVE CHARLES BEALL

ANNOUNCEMENTS

ADJOURNMENT

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 22, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

HB 935 - PROMOTE LLAMA BREEDING

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **1:00 P.M.** on **THURSDAY, APRIL 17, 1997.**

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. CHARLES M. BEALL**

OFFICE: **ROOM 510**

DATE: **WEDNESDAY, APRIL 16, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 22, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. 935 - PROMOTE LLAMA BREEDING

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

APRIL 22, 1997

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, April 22, 1997 at 10:00 a.m. Representative John W. Brown, Chairman, presided at the meeting with twenty House Members present, four House Members excused, and two House Members absent.

At this time, Chairman **Brown** introduced the page serving the Committee and welcomed guests.

Next, Mr. Brown introduced Representative Charles Beall who spoke on House Bill #935, entitled: **AN ACT TO RECOGNIZE LLAMAS AS LIVESTOCK ANIMALS.** Representative Beall stated that this bill provides for the inclusion of Llamas as livestock under the General Statutes. Specifically Section 1 amends G.S. 113A-52.01, to make it clear that Llamas are livestock, the breeding and grazing of which is not a land-disturbing activity under the Sedimentation Pollution Control Act. Section 2 includes Llamas under the Livestock Act, Article 3 of Chapter 68 of the General Statutes. As livestock under Articles 3, they cannot be allowed to run at large and are subject to other laws regarding the feeding and care of impounded livestock.

He further stated that Section 3 of the bill sets forth the intention of the General Assembly that Llamas be treated as domesticated livestock and to promote the development of the Llama industry in the state. In adopting rules, the Board of Agriculture is not to refer to Llamas as wild or exotic animals.

The act is effective when it becomes law. Section 3 applies to rules adopted on or after that date.

Several questions were taken from the floor. Representative Ownes asked the sponsor if he knew of any opposition to this bill? Representative Beall answered in the negative. Additional questions were taken from the floor.

Representative Hightower moved that the bill be given a favorable report. The bill was voted upon and was given a favorable report.

House Bill #1120, entitled: **AN ACT TO ALLOW PRESCRIBED BURNING IN FORESTS BY FOREST LANDOWNERS UNDER CERTAIN CONDITIONS** was explained by Representative McComas. Representative McComas explained that this bill seeks to establish safety guidelines for prescribed burns on public and private land. Prescribed burning is a land management technique used under specific conditions as outlined in a fire management plan. The benefits of this is beneficial for both wildlife and human populations Representative McComas explained that prescribed burns reduce competition and hazards to forest management (Attachment I).

After several questions from the members, Representative Eddins moved that the bill be given a favorable report and be referred to the Committee on Judiciary I. The bill was voted upon and was given a favorable report.

The meeting was adjourned at 10:30 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 935

Short Title: Promote Llama Breeding. (Public)

Sponsors: Representatives Beall, Ramsey, and Brown.

Referred to: Agriculture.

April 14, 1997

A BILL TO BE ENTITLED

AN ACT TO RECOGNIZE LLAMAS AS LIVESTOCK ANIMALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-52.01 reads as rewritten:

"**§ 113A-52.01. Applicability of this Article.**

This Article shall not apply to the following land-disturbing activities:

(1) Activities, including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.

b. Dairy animals and dairy products.

c. Poultry and poultry products.

d. Livestock, including beef cattle, <u>llamas,</u> sheep, swine, horses, ponies, mules, and goats.

e. Bees and apiary products.

f. Fur producing animals.

(2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.

(3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

(4) For the duration of an emergency, activities essential to protect human life."

Section 2. G.S. 68-15 reads as rewritten:

"§ 68-15. Term 'livestock' defined.

The word 'livestock' in this Chapter shall include, but shall not be limited to, equine animals, bovine animals, sheep, ~~goats~~ goats, llamas, and swine."

Section 3. Any rules adopted by the Board of Agriculture that affect llamas shall not refer to llamas as exotic or wild animals. It is the intent of the General Assembly that llamas be treated as domesticated livestock in order to promote the development and improvement of the llama industry in the State. This section does not prohibit the Board of Agriculture from classifying llamas for animal health purposes in accordance with generally accepted standards of veterinary medicine. For purposes of this section, 'llama' means a South American camelid that is an animal of the genus llama. Llama includes llamas, alpacas, and guanacos. Llama does not include vicunas.

Section 4. This act is effective when it becomes law. Section 3 of this act applies to rules adopted or amended on or after this date.

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 935 A BILL TO BE ENTITLED AN ACT TO RECOGNIZE LLAMAS AS LIVESTOCK ANIMALS.

☒ 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 FILED

SESSION 1997 1120 APR 17 97

H HOUSE PRINCIPAL CLERK D

HOUSE DRH1268-LD178(4.8)

Short Title: Prescribed Burning in Forests. (Public)

Sponsors: Representative McComas.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW PRESCRIBED BURNING IN FORESTS BY FOREST LANDOWNERS UNDER CERTAIN CONDITIONS.

The General Assembly of North Carolina enacts:

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

"ARTICLE 4E.

"North Carolina Prescribed Burning Act.

"**§ 113-60.40. Legislative findings.**

The General Assembly finds that prescribed burning of forestlands is a management tool that is beneficial to North Carolina's public safety, forest and wildlife resources, environment, and economy. All of the following are benefits that result from prescribed burning of forestlands:

(1) Prescribed burning reduces the naturally occurring buildup of vegetative fuels on forestlands. Reduction of these fuels by prescribed burning reduces the risk and severity of wildfires, thus lessening the loss of life and property.

(2) The State's ever-increasing population is resulting in urban development directly adjacent to fire prone forestlands. Such an area is referred to as a woodland-urban interface area. The use of prescribed burning in these woodland-urban interface areas substantially reduces the risk of damaging wildfires.

(3) Many of North Carolina's natural ecosystems require periodic fire for their survival. Prescribed burning is essential to the perpetuation, restoration, and management of many plant and

animal communities. Fire benefits game, nongame, and endangered wildlife species by increasing the growth and yield of plants that provide forage, escape, brooding, and other habitat needs.

(4) Forestlands are economic, biological, and aesthetic resources of statewide significance. In addition to reducing the frequency and severity of wildfires, prescribed burning of forestlands helps to prepare sites for replanting and natural seeding, to control insects and diseases, and to increase productivity.

(5) The resources on public use lands, such as State and national forests, wildlife refuges, nature preserves, and game lands, are enhanced by prescribed burning. Private lands that are managed for wildlife, recreation, and other purposes are similarly enhanced by prescribed burning.

(6) As North Carolina's population grows, pressures resulting from liability issues and smoke complaints discourage or limit prescribed burning so that these numerous benefits to forestlands often are not attainable.

(7) The General Assembly's recognition of the benefits of prescribed burning and the adoption of requirements governing prescribed burning will help to educate the public and avoid misunderstandings and reduce complaints about this valuable management tool.

"**§ 113-60.41. Definitions.**

As used in this Article:

(1) 'Certified prescribed burner' means an individual who has successfully completed a certification program approved by the Division of Forest Resources of the Department of Environment, Health, and Natural Resources.

(2) 'Prescribed burning' or 'prescribed burn' means the planned and controlled application of fire to naturally occurring vegetative fuels under safe weather, environmental, and other conditions, while following appropriate precautionary measures that will confine the fire to a predetermined area and accomplish the intended management objectives.

(3) 'Prescription' means a written plan prepared by a certified prescribed burner for starting, controlling, and extinguishing a prescribed burn.

"**§ 113-60.42. Immunity from liability.**

(a) Any prescribed burning conducted in compliance with G.S. 113-60.43 is in the public interest and does not constitute a public or private nuisance.

(b) A landowner or the landowner's agent who conducts a prescribed burn in compliance with G.S. 113-60.43 shall not be liable in any civil action for any damage or injury caused by or resulting from smoke.

(c) This section does not apply when a nuisance or damage results from the negligent or improper conduct of the prescribed burn.

"**§ 113-60.43. Prescribed burning.**

(a) Prior to the burning, a prescription for the prescribed burning shall be prepared by a certified prescribed burner and shall be filed with the Division of Forest Resources, Department of Environment, Health, and Natural Resources. A copy of the prescription shall be provided to the landowner and shall be present on the site throughout the period of the burning. The prescription shall include all of the following:

(1) The landowner's name and address.
(2) A description of the area to be burned.
(3) A map of the area to be burned.
(4) An estimate of the fuel tonnage on the area.
(5) The objectives of the prescribed burn.
(6) A list of the acceptable weather conditions and parameters for the prescribed burn.
(7) The name of the certified prescribed burner responsible for conducting the prescribed burn.
(8) A summary of the methods to be used to start, control, and extinguish the prescribed burn.

(b) The prescribed burning shall be conducted by a certified prescribed burner in accordance with the prescription that satisfies subsection (a) of this section. The certified prescribed burner shall be present on the site and shall be in charge of the burning throughout the period of the burning.

(c) The landowner or the landowner's agent shall obtain a current and valid open-burning permit under Article 4C of this Chapter from the Division of Forest Resources, Department of Environment, Health, and Natural Resources. This open-burning permit must remain in effect throughout the period of the burning. The burning shall be conducted in compliance with all of the following:

(1) The terms and conditions of the open-burning permit.
(2) The State's air pollution control statutes and any rules adopted by the Environmental Management Commission pursuant to these statutes.
(3) Any applicable local ordinances relating to open burning.
(4) The voluntary smoke management guidelines adopted by the Division of Forest Resources.
(5) Any rules adopted by the Division of Forest Resources to implement this Article.

(d) This Article does not apply when the Secretary of Environment, Health, and Natural Resources has prohibited all open burning pursuant to G.S. 113-60.25.

"**§ 113-60.44. Adoption of rules.**

The Division of Forest Resources may adopt rules that govern prescribed burning under this Article."

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

ATTACHMENT I

The Nature Conservancy®
NORTH CAROLINA CHAPTER

4011 University Drive
Suite 201
Durham, North Carolina
27707

TEL 919 403-8558
FAX 919 403-0379

International Headquarters
Arlington, Virginia
TEL 703 841-5300

N.C. PRESCRIBED BURNING ACT

What is the Prescribed Burning Act?

This act seeks to establish safety guidelines for prescribed burns on public and private land. The responsible use of fire reduces the buildup of natural fuel loads, enhances habitats for plant and animal populations, and improves forest resources. Under the prescribed burning act, landowners will be required to file a plan before conducting a burn. Educating the public about this practice and adopting statewide requirements governing its use will allow prescribed burning to become a more commonly used forest management practice. The Nature Conservancy, the N.C. Division of Forest Resources, the N.C. Forestry Association, the N.C. Division of Parks and Recreation, the N.C. Wildlife Resources Commission, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the U.S. Department of Defense, and others support this legislation.

What is a prescribed burn?

Prescribed burning is a land management technique used under specific conditions as outlined in a fire management plan. Prescribed burns are planned, set, and extinguished by professionally trained staff following specific guidelines for wind, temperature, humidity, and soil moisture. Its use reduces fuel loads and restores and maintains many North Carolina natural communities that need fire to survive. It is intended to imitate naturally occurring lightning fires that are frequently suppressed by human intervention. The natural areas of the southeastern United States evolved with frequent fires, as more rfrequent lightning strikes occur in this region than in any other part of North America. Fire has been an important part of North Carolina's landscape for thousands of years, and many plants and animals have come to rely on it for their survival, including the longleaf pine, the state tree.

What are the benefits of prescribed burning?

Prescribed burning is beneficial for both wildlife and human populations. Burning can significantly reduce the danger of catastrophic, uncontrolled wildfires by removing most of the fuels that might be ignited by an unintended spark during a drought. Less smoke is emitted during a prescribed burn than during a wildfire, since prescribed burns are small and controlled. Reducing the threat of wildfires makes it easier to manage provate property for timber and woldlife. Burning creates a more productive forest, with healthier trees and plants, and more forage for wildlife. Sites can be prepared for seeding and planting and competing vegetation and disease can be controlled more easily.

Why do these agencies use fire?

Prescribed burns reduce competition and hazards to forest management. They also enhance the habitat that many endangered species and game species need to survive. Quail and deer benefit from the vigorous growth that occurs after a burn. Sixty-six rare plant species are only found in fire-maintained longleaf pine forests. When fire is excluded from these communities, hardwoods such as oak, gallberry, red bay and sweetbay will quickly grow up and shade out the herbaceous plants, reducing the overall plant diversity. Frequent burning is essential for longleaf pine to thrive. The federally endangered red-cockaded woodpecker builds cavities in old-growth longleaf pines. With the understory kept more open through prescribed burns, the woodpeckers' nests are safer from predators and there is less competition from other woodpeckers that prefer shrubby habitats. Prescribed burns are performed in this habitat only after extensive scientific research indicates how, when, and where a burn may be usefully applied and safely carried out.

recycled paper

What training is available for timber companies, conservation organizations, and private landowners conducting prescribed burns?

The North Carolina Forest Service provides training in how to conduct a prescribe burn and contracts to conduct these burns. Much of the N.C. Forest Service's work consists of controlling wild fires. Through education of private landowners on the benefits of prescribed burns, this agency hopes to reduce the chance of large wild fires occurring and encourage better forest management practices. The prescribed burning courses set strict standards for weather conditions and equipment in order to conduct a burn.

Are many plants killed by fire?

A prescribed burn will kill many plants that are not adapted to fire. Fire-tolerant areas contain many plants with extensive root systems. Since most of the heat from a fire is carried upward, little damage occurs to roots that are well-protected by soil. The above-ground portions of plants that are not consumed by fire may be killed by the heat or remain unscathed in patchy burns or relatively cool ground-fires. In either case, a fire quickly converts leaf and branch litter and other undecayed organic matter which a burn into ash. Nutrients in the ash are absorbed by plant roots and fertilize the vigorous new growth that usually follows a fire. As a result, an area that is repeatedly burned will eventually become dominated by fire-tolerant vegetation.

How quickly will plants recover?

During a growing season burn, regrowth usually occurs a few days after the burn. With the removal of the thatch of litter that insulates the ground, the blackened soil surface will absorb heat and warm up more rapidly than unburned areas nearby. Within days, many plants begin to send out new growth. By early summer the vegetation is often taller and more lush than it would have been without burning due to the extra fertilization. Fire stimulates flowering and fruiting of many species of grasses, sedges, and herbs. These seeds and fruits provide important food for many species of wildlife including Bachman's sparrow, black bear, fox squirrel, and bobwhite quail.

What happens to animals in a fire?

Birds and larger animals (such as rabbits and deer) can easily outdistance the flames and find cover in adjacent unburned areas. Smaller animals like mice, voles, and shrews seek shelter in underground burrows, where they can avoid the heat. Controlled burns are timed to avoid periods when young animals are likely to be vulnerable. The healthy, lush vegetation that grows after a fire often attracts more animals to browse. Since the understory is kept more open with the use of fire, red-cockaded woodpeckers' cavity nests are kept more secure from snakes and gray squirrels.

What other benefits are there from prescribed burning?

In addition to reversing the succession of woody plants, the overall diversity of plants and animals can be increased through burning. Unlike mowing, which has a uniform impact throughout an area, the variability within a burn can generate diverse conditions under which many species can thrive and reproduce. Wildlife habitat and forage are improved by burning as nutrients are cycled back into the soil. Burning also reduces diseases that may occur in trees. Longleaf pines are susceptible to fungal diseases and cone beetles that can be significantly reduced through controlled burns.

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1120 A BILL TO BE ENTITLED AN ACT TO ALLOW PRESCRIBED BURNING IN FORESTS BY FOREST LANDOWNERS UNDER CERTAIN CONDITIONS.

☐ With a favorable report.

x 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.

☐ 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)

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — Name of Committee

APRIL 22, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID JARMAN	FOREST RESOURCES
Dianne Parrish	Forest Resources
[illegible]	Nature Conservancy
Pete Daniel	NCDA
Paul E Reed	N.C. Agribusiness
Jim Graham	UNC Gen Admin - NC State Ag Prog.
John Cyrus	N.C. State Grange

MINUTES
HOUSE AGRICULTURE COMMITTEE

APRIL 22, 1997 P.M. MEETING

The House Committee on Agriculture met on the floor of the House Chamber immediately after session (3:40 p.m.) on Tuesday, April 22, 1997 in order to hear House Bill #999. The following members were present: Chairman Brown, Rogers, Reynolds, Kiser, McCrary, Buchanan, Hill Watson, Owens, Fox and Baker.

Representative Rogers explained House Bill #999 entitled: **AN ACT TO CLARIFY THE AUTHORITY OF THE SOIL AND WATER CONSERVATION COMMISSION TO CONDUCT INSPECTIONS**. He stated that this bill amends part of Article 7 of Chapter 143 B of the General Statutes establishing the Soil and Water Commission.

Specifically, the bill amends the powers and duties of the Commission, G.S. 143B-294 to provide the Commission authority to conduct inspections reasonably necessary to carry out it's duties. The bill also adds two new subdivision to G.S. 143B-294 to provide that the Commission may enter at reasonable times on any property to determine compliance with its programs or the programs of the Department of Environment, Health, and Natural Resources. Refusal to allow an authorized representative of the Commission entry is a Class 1 misdemeanor and is punishable by imprisonment not to exceed 90 days or by a fine not to exceed $5,000.

The act is effective when it becomes law except that the misdemeanor provisions become effective December 1, 1997 and apply to offenses committed on or after that date. At this time, Representative Dewey Hill offered an amendment for a typographical error.

Several questions were taken from members. Dewey C. Botts, Director of the Soil and Water Conservation with the Department of Environment, Health, and Natural Resources was present to answer members' questions. At this time, Representative Buchanan moved that the bill be given a favorable report, as amended, and recommendation that the bill be referred to the Committee on Judiciary II.

The bill was given a favorable report as amended and referred to Judiciary II.

The meeting was adjourned at 3:55 p.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H.B. FILED

0999 APR 16 97

HOUSE PRINCIPAL CLERK

H D

HOUSE DRH6199-LD192(4.10)

Short Title: Soil and Water Commission/Inspections. (Public)

Sponsors: Representative Rogers.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE AUTHORITY OF THE SOIL AND WATER CONSERVATION COMMISSION TO CONDUCT INSPECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-294 reads as rewritten:

"**§ 143B-294. Soil and Water Conservation Commission -- creation; powers and ~~duties.~~ duties; compliance inspections.**

(a) There is hereby created the Soil and Water Conservation Commission of the Department of Environment, Health, and Natural Resources with the power and duty to adopt rules to be followed in the development and implementation of a soil and water conservation program.

(1) The Soil and Water Conservation Commission has all of the following powers and duties:

a. To approve petitions for soil conservation ~~districts;~~ districts.

b. To approve application for watershed ~~plans; and~~ plans.

c. Such other duties as specified in Chapter 139.

d. To conduct any inspections consistent with subsection (b) of this section for inspections it deems reasonably necessary to carry out its duties.

(2) The Commission shall adopt rules consistent with the provisions of this Chapter. All rules not inconsistent with the provisions of this Chapter heretofore adopted by the Soil and Water Conservation Committee shall remain in full force and effect unless and until repealed or superseded by action of the Soil and Water Conservation Commission. All rules adopted by the Commission

shall be enforced by the Department of Environment, Health, and Natural Resources.

(b) Inspections authorized by subsubsection (1)d. of this section may be conducted by authorized representatives of the Commission. When conducting inspections, the Commission may enter at reasonable times upon any property, public or private, for the purpose of investigating compliance with Commission or Department programs.

(c) No person shall refuse entry or access to a person who requests entry for the purposes of an inspection under this section and who presents appropriate credentials. Any person who refuses entry or access to a person conducting an inspection or obstructs, hampers, or interferes with any such person while that person is in the process of carrying out official duties shall, notwithstanding G.S. 115A-1340.23, be guilty of a Class 1 misdemeanor punishable by imprisonment not to exceed 90 days, or by a fine not to exceed five thousand dollars ($5,000), or both."

Section 2. This act is effective when it becomes law, except G.S. 143B-294(c), as enacted by Section 1 of this act, becomes effective December 1, 1997, and applies to offenses committed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 999

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H999-arf-01

Date_____,1997

Comm. Sub. [ ]
Amends Title [ ]

1 moves to amend the bill on page 2, lines 12 and 13,
2 by deleting the citation "G.S. 115A-1340.23" and substituting the
3 citation "G.S. 15A-1340.23".
4

SIGNED _____
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) **John W. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 999 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE AUTHORITY OF THE SOIL AND WATER CONSERVATION COMMISSION TO CONDUCT INSPECTIONS.

☐ 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 Judiciary II.

☐ 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
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 29, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

H.B. #1015 - CROP ALLOTMENT TAX APPRAISAL.
H.B. #1037 - SALE OF CERTAIN EXOTIC MEATS.
H.B. #1043 - FARM ENVIRONMENTAL COMPLIANCE FUND.

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **1:00 P.M.** on **THURSDAY APRIL 24, 1997, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. FRANK MITCHELL**

OFFICE: **ROOM 638**

DATE: **THURSDAY, APRIL 24, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 29, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #1043 - FARM ENVIRONMENTAL COMPLIANCE FUND.

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. CAROLYN B. RUSSELL**

OFFICE: **ROOM 2207**

DATE: **THURSDAY, APRIL 24, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 29, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #1015 - CROP ALLOTMENT TAX APPRAISAL.

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. GENE ARNOLD**

OFFICE: **ROOM 535**

DATE: **WEDNESDAY, APRIL 23, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, APRIL 29, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #1037 - SALE OF CERTAIN EXOTIC MEATS.

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

Anna Kidd (Rep. J.Brown)

From: Anna Kidd (Rep. J.Brown)
Sent: Tuesday, April 29, 1997 9:27 AM
To: @House/Agriculture/Clks; Barbara Riley; Clyde Cook; Legislative Press; Linda Johnson
Subject: ROOM CHANGE FOR AGRICULTURE COMMITTEE MEETING

SPECIAL NOTICE

PLEASE NOTE.....THERE HAS BEEN A ROOM CHANGE FOR THE AGRICULTURE MEETING THIS MORNING:

WE WILL BE USING ROOM 415

THE ANNOUNCEMENT WAS MADE ON THE FLOOR OF THE HOUSE LAST NIGHT. THANKS FOR YOUR UNDERSTANDING.

AGENDA

HOUSE AGRICULTURE COMMITTEE

TUESDAY, APRIL 29, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

H.B. #1015 - CROP ALLOTMENT TAX APPRAISAL.
SPONSOR REP. CAROLYN RUSSELL

H.B. #1037 - SALE OF CERTAIN EXOTIC MEATS.
SPONSOR REP. GENE ARNOLD

H.B. #1043 - FARM ENVIRONMENTAL COMPLIANCE FUND.
SPONSOR REP. FRANK MITCHELL

ANNOUNCEMENTS

ADJOURNMENT

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

APRIL 29, 1997

The House Committee on Agriculture met in Room 415 of the Legislative Office Building on Tuesday, April 29, 1997 at l0:00 a.m. Chairman Brown presided at the meeting with twenty one House Members present, three House Members absent, and two House Members excused.

Chairman Brown introduced the page serving the Committee and welcomed guests.

At this time, Representative Brown introduced Rep. Frank Mitchell sponsor of House Bill #357 entitled: **AN ACT TO CLARIFY THE REQUIREMENTS IMPOSED BY GENERAL PERMITS FOR CERTAIN ANIMAL OPERATIONS**. Representative Mitchell stated that this bill hopes to try and eliminate some of the rules that farmers cannot live with (Attachments I and II).

Representative Carpenter sent forward an amendment. It was moved that the amendment be adopted. Much discussion followed.

Representative Buchanan moved for a favorable report as amended. Motion was carried.

Chairman Brown next introduced Representative Gene Arnold sponsor of House Bill #1037 entitled: **AN ACT TO AUTHORIZE THE TRANSPORTATION AND RESALE OF THE EDIBLE PARTS OF BEAR AND DEER TAKEN IN ANOTHER STATE**. He stated that this bill amends G.S. 113-201.3, Possession, Sale, and Transportation of Wildlife, to add a new subdivision (b)(8) that would allow edible bear and deer meat to be transported into the State and sold for human consumption when the meat has passed inspection in the other State or by the USDA.

The act is effective when it becomes law.

Representative Carpenter stated that he was contacted by numerous constituents and several groups who are against this bill. He strongly felt that this was a bad bill. He offered an amendment to this bill.

Representative Brown recognized Mr. Robert Hazel and Mr. Thomas Stark, Co-Chairs of the North Carolina Sportsman Alliance Association, who spoke in opposition of the bill. They stated that this bill was a threat to the wildlife in the Sate of North Carolina. This would cause an increase in poaching of wildlife in particular large animals. Several questions followed.

At this time, Representative Brown recognized Mr. Charles R. Fullwood, Executive Director of the Wildlife Resources Commission who stated that the bear is the wildest creature in the State of North Carolina. He doesn't believe a bear should be bought or sold. He also didn't see any way to market bear or deer. Several more questions followed.

Representative Carpenter sent forward his amendment and moved that the amendment be adopted. A motion for a favorable report as amended was made and carried.

Lastly, Chairman Brown introduced Representative Frank Mitchell to speak on House Bill 1043 entitled: **AN ACT TO ESTABLISH THE FARM ENVIRONMENTAL COMPLIANCE REVOLVING LOAN FUND TO PROVIDE ASSISTANCE TO FARMERS TO ACHIEVE ENVIRONMENTAL COMPLIANCE.** Representative Mitchell stated that House Bill 1043, introduced by Representative Brown, would create a new Article 2 in Chapter 122D of the General Statutes and establish a nonreverting Farm Environmental Compliance Revolving Loan Fund.

The Agricultural Finance Authority shall administer the fund and shall adopt rules and guidelines for loans from the Fund. Farms must have been in existence prior to January 1, 1994 to qualify for funding. No loan shall exceed $50,000 and loans shall not be made to an individual who is able to obtain credit elsewhere on reasonable terms.

$3,000,000 is appropriated from the General Fund to the Farm Environmental Compliance Revolving Loan Fun for fiscal year 1997-1998. The act is effective July 1, 1997.

Several questions were taken from the floor.

Representative Culp moved for a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations.

Representative Brown reminded members of the Agriculture Committee Breakfast at the Farmer's Market scheduled for Wednesday, April 30, 1997 at 7:00 a.m. The Breakfast is being sponsored by the North Carolina Department of Agriculture.

The meeting adjourned at 10:45 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P, KIDD, CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

HOUSE BILL 357

Short Title: General Animal Waste Permits. (Public)

Sponsors: Representatives Mitchell; Baker, Brown, Culp, Kiser, McCombs, Nichols, and Weatherly.

Referred to: Environment.

February 27, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE REQUIREMENTS IMPOSED BY GENERAL PERMITS FOR CERTAIN ANIMAL OPERATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.10C is amended by adding a new subsection to read:

"(a1) The general permits for animal operations shall not require any of the following:

(1) That application of animal waste onto land used to grow crops for direct human consumption be prohibited within any specified time period prior to or during the planting of the crop, during the growing season, or, in the case of fruit trees, prior to breaking dormancy.

(2) That application of animal waste onto land used to grow fiber or food crops for direct human consumption that undergo further processing be prohibited within any specified time period prior to the harvesting of the crop.

(3) That animal waste be incorporated into the soil within any specified time period after it is applied onto bare soil.

(4) That waste application and handling equipment be maintained on site, when it is provided by the owner or operator.

(5) That inspection of a waste collection, treatment, storage, or transmission structure be performed more frequently than annually, when the structure is under the control of the owner or operator.

(6) That records be maintained of maintenance and repairs of a waste collection, treatment, storage, or transmission structure, when the structure is under the control of the owner or operator.

(7) That repairs of a waste treatment, storage, or transmission structure be approved by a technical specialist."

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

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION
DEPARTMENT OF ENVIRONMENT, HEALTH AND NATURAL RESOURCES

CATTLE WASTE OPERATION GENERAL PERMIT

This permit shall be effective from the date of issuance until December 31, 2001. Holders of Certificates of Coverage under this permit shall comply with the following specified conditions and limitations:

I. PERFORMANCE STANDARDS

1. The animal waste collection, treatment, storage and transmission system permitted under this permit shall be effectively maintained and operated as a non-discharge system to prevent the discharge of pollutants to surface waters, wetlands, or ditches. Facilities which are in compliance with their Certified Animal Waste Management Plan (CAWMP) and this permit, which unintentionally discharge as a result of a storm event greater than the 25 year, 24 hour storm, will not be considered to be in violation of this permit.

2. The CAWMP is hereby incorporated by reference into this general permit. New or expanding farms are required to be certified prior to the stocking of animals. The CAWMP must be consistent with all applicable statutes, rules and standards in effect at the time of siting, design and certification of the facility. Any violation of the CAWMP shall be considered a violation of this general permit and subject to enforcement actions. Such a violation may require the Permittee to cease applying animal waste to the site and to take any immediate and long term corrective actions as may be required by the Division of Water Quality (DWQ).

3. This facility may not be expanded unless the CAWMP is first modified and recertified by a technical specialist to reflect this expansion. Additional animals may not be stocked until all applicable parts of the CAWMP have been recertified. A copy of the complete modified CAWMP and the new certification must be submitted to the local Soil and Water Conservation District Office and to the Division of Water Quality.

4. A copy of this Certificate of Coverage (COC), General Permit, certification forms, lessee and landowner agreements and the CAWMP shall be maintained **at the farm** (stored at places such as the farm residence, office, outbuildings, etc.) where animal waste management activities are being conducted for the life of this permit. These documents shall be kept in good condition and records shall be maintained in an orderly fashion.

5. For all new and expanding operations, no collection or storage facilities may be constructed which could be inundated by a 100 year flood. In addition to protection from inundation, the facility shall be designed in order to minimize potential harm to or within the floodplain.

II. OPERATION AND MAINTENANCE REQUIREMENTS

1. The collection, treatment, and storage facilities, and land application equipment and sites shall be properly maintained and operated at all times.

2. A suitable vegetative cover shall be maintained on all land application sites and buffers in accordance with the CAWMP. No waste may be applied upon fields not approved by or prepared in accordance with the CAWMP.

3. An acceptable pH of the soil shall be maintained on all land application sites to insure optimum yield for the crop(s) being grown.

4. The Plant Available Nitrogen application rates and hydraulic loading rates, identified in the CAWMP shall not be exceeded.

5. Application of animal waste onto land which is used to grow crops for direct human consumption (e.g., strawberries, melons, lettuce, cabbage, apples, etc.) shall not occur within 30 days prior to or during the planting of the crop or at any time during the growing season, or in the case of fruit bearing trees, 30 days prior to breaking dormancy. Application of animal wastes shall not occur within 30 days of the harvesting of fiber and food crops for direct human consumption that undergo further processing. If waste is to be applied on bare soil, the waste shall be incorporated into the soil within twenty-four (24) hours after application on the land.

6. Domestic wastewater from showers, toilets, etc. shall not be discharged into the animal waste collection, treatment, disposal and transmission system. Wash vats required to be connected to the animal waste collection, treatment, disposal and transmission system management system by the Grade A Pasteurized Milk Ordinance Part II, Section 7, Item 5r are exempt from this requirement. Washdown of stock trailers, owned by and used to transport animals from this farm only, will be permissible as long as system design accommodates the additional flow and as long as only those detergents and disinfectants are utilized which are labeled by the manufacturer as readily biodegradable.

7. Disposal of dead animals shall be done in accordance with the North Carolina Department of Agriculture (NCDA) Veterinary Division's regulations and the CAWMP.

8. Grazing of animals on an application site shall be controlled in accordance with Natural Resources Conservation Service (NRCS) Standards.

9. All uncontaminated stormwater runoff from the surrounding property and buildings shall be diverted away from the animal waste storage ponds or lagoons whenever possible to prevent any unnecessary liquid addition to the structures. Runoff from lounging areas to the waste storage ponds or lagoons shall be prevented unless approved in the CAWMP.

10. A protective vegetative cover shall be established on all disturbed areas (storage ponds, lagoon embankments, berms, pipe runs, emergency spillways, erosion control areas, etc.) Emerging vegetation such as trees, shrubs, and other woody species shall not be allowed to grow on the dikes or sideslopes of the storage ponds or lagoons. Lagoon areas should be kept mowed and accessible.

11. Disposal of the sludge shall be in accordance with the CAWMP. When removal of sludge from the lagoon is necessary, provisions must be taken to prevent damage to lagoon dikes and liners.

12. Solid materials including, but not limited to, bottles, light bulbs, gloves, syringes or any other solid waste from the animal waste operation shall be prevented from entering the treatment/storage lagoon and shall be disposed of properly.

13. The facility must have at all times (a) adequate animal waste application and handling equipment on site, (b) a lease for the use of the necessary equipment, (c) a contract with a third party applicator capable of providing adequate waste application, or (d) a contract for the purchase of the equipment. In all cases, the equipment and any contractor must be capable of land applying the waste on the sites specified in the CAWMP in compliance with both the agronomic and hydraulic loading rates for the sites.

III. MONITORING AND REPORTING REQUIREMENTS

1. Waste collection, treatment, storage and transmission structures (i.e. piping, pumps, reels, etc.), under the control of the owner/operator shall be inspected weekly. Lagoon berms, storage ponds, and structures should be inspected for evidence of erosion, leakage, animal damage or discharge. A written chronological record of maintenance and repairs shall be maintained on the farm and be made readily available during a scheduled inspection of the farm. These records shall also be made available at the request of the Division. All repairs shall be approved by a technical specialist prior to initiation and completed promptly. If a piece of equipment is being replaced with a piece of equipment of the identical specifications, no technical specialist approval is necessary [i.e. piping, reels, valves, pumps (if the GPM capacity is not being increased or decreased), etc.]. Any major structural repairs (to lagoons or waste storage ponds) shall have the approval of a technical specialist.

2. If not already installed at this facility, a level gauge shall be installed within 60 days of issuance of the COC under this general permit to monitor waste levels. This gauge shall have visible permanent markings indicating the levels at which pump-out must begin and freeboard elevations. Where a lagoon is utilized, the gauge shall be installed with readily visible permanent markings indicating the maximum lagoon levels at which pump-out must begin, end of pump-out, and freeboard elevations. Caution must be taken not to damage the integrity of the liner when installing the gauge. Storage pond and waste lagoon levels shall be recorded weekly on forms provided by the DWQ.

3. A representative Standard Soil Fertility Analysis shall be conducted annually on each application site receiving animal waste. The results of these tests shall be maintained on file by the Permittee for a minimum of three years and shall be made available to the DWQ upon request.

4. An analysis of the liquid animal waste from the lagoon shall be conducted initially after issuance of the COC and thereafter as close to the time of each waste application as practical. This test shall be conducted as close to the time of application as practical and at least within 60 days (before or after) of the date of application. This analysis shall include the following parameters:

Nitrogen	Zinc
Phosphorous	Copper
pH	

5. Proper records, including maintenance, repair and irrigation records, shall be maintained on site and in chronological and legible form for a minimum of three years by the Permittee. These records shall be maintained on forms provided by the DWQ and shall be readily available for inspection.

6. **Regional Notification:**

The Permittee shall report by telephone to the appropriate Regional Office as soon as possible, but in no case more than 24 hours following first knowledge of the occurrence of any of the following events:

a. Failure of any component of the animal waste collection, treatment, storage and land application system resulting in a discharge to surface waters.
b. Any failure of the animal waste treatment and disposal program that renders the facility incapable of adequately receiving, treating or storing the animal waste and/or sludge.

Farmers Fight Weather
Market Prices
Cost of Equipment
neighbors
D W Quality

c. Spillage or discharge from a vehicle or piping system transporting animal waste or sludge to the application sites which results in, or may result in, a discharge to surface waters.
d. Any deterioration or leak in a lagoon system or storage pond that poses an immediate threat to the environment.
e. Failure to maintain adequate storage capacity in a lagoon or storage pond that poses an immediate threat to public health or the environment.
f. Overspraying animal waste either in excess of the limits set out in the CAWMP or where runoff enters waters of the State.
g. Any discharge that bypasses a lagoon system or storage pond.

For any emergency which requires immediate reporting after normal business hours, please contact the Division of Emergency Management at 1-800-858-0368.

The permittee shall also file a written report of the occurrence in letter form within 5 days following first knowledge of the occurrence, unless waived by the Regional Office. This report shall outline the actions taken or proposed to be taken to correct the problem and to ensure that the problem does not recur.

IV. INSPECTIONS

Any duly authorized officer, employee, or representative of the DWQ may, upon presentation of credentials and in accordance with reasonable and appropriate biosecurity measures, enter and inspect any property, premises or place on or related to the collection, treatment, storage and land application system at any reasonable time for the purpose of determining compliance with this permit; may inspect and obtain a copy of any records that must be kept under the terms and conditions of this permit; and may obtain samples of the wastewater, groundwater, or surface water.

V. GENERAL CONDITIONS

1. The issuance of a COC under this permit shall not relieve the Permittee of the responsibility for damages to surface waters or ground waters resulting from the operation of this program.

2. The Permittee shall designate and employ a certified animal waste management system operator to be in charge (OIC) of the animal waste management system. No animal waste management system shall be operated unless supervised by the OIC.

3. For existing farms, the operating level of lagoons and other uncovered waste containment structures must not exceed the level that provides adequate storage to contain at a minimum a 25 year, 24 hour storm plus any additional storage required in the CAWMP. For new and expanding farms, the operating level of lagoons and other uncovered waste containment structures must not exceed the level that provides adequate storage to contain at a minimum a 25 year, 24 hour storm event, chronic rainfall, plus an additional 1 foot of freeboard. In either case, the maximum waste level shall not exceed that specified in the CAWMP.

4. Upon reasonable cause to believe that any activities conducted pursuant to this permit may cause or contribute any waste, directly or indirectly, to be intermixed with the waters of the State, the DWQ may require any monitoring (including but not limited to groundwater, surface water, sludge, soil and plant tissue) necessary to determine the source, quantity, quality, and effect of such waste upon the waters of the State. Such monitoring, including its scope, frequency, duration and any sampling, testing, and reporting systems, shall meet all applicable Commission requirements. "Reasonable Cause" may be based on the findings of a related Federal, State, Commission or DEHNR authorized study or report, or

on showing that violations of State water quality or other applicable environmental standards have occurred or may occur.

5. Failure to abide by the conditions and limitations contained in this permit, the facility's CAWMP and any COC issued under this permit may subject the Permittee to an enforcement action by the DWQ in accordance with North Carolina General Statutes and may include the requirement to obtain an individual animal waste operation permit, the addition of treatment or storage units, or the addition of land application sites.

6. The issuance of a COC under this permit does not excuse the Permittee from the obligation to comply with all applicable statutes (local, state, and federal).

7. If animal production at the facility is to be suspended or terminated, the owner is responsible for developing, implementing and completing a "closure plan" which will eliminate the possibility of an illegal discharge, pollution and erosion, or the potential for injury and shall include lagoon closure in accordance with NRCS standards in effect when the closure plan is developed and implemented. Closure shall include notifying the DWQ.

8. The annual permit fee shall be paid by the Permittee within thirty (30) days after being billed by the Division. Failure to pay the fee accordingly constitutes grounds for revocation of this COC.

9. Failure of the Permittee to maintain, in full force and effect, lessee and landowner agreements which are required in the CAWMP, shall constitute grounds for revocation of this COC.

Permit issued this the fourteenth day of January, 1997.

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

A. Preston Howard, Jr., P.E., Director
Division of Water Quality
By Authority of the Environmental Management Commission

Cattle Waste General Permit Number AWG200000

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION
DEPARTMENT OF ENVIRONMENT, HEALTH AND NATURAL RESOURCES

SWINE WASTE OPERATION GENERAL PERMIT

This permit shall be effective from the date of issuance until December 31, 2001. Holders of Certificates of Coverage under this permit shall comply with the following specified conditions and limitations:

I. PERFORMANCE STANDARDS

1. The animal waste collection, treatment, storage and transmission system permitted under this permit shall be effectively maintained and operated as a non-discharge system to prevent the discharge of pollutants to surface waters, wetlands, or ditches. Facilities which are in compliance with their Certified Animal Waste Management Plan (CAWMP) and this permit, which unintentionally discharge as a result of a storm event greater than the 25 year, 24 hour storm, will not be considered to be in violation of this permit.

2. The CAWMP is hereby incorporated by reference into this general permit. New or expanding farms are required to be certified prior to the stocking of animals. The CAWMP must be consistent with all applicable statutes, rules and standards in effect at the time of siting, design and certification of the facility. Any violation of the CAWMP shall be considered a violation of this general permit and subject to enforcement actions. Such a violation may require the Permittee to cease applying animal waste to the site and to take any immediate and long term corrective actions as may be required by the Division of Water Quality (DWQ).

3. This facility may not be expanded unless the CAWMP is first modified and recertified by a technical specialist to reflect this expansion. Additional animals may not be stocked until all applicable parts of the CAWMP have been recertified. A copy of the complete modified CAWMP and the new certification must be submitted to the local Soil and Water Conservation District Office and to the DWQ.

4. A copy of this Certificate of Coverage (COC), General Permit, certification forms, lessee and landowner agreements, and the CAWMP shall be maintained **at the farm** (stored at places such as the farm residence, office, outbuildings, etc.) where animal waste management activities are being conducted for the life of this permit. These documents shall be kept in good condition and records shall be maintained in an orderly fashion.

5. For all new and expanding operations, no collection or storage facilities may be constructed which could be inundated by a 100 year flood. In addition to protection from inundation, the facility shall be designed in order to minimize potential harm to or within the floodplain.

II. OPERATION AND MAINTENANCE REQUIREMENTS

1. The collection, treatment, and storage facilities, and land application equipment and sites shall be properly maintained and operated at all times.

2. A suitable vegetative cover shall be maintained on all land application sites and buffers in accordance with the CAWMP. No waste may be applied upon fields not approved by or prepared in accordance with the CAWMP.

3. An acceptable pH of the soil shall be maintained on all land application sites to insure optimum yield for the crop(s) being grown.

4. The Plant Available Nitrogen application rates and hydraulic loading rates, identified in the CAWMP, shall not be exceeded.

5. Application of animal waste onto land which is used to grow crops for direct human consumption (e.g., strawberries, melons, lettuce, cabbage, apples, etc.) shall not occur within 30 days prior to or during the planting of the crop or at any time during the growing season, or in the case of fruit bearing trees, 30 days prior to breaking dormancy. Application of animal wastes shall not occur within 30 days of the harvesting of fiber and food crops for direct human consumption that undergo further processing. If waste is to be applied on bare soil, the waste shall be incorporated into the soil within twenty-four (24) hours after application on the land.

6. Domestic and/or industrial wastewater from showers, toilets, sinks, etc. shall not be discharged into the animal waste collection, treatment, storage and transmission system. Washdown of stock trailers, owned by and used to transport animals from this farm only, will be permissible as long as system design accommodates the additional flow and as long as only those detergents and disinfectants are utilized which are labeled by the manufacturer as readily biodegradable.

? 7. Disposal of dead animals shall be done in accordance with the North Carolina Department of Agriculture (NCDA) Veterinary Division's regulations and the CAWMP.

8. Grazing animals on an application site shall be controlled in accordance with Natural Resources Conservation Service (NRCS) Standards.

9. All uncontaminated stormwater runoff from the surrounding property and buildings shall be diverted away from the animal waste lagoons and storage ponds to prevent any unnecessary addition to the liquid volume in the structures.

10. A protective vegetative cover shall be established on all disturbed areas (lagoon embankments, berms, pipe runs, erosion control areas, etc.) Emerging vegetation such as trees, shrubs, and other woody species shall not be allowed to grow on the lagoon dikes or sideslopes. Lagoon areas should be kept mowed and accessible.

11. Disposal of the sludge shall be in accordance with the CAWMP. When removal of sludge from the lagoon is necessary, provisions must be taken to prevent damage to lagoon dikes and liners.

Not Necessary

12. Solid materials including, but not limited to, bottles, light bulbs, gloves, syringes or any other solid waste from the animal waste operation shall be prevented from entering the treatment/storage lagoon and shall be disposed of properly.

IMPOSSIBLE! 13. The facility must have at all times (a) adequate animal waste application and handling equipment on site, (b) a lease for the use of the necessary equipment, (c) a contract with a third party applicator capable of providing adequate waste application, or (d) a contract for the purchase of the equipment. In all cases, the equipment and any contractor must be capable of land applying the waste on the sites specified in the CAWMP in compliance with both the agronomic and hydraulic loading rates for the sites.

III. MONITORING AND REPORTING REQUIREMENTS

1. Waste collection, treatment, storage and transmission structures (i.e. piping, pumps, reels, etc.), under the control of the owner/operator shall be inspected weekly. Lagoon berms, storage ponds, and structures should be inspected for evidence of erosion, leakage, animal damage or discharge. A written chronological record of maintenance and repairs shall be maintained on the farm and be made readily available during a scheduled inspection of the farm. These records shall also be made available at the request of the Division. All repairs shall be approved by a technical specialist prior to initiation and completed promptly. If a piece of equipment is being replaced with a piece of equipment of the identical specifications, no technical specialist approval is necessary [i.e. piping, reels, valves, pumps (if the GPM capacity is not being increased or decreased), etc.]. Any major structural repairs (to lagoons or waste storage ponds) shall have the approval of a technical specialist.

2. If not already installed at this facility, a level gauge shall be installed within 60 days of issuance of the COC under this general permit to monitor waste levels. This gauge shall have readily visible permanent markings indicating the maximum lagoon levels at which pump-out must begin, end of pump-out, and freeboard elevations. Where storage ponds are utilized, only a gauge with visible permanent markings indicating the pump-out begin and freeboard elevations need be installed. Caution must be taken not to damage the integrity of the liner when installing the gauge. Waste lagoon and storage pond levels shall be recorded weekly on forms supplied by the DWQ.

3. A representative Standard Soil Fertility Analysis shall be conducted annually on each application site receiving animal waste. The results of these tests shall be maintained on file by the Permittee for a minimum of three years and shall be made available to the DWQ upon request.

4. An analysis of the liquid animal waste from the lagoon shall be conducted initially after issuance of the COC and thereafter as close to the time of each waste application as practical. This test shall be conducted as close to the time of application as practical and at least within 60 days (before or after) of the date of application. This analysis shall include the following parameters:

Nitrogen	Zinc
Phosphorous	Copper
pH	

5. Proper records, including maintenance, repair and irrigation records, shall be maintained on site and in chronological and legible form for a minimum of three years by the Permittee. These records shall be maintained on forms provided by the DWQ and shall be readily available for inspection.

6. **Regional Notification:**

The Permittee shall report by telephone to the appropriate Regional Office as soon as possible, but in no case more than 24 hours following first knowledge of the occurrence of any of the following events:

a. Failure of any component of the animal waste collection, treatment, storage and land application system resulting in a discharge to surface waters.
b. Any failure of the animal waste treatment and disposal program that renders the facility incapable of adequately receiving, treating or storing the animal waste and/or sludge.
c. Spillage or discharge from a vehicle or piping system transporting animal waste or sludge to the application sites which results in, or may result in, a discharge to surface waters.
d. Any deterioration or leak in a lagoon system or storage pond that poses an immediate threat to the environment.
e. Failure to maintain adequate storage capacity in a lagoon or storage pond that poses an immediate threat to public health or the environment.
f. Overspraying animal waste either in excess of the limits set out in the CAWMP or where runoff enters waters of the State.
g. Any discharge that bypasses a lagoon system or storage pond.

For any emergency which requires immediate reporting after normal business hours, please contact the Division of Emergency Management at 1-800-858-0368.

The permittee shall also file a written report of the occurrence in letter form within 5 days following first knowledge of the occurrence, unless waived by the Regional Office. This report shall outline the actions taken or proposed to be taken to correct the problem and to ensure that the problem does not recur.

IV. INSPECTIONS

Any duly authorized officer, employee, or representative of the DWQ may, upon presentation of credentials and in accordance with reasonable and appropriate biosecurity measures, enter and inspect any property, premises or place on or related to the collection, treatment, storage and land application system at any reasonable time for the purpose of determining compliance with this permit; may inspect and obtain a copy of any records that must be kept under the terms and conditions of this permit; and may obtain samples of the wastewater, groundwater, or surface water.

V. GENERAL CONDITIONS

1. The issuance of a COC under this permit shall not relieve the Permittee of the responsibility for damages to surface waters or ground waters resulting from the operation of this program.

2. The Permittee shall designate and employ a certified animal waste management system operator to be in charge (OIC) of the animal waste management system. No animal waste management system shall be operated unless supervised by the OIC.

3. For existing farms, the operating level of lagoons and other uncovered waste containment structures must not exceed the level that provides adequate storage to contain at a minimum a 25 year, 24 hour storm plus any additional storage required in the CAWMP. For new and expanding farms, the operating level of lagoons and other uncovered waste containment structures must not exceed the level that provides adequate storage to contain at a minimum a 25 year, 24 hour storm event, chronic rainfall, plus an additional 1 foot of freeboard. In either case, the maximum waste level shall not exceed that specified in the CAWMP.

4. Upon reasonable cause to believe that any activities conducted pursuant to this permit may cause or contribute any waste, directly or indirectly, to be intermixed with the waters of the State, the DWQ may require any monitoring (including but not limited to groundwater, surface water, sludge, soil and plant tissue) necessary to determine the source, quantity, quality, and effect of such waste upon the waters of the State. Such monitoring, including its scope, frequency, duration and any sampling, testing, and reporting systems, shall meet all applicable Commission requirements. "Reasonable Cause" may be based on the findings of a related Federal, State, Commission or DEHNR authorized study or report, or on showing that violations of State water quality or other applicable environmental standards have occurred or may occur.

5. Failure to abide by the conditions and limitations contained in this permit, the facility's CAWMP and any COC issued under this permit may subject the Permittee to an enforcement action by the DWQ in accordance with North Carolina General Statutes and may include the requirement to obtain an individual animal waste operation permit, the addition of treatment or storage units, or the addition of land application sites.

6. The issuance of a COC under this permit does not excuse the Permittee from the obligation to comply with all applicable statutes, rules, regulations, or ordinances (local, state, and federal).

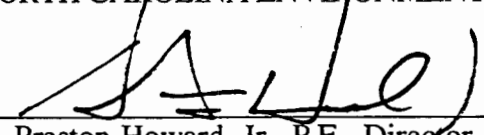
7. If animal production at the facility is to be suspended or terminated, the owner is responsible for developing, implementing and completing a "closure plan" which will eliminate the possibility of an illegal discharge, pollution, erosion, and the potential for injury and shall be in accordance with NRCS lagoon closure standards in effect when the closure plan is developed and implemented. Closure shall also include notifying the DWQ.

8. The annual permit fee shall be paid by the Permittee within thirty (30) days after being billed by the Division. Failure to pay the fee accordingly constitutes grounds for revocation of this COC.

9. Failure of the Permittee to maintain, in full force and effect, lessee and landowner agreements which are required in the CAWMP, shall constitute grounds for revocation of this COC.

This General Permit issued the fourteenth day of January, 1997.

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION



A. Preston Howard, Jr., P.E., Director
Division of Water Quality
By Authority of the Environmental Management Commission

Swine Waste General Permit Number AWG100000

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B.. 357 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE REQUIREMENTS IMPOSED BY GENERAL PERMITS FOR CERTAIN ANIMAL OPERATIONS.

☐ 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

Reorder from: MEL DAVIS & ASSOC., P.O. Box 27523, Raleigh, NC 27611, (919) 828-0637

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. 357 DATE April 29, 1997

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

Rep.) Carpenter
Sen.)

moves to amend the bill on page 2, ~~XXXX X~~, line 5,

by delete the word "storage"

AND

page 2, line 9 by adding (8)streams being fenced to prevent grazing cattle to have access to drinking water .

SIGNED James Carpenter

ADOPTED FAILED TABLED

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1037

Short Title: Sale of Certain Exotic Meats. (Public)

Sponsors: Representatives Arnold; and Sexton.

Referred to: Agriculture.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TRANSPORTATION AND RESALE OF THE EDIBLE PARTS OF BEAR AND DEER TAKEN IN ANOTHER STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-291.3(b) is amended by adding a new subdivision to read:

"(8) The sale of the edible parts of bear and deer lawfully taken in another state may be transported into this State and resold as a meat product for human consumption when the edible parts have passed inspection in the other state by that state's inspection agency or the United States Department of Agriculture."

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) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1037 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TRANSPORTATION AND RESALE OF THE EDIBLE PARTS OF BEAR, AND DEER TAKEN IN ANOTHER STATE.

☐ 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

HOUSE BILL 1043

Short Title: Farm Environmental Compliance Fund. (Public)

Sponsors: Representatives Brown, Mitchell; Hill, Watson, Sexton, and Davis.

Referred to: Agriculture, if favorable Appropriations.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE FARM ENVIRONMENTAL COMPLIANCE REVOLVING LOAN FUND TO PROVIDE ASSISTANCE TO FARMERS TO ACHIEVE ENVIRONMENTAL COMPLIANCE.

Whereas, North Carolina dairy farmers and other small farmers have struggled economically in recent years; and

Whereas, the number of farms in the State has declined significantly; and

Whereas, new and stricter environmental laws and regulations may cause additional farms to close due to the cost of compliance and the lack of available financing; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 122D-1 through G.S. 122D-23 is codified as Article 1 of Chapter 122D of the General Statutes and entitled "General Agricultural Finance".

Section 2. Chapter 122D of the General Statutes is amended by adding a new Article to read:

"ARTICLE 2.

"Loans for Environmental Compliance by Farmers.

"**§ 122D-30. Farm Environmental Compliance Revolving Loan Fund.**

(a) Fund Created. -- The Farm Environmental Compliance Revolving Loan Fund is created as a nonreverting account to be administered by the Agricultural Finance Authority in accordance with this section and any rules adopted by the Agricultural Finance Authority pursuant to this Chapter.

(b) Guidelines for Loans. -- The Agricultural Finance Authority shall establish guidelines for loans from this Fund. A farmer shall not be eligible for a loan under

this section unless the farm has been in existence since January 1, 1994. Loans may be used only for the purpose of complying with federal, State, or local laws, regulations, or rules relating to animal waste management. No loan shall exceed fifty thousand dollars ($50,000). Interest rates and other terms shall be comparable to other similar agricultural loans under Article 1 of this Chapter. Loans under this section shall not be made to individuals or other entities who are able to obtain credit elsewhere on reasonable terms."

Section 3. There is appropriated from the General Fund to the Farm Environmental Compliance Revolving Loan Fund, as created in G.S. 122D-30, as enacted by Section 2 of this act, the sum of three million dollars ($3,000,000) for the 1997-98 fiscal year to be used in compliance with G.S. 122D-30, as enacted by Section 2 of this act.

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

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B.. 1043 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE FARM ENVIRONMENTAL COMPLIANCE REVOLVING LOAN FUND TO PROVIDE ASSISTANCE TO FARMERS TO ACHIEVE ENVIRONMENTAL COMPLIANCE.

☐ With a favorable report.

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

☐ 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

29153 SHELDS BUSINESS FORMS, RALEIGH, NC 27603

PLEASE PRESS HARD - 5 COPIES

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1037 DATE 4/29/97

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Carpenter
Sen.)

1 moves to amend the bill on page 1, line 7
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the phrase
4
5 "lawfully taken" and substituting
6
7 the phrase "raised domestically".
8
9 and further amends the bill on
10
11 page 1, line 7 by deleting the phrase
12
13 ~~word word~~ "bear and"
14
15
16
17
18
19

SIGNED James C Carpenter

ADOPTED _____ FAILED _____ TABLED _____

HOUSE AGRICULTURE COMMITTEE
BREAKFAST

ONCE AGAIN WE HAVE BEEN INVITED FOR
BREAKFAST

WEDNESDAY, APRIL 30, 1997
FARMER'S MARKET
7:00 A.M.

COMPLIMENTS OF THE NORTH CAROLINA
DEPARTMENT OF AGRICULTURE

PLEASE LET ME KNOW IF YOUR MEMBERS PLANS TO ATTEND!

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — APRIL 29, 1997

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robert B. Hazel	N.C. Sportsman's Alliance
Frank Rom	N.C. Wildlife
Ed Bowa	RJW Bros
Dick Hamilton	Wildlife
Roger Bone	Bone & Assoc - DC
Carol Stubbings	guest of Rep. Dennis Reynolds
Donna Reynolds	wife Rep. Dennis Reynolds
Peter Daniel	NCDA
Preston Howard	DEHNR/DNQ
K. Rogers	DEHNR
John Cyrus	N.C. State Grange
Jim Griffith	UNC Gen Admin - NCSU Ag Pgm

MINUTES
HOUSE AGRICULTURE COMMITTEE

APRIL 30, 1997 P.M. MEETING

The House Committee on Agriculture met on the floor of the House Chamber during recess (5:10 p.m.) on Wednesday, April 30, 1997 in order to roll into a committee substitute two bills that were amended at the Tuesday meeting.

The first bill to be discussed was House Bill #357 entitled: **AN ACT TO CLARIFY THE REQUIREMENTS IMPOSED BY GENERAL PERMITS FOR CERTAIN ANIMAL OPERATIONS.** Chairman Brown recognized Representative Howard Hunter who moved to give the bill a favorable report as to committee substitute, unfavorable as to original bill. Motion was carried.

The second bill in question was House Bill #1037 entitled: **AN ACT TO AUTHORIZE THE TRANSPORTATION AND RESALE OF THE EDIBLE PARTS OF BEAR AND DEER TAKEN IN ANOTHER STATE.** Chairman Brown recognized Representative Rex Baker who moved to give the bill a favorable report as to committee substitute, unfavorable as to the original bill. Motion was carried.

The meeting was adjourned at 5:25 p.m.

John W. Brown

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 357 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE REQUIREMENTS IMPOSED BY GENERAL PERMITS FOR CERTAIN ANIMAL OPERATIONS.

☐ 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 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 357
Proposed Committee Substitute H357-PCS6254

Short Title: General Animal Waste Permits. (Public)

Sponsors:

Referred to:

February 27, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE REQUIREMENTS IMPOSED BY GENERAL PERMITS FOR CERTAIN ANIMAL OPERATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.10C is amended by adding a new subsection to read:

"(a1) The general permits for animal operations shall not require any of the following:

(1) That application of animal waste onto land used to grow crops for direct human consumption be prohibited within any specified time period prior to or during the planting of the crop, during the growing season, or, in the case of fruit trees, prior to breaking dormancy.

(2) That application of animal waste onto land used to grow fiber or food crops for direct human consumption that undergo further processing be prohibited within any specified time period prior to the harvesting of the crop.

(3) That animal waste be incorporated into the soil within any specified time period after it is applied onto bare soil.

(4) That waste application and handling equipment be maintained on-site, when it is provided by the owner or operator.

(5) That inspection of a waste collection, treatment, storage, or transmission structure be performed more frequently than annually, when the structure is under the control of the owner or operator.

(6) That records be maintained of maintenance and repairs of a waste collection, treatment, or transmission structure, when the structure is under the control of the owner or operator.

(7) That repairs of a waste treatment, storage, or transmission structure be approved by a technical specialist.

(8) That streams be fenced to prevent grazing cattle from accessing drinking water."

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) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1037 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TRANSPORTATION AND RESALE OF THE EDIBLE PARTS OF BEAR AND DEER TAKEN IN ANOTHER STATE.

☐ 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 1037
Proposed Committee Substitute H1037-PCS6255

Short Title: Sale of Certain Exotic Meats. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TRANSPORTATION AND RESALE OF THE EDIBLE PARTS OF DEER RAISED DOMESTICALLY IN ANOTHER STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-291.3(b) is amended by adding a new subdivision to read:

"(8) The sale of the edible parts of deer raised domestically in another state may be transported into this State and resold as a meat product for human consumption when the edible parts have passed inspection in the other state by that state's inspection agency or the United States Department of Agriculture."

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

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. EDWIN HARDY**

OFFICE: **ROOM 417A**

DATE: **THURSDAY, APRIL 30, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 6, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. BILLY CREECH**

OFFICE: **ROOM 635**

DATE: **THURSDAY, MAY 1, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 6, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #1092 - REDUCE FARM/INDUSTRY FUEL TAX

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **SENATOR JESSE LEDBETTER**

OFFICE: **ROOM 520**

DATE: **THURSDAY, MAY 1, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 6, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

S.B. #266 PRODUCTION AND SALE OF RED DEER.

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 6, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

H.B. 980 CROP ALLOTMENT TAX APPRAISAL
H.B. 1092 REDUCE FARM/INDUSTRY FUEL TAX
S.B. 266 PRODUCTION AND SALE OF RED DEER

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **10:00 A.M.** on **THURSDAY, MAY 1, 1997.**

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE
TUESDAY, MAY 6, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL
SPONSOR REP. EDWIN HARDY

H.B. #1092 - REDUCE FARM/INDUSTRY FUEL TAX
SPONSOR REP. BILLY CREECH

S.B. #266 - PRODUCTION AND SALE OF RED DEER
SPONSOR SEN. JESSE LEDBETTER

ANNOUNCEMENTS

ADJOURNMENT

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

MAY 6, 1997

The House Committee on Agriculture met on Tuesday, May 6, 1997 at 10:00 a.m. in Room 1425 of the Legislative Building. Chairman John W. Brown presided with nineteen House Members present, and seven House Members absent.

Representative Brown welcomed guests and introduced the pages serving the Committee. At this time, Chairman Brown introduced Senator Ledbetter to explain Senate Bill #266.

Senator Lebetter explained that S.B. #266 entitled: **AN ACT TO AUTHORIZE THE PRODUCTION AND SALE OF RED DEER,** amends Article 49H which governs the production and sale of fallow deer, to include red deer. Red deer are a small European species that are raised commercially in other parts of the world. In North Carolina, it would be considered an exotic species. The act directs the Department of Agriculture to regulate the production and sale of red deer for food purposes and the Wildlife Resources Commission to regulate the possession and transportation of live red deer. (Attachment I).

He went on to explain that the bill also amends the wildlife statutes to exclude red deer raised for production from the definition of big game and game animals. It further amends the Meat Inspection and packing laws to provided for the inspection of red deer. The Commission may establish a fee at an hourly rate to be paid by the owner or operator of the processing facility for the inspection of red deer to defray the expenses of the Department.

The Senate Committee Substitute clarifies the changes to G.S. 106-549.97(b) to ensure that the WRC rules are directed at the protection of the native deer population and its habitat and makes the definitions of red deer and fallow deer parallel.

The act is effective when it becomes law.

Several questions were taken from the floor. At this time, Representative Baker moved that the bill be given a favorable report. The bill was voted upon and given a favorable report.

Chairman Brown next introduced Representative Creech sponsor of House Bill #1092. Representative Crrech explained that H.B. #1092 entitled: **AN ACT TO PHASE DOWN THE SALES TAX ON ELECTRICITY AND PIPED NATURAL GAS USED IN FARMING AND MANUFACTURING** amends G.S. 105-164.4, setting out the retail sales tax, and provides for a phase down in the sales tax rate for electricity and piped natural gas for industry and agriculture.

The current sales tax rate on electricity and piped natural gas for farms and industry is 2.83%. The 2.83% rate is a phase down enacted by the General Assembly l996 from the 3% rate imposed by G.S. 164.4-(a)(4a). House Bill #1092 would phase the 2.83% rate down over a six year period until it reached 1%. Sections 2 and 3 make conforming amendments to affected sections of the General Statutes.

Sections 2 and 3 of the act become effective July 1, 2002. The remaining provisions of the act become effective July 1, 1997.

Representative Creech offered an amendment. Representative Buchanan moved that the amendment be adopted. The attached amendment attached was adopted. Several questions were taken from the floor.

At this time, Representative Mercer moved for a favorable report as to committee substitute bill, unfavorable as to original bill, and recommended the committee substitute bill be re-referred to the Committee on Finance. Motion was carried.

Next, Chairman Brown introduced Representative Hardy to speak on House Bill #980 entitled: **AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES.** Representative Hardy stated that this amends the property tax laws to provide that the value of crop allotments (primarily peanuts and tobacco) may not be considered in appraising land for tax purposes. Land to which such an allotment is attached is classified as a special class of property under Section 2(2) of Article V of the North Carolina Constitution.

Section 2 amends G.S. 105-289(s)(5), which sets forth the duty of the Department of Revenue to prepare an assessor's manual for valuing expected net income from agricultural land, by deleting the requirement that the manual contain recommended adjustments to the net income per acre for growing crops subject to allotments.

The act is effective for taxable years beginning on or after July 1, 1998.

Numerous questions were taken from the members. Several speakers spoke from the floor. After extensive discussion, it was the chair's discision to reschedule the bill for the following meeting. Representative Baker requested that staff be involved in getting all the answers needed by the members in order to make the proper discussions.

The meeting adjourned at 10:45 p.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
S.B. 266 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE PRODUCTION AND SALE OF RED DEER.

☐ 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 266
Finance Committee Substitute Adopted 4/10/97

Short Title: Production and Sale of Red Deer. (Public)

Sponsors:

Referred to:

February 27, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE PRODUCTION AND SALE OF RED DEER.

The General Assembly of North Carolina enacts:

Section 1. Article 49H of Chapter 106 of the General Statutes reads as rewritten:

"ARTICLE 49H.

"Production and Sale of Fallow ~~Deer.~~ Deer and Red Deer.

"§ 106-549.97. Regulation of fallow deer and red deer by Department of Agriculture; certain authority of North Carolina Wildlife Resources Commission not ~~affected.~~ affected; definitions.

(a) The Department of Agriculture shall regulate the production and sale of fallow deer and red deer for food purposes. The Board of Agriculture shall adopt rules for the production and sale of fallow deer and red deer for food purposes in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling fallow deer or red deer, or both, for food purposes.

~~As used in this section, 'fallow deer' (Dama dama spp.) means a small European deer raised commercially for production and sale for food purposes.~~

(b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation of live fallow deer and live red deer and may adopt rules to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat.

(c) The following definitions apply in this Article:

(1) Fallow deer. -- A member of the Dama dama species.
(2) Red deer. -- A member of the Cervus elephus species.

"**§ 106-549.98. Inspection fees.**

The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat-canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses incurred in the inspection of fallow deer as required by Article 49B of Chapter 106 of the General Statutes. The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat-canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses incurred in the inspection of red deer as required by Article 49B of Chapter 106 of the General Statutes."

Section 2. G.S. 113-129(1b) reads as rewritten:

"(1b) Big Game. -- Bear, wild boar, wild turkey, and deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97."

Section 3. G.S. 113-129(7c) reads as rewritten:

"(7c) Game Animals. -- Bear, fox, rabbit, squirrel, wild boar, and deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97; bobcat, opossum, and raccoon except when trapped in accordance with provisions relating to fur-bearing animals."

Section 4. G.S. 106-549.15(14) reads as rewritten:

"(14) 'Meat food product' means any product capable of use as human food that is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, goats, bison, ~~or~~ fallow deer, or red deer, excepting products that contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and that are exempted from definition as a meat food product by the Board under such conditions as it may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, goats, and bison."

Section 5. G.S. 106-549.15(22) reads as rewritten:

"(22) 'Renderer' means any person, firm, or corporation engaged in the business of rendering carcasses, or parts or products of the carcasses, of cattle, sheep, swine, goats, fallow deer, red deer, horses, mules, or other equines, except rendering conducted under inspection under this Article."

Section 6. G.S. 106-549.17 reads as rewritten:

"**§ 106-549.17. Inspection of animals before slaughter; humane methods of slaughtering.**

(a) For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products which are adulterated, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment in this State in which slaughtering and preparation of meat and meat food products of such animals are conducted for intrastate commerce; and all cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, and other equines found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, or other equines, and when so slaughtered, the carcasses of said cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, or other equines shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Board as herein provided for.

(b) For the purpose of preventing the inhumane slaughtering of livestock, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this law. The Commissioner may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Commissioner finds that any cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with subsection (c) of this section until the establishment furnishes assurances satisfactory to the Commissioner that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

(c) Either of the following two methods of slaughtering of livestock and handling of livestock in connection with slaughter are found to be humane:

(1) In the case of cattle, calves, fallow deer, red deer, bison, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

(2) By slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering."

Section 7. G.S. 106-549.18 reads as rewritten:

"**§ 106-549.18. Inspection; stamping carcass.**

For the purposes hereinbefore set forth the Commissioner shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a post mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, and other equines, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in this State in which such articles are prepared for intrastate commerce; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged, or labeled, as 'Inspected and Passed'; and said inspectors shall label, mark, stamp, or tag as 'Inspected and Condemned,' all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and said inspectors, after said first inspection shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the Commissioner or his authorized representative may remove inspectors from any establishment which fails to ~~[do]~~ so destroy any such condemned carcass or part thereof."

Section 8. G.S. 106-549.19 reads as rewritten:

"**§ 106-549.19. Application of Article; place of inspection.**

The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, and other equines or the meat or meat products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this Article is maintained, and such examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The Commissioner or his authorized representative may limit the entry of carcasses, part of carcasses, meat and meat food products, and other materials into any establishment at which inspection under this Article is maintained, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this and the subsequent Article."

Section 9. G.S. 106-549.22 reads as rewritten:

"**§ 106-549.22. Rules and regulations of Board.**

The Commissioner or his authorized representative shall cause to be made, by experts in sanitation, or by other competent inspectors, such inspection of all slaughtering, meat-canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, and other equines are slaughtered and the meat and meat food products thereof are prepared for intrastate commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and the Board shall prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered adulterated, the Commissioner or his authorized representative shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as 'North Carolina Department of Agriculture Inspected and Passed.'"

Section 10. G.S. 106-549.23 reads as rewritten:

"**§ 106-549.23. Prohibited slaughter, sale and transportation.**

No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, or other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals:

(1) Slaughter any of these animals or prepare any of these articles which are capable of use as human food, at any establishment preparing any such articles for intrastate commerce except in compliance with the requirements of this and the subsequent Article;

(2) Slaughter, or handle in connection with slaughter, any such animals in any manner not in accordance with G.S. 106-549.17(c) of this Article;

(3) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:

a. Any of these articles which (i) are capable of use as human food and (ii) are adulterated or misbranded at the time of sale, transportation, offer for sale or transportation, or receipt for transportation; or

b. Any articles required to be inspected under this Article unless they have been so inspected and passed; or

(4) Do, with respect to any of these articles which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing the articles to be adulterated or misbranded."

Section 11. G.S. 106-549.25 reads as rewritten:

"**§ 106-549.25. Slaughter, sale and transportation of equine carcasses.**

No person, firm, or corporation shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses, mules,

or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the Board to show the kinds of animals from which they were derived. When required by the Commissioner or his authorized representative, with respect to establishments at which inspection is maintained under this Article, such animals and their carcasses, parts thereof, meat and meat food products shall be prepared in establishments separate from those in which cattle, sheep, swine, fallow deer, red deer, bison, or goats are slaughtered or their carcasses, parts thereof, meats or meat food products are prepared."

Section 12. G.S. 106-549.26 reads as rewritten:

"**§ 106-549.26. Inspection of establishment; bribery of or malfeasance of inspector.**

The Commissioner or his authorized representative shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, and other equines the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to stamp, mark, tag or label any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this and the subsequent Article and by the rules and regulations to be prescribed by said Board and said Board shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this and the subsequent Article, and all inspections and examinations made under this Article shall be such and made in such manner as described in the rules and regulations prescribed by said Board not inconsistent with the provisions of this Article and as directed by the Commissioner or his authorized representative. Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, or any other officer or employee of this State authorized to perform any of the duties prescribed by this and the subsequent Article or by the rules and regulations of the Board or by the Commissioner or his authorized representative any money or other thing of value, with intent to influence said inspector, or other officer or employee of this State in the discharge of any duty herein provided for, shall be deemed guilty of a Class I felony which may include a fine not less than five hundred dollars ($500.00) nor more than ten thousand dollars ($10,000); and any inspector, or other officer or employee of this State authorized to perform any of the duties prescribed by this Article who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a Class I felony and shall, upon conviction

thereof, be summarily discharged from office and may be punished by a fine not less than five hundred dollars ($500.00) nor more than ten thousand dollars ($10,000)."

Section 13. G.S. 106-549.27(a) reads as rewritten:

"(a) The provisions of this Article requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations shall not

(1) Apply to the slaughtering by any person of animals of his own raising, and the preparation by him and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals exclusively for use by him and members of his household and his nonpaying guests and employees; nor

(2) To the custom slaughter by any person, firm, or corporation of cattle, sheep, swine, fallow deer, red deer, bison, or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such animals, exclusively for use, in the household of such owner, by him, and members of his household and his nonpaying guests and employees: Provided, that all carcasses, parts thereof, meat and meat food products derived from custom slaughter shall be identified as required by the Commissioner, during all phases of slaughtering, chilling, cooling, freezing, packing, meat canning, rendering, preparation, storage and transportation; provided further, that the custom slaughterer does not engage in the business of buying or selling any carcasses, parts thereof, meat or meat food products of any cattle, sheep, swine, goats, fallow deer, red deer, bison, or equines, capable of use as human food, unless the carcasses, parts thereof, meat or meat food products have been inspected and passed and are identified as having been inspected and passed by the Commissioner or the United States Department of Agriculture."

Section 14. G.S. 106-549.28 reads as rewritten:

"**§ 106-549.28. Regulation of storage of meat.**

The Board may by regulations prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, fallow deer, red deer, bison, horses, mules, or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the Board deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Willful violation of any such regulation is a Class 2 misdemeanor."

Section 15. This act is effective when it becomes law.

ATTACHMENT I

North Carolina General Ass

Senator Jesse Ingram "Jess" Ledbetter

AGRICULTURAL ALTERNATIVES

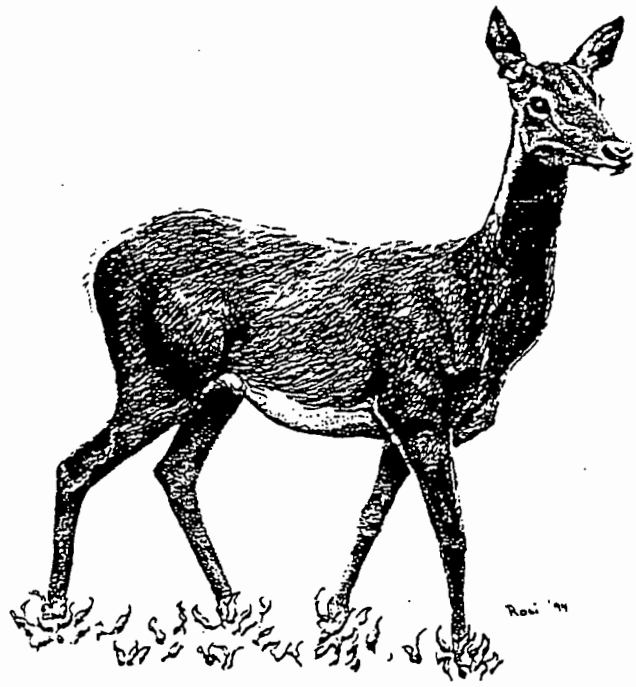
Red Deer Production

Although commercial deer farming is a relatively new business, it generates more than $100 million in annual income for major deer-producing countries, such as New Zealand, Ireland, Great Britain, and Germany. Americans consumed about 1.2 million pounds of commercially produced venison in 1992, and this market has grown 25 to 30 percent annually. Twenty-five percent of this venison is raised domestically, and the balance is imported primarily from New Zealand.

U.S. deer production is growing steadily due to increasing demand for deer products, minimal acreage requirements for production, and adaptability of deer to marginal pastures. More than 200,000 red, fallow, axis, sika, elk, and white-tailed deer are raised in national parks and on game preserves, farms, and ranches. Pennsylvania has about 30 commercial deer operations.

Compared to other livestock enterprises, deer farming has several advantages. Because deer convert pasture efficiently into protein, with proper management they can be raised on marginal land. They also fit well into an existing grazing operation. Another advantage is the high ratio of lean meat produced per pound of live weight. The labor requirements for deer production are minimal, while the profit potential can be much greater than for a comparable beef cow-calf operation.

This publication was developed by the Small-scale and Part-time Farming Project at Penn State with support from the U.S. Department of Agriculture-Extension Service.



Almost 25,000 red deer are produced annually on U.S. and Canadian farms. The advantages of raising this breed include the following:

- Red deer have a high fertility rate and a long productive breed life.
- They calve easily and wean their calves early.
- Their calm disposition and compact body size make them easy to handle and transport.
- They tolerate cold winters and hot summers and have low susceptibility to disease.
- They yield high-quality meat, by-products, and velvet antler.

PENNSTATE

1855

College of Agricultural Sciences ■ Cooperative Extension

Marketing

Before establishing a deer operation, you should research local demand and identify possible markets for your products. Producers can market directly or through a distributor. Individual producers can promote their products through county fairs, mail-order businesses, state and national deer associations, agricultural publications, and media outlets.

Although they are known throughout the world for their velvet production, red deer are raised mainly for venison and breeding stock. Farm-raised venison is a fine-grained, mild, tender meat with a delicate flavor that is distinctly different from wild game venison. It also meets the American Heart Association's guidelines per serving for fat, cholesterol, and calories (Table 1). While venison is sold mostly to gourmet restaurants, the meat also is sold to the general public through specialty shops or mail-order businesses, and at special events such as food fairs.

Table 1. Calories, cholesterol, fat, and protein content of various types of meat (3-ounce cooked portions).

	CALORIES	CHOLESTEROL (MG)	FAT (MG)	PROTEIN (MG)
Venison loin	139	62	5	22
Beef brisket	223	77	13	24
Ground beef	213	84	12	25
Pork shoulder	207	82	13	22
Beef bottom round	189	81	8	27
Lamb loin	183	80	8	25
Veal cutlet	155	112	4	28
Chicken breast	140	72	3	26
Salmon	140	60	5	22

SOURCE: USDA research; venison analysis by The National Food Laboratory, Inc.

Yearlings are slaughtered between 14 and 20 months of age at a weight of about 200 pounds. Two-year-olds are slaughtered at 24 to 30 months of age at a weight of 240 to 300 pounds. The meat is sold as various cuts, in quarters, and as whole carcasses. Some large producers have their own on-site USDA slaughtering facilities. For smaller operations without on-site facilities, USDA has a voluntary inspection program that for a fee offers live inspection on the farm and a postmortem inspection at a USDA-inspected slaughtering facility.

Red deer produce a large amount of good-quality velvet. The velvet antler is removed in early summer, when it has reached about 55 percent full growth and weighs 2 to 10 pounds. Velvet antler is used to produce traditional Asian medicines and tonics. The market for velvet antler often is unstable and currently is dominated by countries producing large amounts of red deer and elk.

Breeder markets are another specialized outlet for red deer producers. Weaners, yearlings, and older breeders can be sold directly to other producers or at auctions. When selling breeding stock, you need to have accurate performance and health records readily available. Many customers are looking for stags (males) with high weight gains and high velvet yields and for hinds (females) with high weight gains and good fertility. A calm temperament also is important as the animals are not completely domesticated.

Deer by-products, including hides, tails, leg sinews, antler buttons, and ivories (eye teeth), all have special markets. Stags can be sold as trophy animals to game and hunting preserves.

Facilities and Equipment

Deer farming requires special facilities, including grazing land, a fresh water supply, and natural shelter for calving, such as trees, shrubs, or fallen branches. Red deer also enjoy having an open water supply for wallowing. The stocking rate for red deer generally is six adults plus nursing calves per acre of pasture. Grazing areas should be fenced with 17 strands of wire at least 75 inches tall. A high-tensile woven deer wire is recommended. To keep calves and predators from getting under fences, add either a strand of barbed wire at ground level or an electrified wire just above ground level. Provide some form of shelter (such as a stand of trees or a three-sided shed) to protect the deer from wind, freezing rain, and the hot summer sun.

You also will need a handling facility with chutes, gates, squeezes, and stalls. A trailer with solid walls and all light sources covered is required for transporting deer. A gutted horse trailer often works well. Before building new facilities or purchasing handling equipment, you should visit other operations to determine what you will need.

Breeding

Red deer hinds are able to reproduce at approximately 16 months of age. Hinds weighing at least 175 pounds have the best chance for a successful pregnancy. Stags reach reproductive maturity at 24 to 30 months of age, and their productivity starts to decline at about 8 years of age. Although a stag's breeding rate depends on his age, one stag typically breeds 40 hinds.

Two types of breeding programs can be used. With single-sire mating, one stag is grouped with a number of hinds. This method is used to improve genetic characteristics and keep more accurate breeding records. When using single-sire mating, you should change stags after two estrus cycles (estrus cycles are 18 days apart) to ensure pregnancy. With multisire mating, several stags are grouped with a number of hinds. This method requires fewer paddocks, but it increases stag aggression and puts younger stags at a

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1092 A BILL TO BE ENTITLED AN ACT TO PHASE DOWN THE SALES TAX ON ELECTRICITY AND PIPED NATURAL GAS USED IN FARMING AND MANUFACTURING.

☐ 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

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 1092*
Proposed Committee Substitute H1092-PCS6262

Short Title: Reduce Farm/Industry Fuel Tax. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PHASE DOWN THE SALES TAX ON ELECTRICITY AND PIPED NATURAL GAS USED IN FARMING AND MANUFACTURING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(a)(1f) reads as rewritten:

"(1f) The ~~rate of two and eighty-three hundredths percent (2.83%)~~ applicable rate provided in the table below applies to the sales price of electricity and piped natural gas described in this subdivision and measured by a separate meter or another device:

Effective Date	Rate
October 1, 1997	2.67%
July 1, 1998	2.34%
July 1, 1999	2%
July 1, 2000	1.67%
July 1, 2001	1.34%
July 1, 2002	1%

a. Sales of electricity and piped natural gas to farmers to be used by them for any farm purposes other than preparing food, heating dwellings, and other household purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.

b. Sales of electricity and piped natural gas to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants other than sales of electricity and gas to be used for residential heating purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.

c. Sales of electricity and piped natural gas to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service."

Section 2. Effective July 1, 2002, G.S. 105-164.4(a)(1c) reads as rewritten:

"(1c) The rate of one percent (1%) applies to the sales price of the following articles:

a. Horses or mules by whomsoever sold.

b. Semen to be used in the artificial insemination of animals.

c. Sales of ~~fuel, other than electricity or piped natural gas,~~ fuel and electricity to farmers to be used by them for any farm purposes other than preparing food, heating dwellings and other household purposes. The quantity of fuel or electricity purchased or used at any one time shall not ~~in any manner~~ be a determinative factor as to whether ~~any~~ its sale or use ~~of fuel~~ is or is not subject to the one percent (1%) rate of tax ~~imposed herein.~~ provided in this subdivision.

d. Sales of ~~fuel, other than electricity or piped natural gas,~~ fuel and electricity to manufacturing industries and manufacturing plants for use in connection with the operation of ~~such~~ these industries and plants other than sales of ~~fuels~~ fuel or electricity to be used for residential heating purposes. The quantity of fuel or electricity purchased or used at any one time shall not ~~in any manner~~ be a determinative factor as to whether ~~any~~ its sale or use ~~of fuel~~ is or is not subject to the rate of tax provided in this subdivision.

e. Sales of ~~fuel, other than electricity or piped natural gas,~~ fuel and electricity to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.

f. Sales to freezer locker plants of wrapping paper, cartons and supplies consumed directly in the operation of such plant."

Section 3. Effective July 1, 2002, G.S. 105-164.4(a)(1f) is repealed.

Section 4. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 5. Sections 2 and 3 of this act become effective July 1, 2002, for cycle billing dates occurring on or after that date. The remainder of this act becomes effective October 1, 1997, for cycle billing dates occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1092*

Short Title: Reduce Farm/Industry Fuel Tax. (Public)

Sponsors: Representatives Creech; Alexander, Allred, Arnold, Berry, Bowie, Buchanan, Cansler, Capps, Church, Clary, Cole, Crawford, Davis, Dedmon, Eddins, Fox, Hall, Hightower, Hill, Ives, Kiser, McMahan, Mercer, Mitchell, Moore, Nichols, Russell, Sexton, Smith, Starnes, Tolson, Warwick, and Wilkins.

Referred to: Agriculture, if favorable, Finance.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PHASE DOWN THE SALES TAX ON ELECTRICITY AND PIPED NATURAL GAS USED IN FARMING AND MANUFACTURING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(a)(1f) reads as rewritten:

"(1f) The ~~rate of two and eighty-three hundredths percent (2.83%)~~ applicable rate provided in the table below applies to the sales price of electricity and piped natural gas described in this subdivision and measured by a separate meter or another device:

Effective Date	Rate
August 1, 1996	2.83%
July 1, 1997	2.67%
July 1, 1998	2.34%
July 1, 1999	2%
July 1, 2000	1.67%
July 1, 2001	1.34%
July 1, 2002	1%

a. Sales of electricity and piped natural gas to farmers to be used by them for any farm purposes other than preparing food, heating dwellings, and other household purposes. The quantity of electricity or gas purchased or used at any

one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.

b. Sales of electricity and piped natural gas to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants other than sales of electricity and gas to be used for residential heating purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.

c. Sales of electricity and piped natural gas to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service."

Section 2. Effective July 1, 2002, G.S. 105-164.4(a)(1c) reads as rewritten:

"(1c) The rate of one percent (1%) applies to the sales price of the following articles:

a. Horses or mules by whomsoever sold.

b. Semen to be used in the artificial insemination of animals.

c. Sales of ~~fuel, other than electricity or piped natural gas,~~ fuel and electricity to farmers to be used by them for any farm purposes other than preparing food, heating dwellings and other household purposes. The quantity of fuel or electricity purchased or used at any one time shall not ~~in any manner~~ be a determinative factor as to whether ~~any~~ its sale or use ~~of fuel~~ is or is not subject to the one percent (1%) rate of tax ~~imposed herein.~~ provided in this subdivision.

d. Sales of ~~fuel, other than electricity or piped natural gas,~~ fuel and electricity to manufacturing industries and manufacturing plants for use in connection with the operation of ~~such~~ these industries and plants other than sales of ~~fuels~~ fuel or electricity to be used for residential heating purposes. The quantity of fuel or electricity purchased or used at any one time shall not ~~in any manner~~ be a determinative factor as to whether ~~any~~ its sale or use ~~of fuel~~ is or is not subject to the rate of tax provided in this subdivision.

e. Sales of ~~fuel, other than electricity or piped natural gas,~~ fuel and electricity to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.

f. Sales to freezer locker plants of wrapping paper, cartons and supplies consumed directly in the operation of such plant."

Section 3. Effective July 1, 2002, G.S. 105-164.4(a)(1f) is repealed.

Section 4. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 5. Sections 2 and 3 of this act become effective July 1, 2002, and apply to sales made on or after that date. The remainder of this act becomes effective July 1, 1997, and applies to sales made on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. 1092 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

Rep.)
) _____
Sen.)

moves to amend the bill on page 1, line 11

by deleting that line;

and on Page 1, Line 12 by changing the effective date to October 1, 1997;

and on Page 3, Lines 10-12 by changing those lines to read:

Section 5. Sections 2 and 3 of this act become effective July 1, 2002, for cycle billing dates occurring on or after that date. The remainder of this act becomes effective October 1, 1997, for cycle billing dates occurring on or after that date.

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

HOUSE BILL 980

Short Title: Crop Allotment Tax Appraisal. (Public)

Sponsors: Representatives Hardy, Baker, Daughtry; Aldridge, Arnold, Berry, Brown, Cansler, Capps, Clary, Creech, Davis, Decker, Eddins, Hall, Hiatt, Hill, McComas, Miner, Mitchell, Morris, Nichols, Russell, Sherrill, Starnes, and G. Wilson.

Referred to: Agriculture, if favorable, Finance.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.01 reads as rewritten:

"**§ 105-277.01. Certain farm products and land with crop allotments classified for taxation at reduced valuation.**

(a) Farm ~~products (including~~ products, including crops but excluding poultry and other ~~livestock)~~ livestock, held by or for a cooperative stabilization or marketing association or corporation to which they have been delivered, conveyed, or assigned by the original producer for the purpose of sale are hereby designated a special class of property under authority of ~~Article V, Sec. 2(2),~~ Section 2(2) of Article V of the North Carolina Constitution. Before being assessed for taxation the appraised valuation of farm products so classified shall be reduced by the amount of any unpaid loan or advance made or granted thereon by the United States government, an agency of the United States government, or a cooperative stabilization or marketing association or corporation.

(b) Land on which there are acreage or poundage allotments for farm commodities is designated a special class of property under authority of Section 2(2)

of Article V of the North Carolina Constitution. The value of these allotments shall not be considered in appraising land classified under this subsection."

Section 2. G.S. 105-289(a)(5) reads as rewritten:

"(5) To prepare and distribute annually to each assessor a manual that establishes five expected net income per acre ranges for agricultural land, horticultural land, and forestland, and establishes a method for appraising nonproductive land as a percentage of the lowest use-value established for productive land. The high and low net income amount in each range may differ by no more than fifteen dollars ($15.00). The basis for establishing each range shall be soil productivity.

For agricultural land, the expected net income per acre ranges shall be based on the actual yields and prices of corn and soybeans over a period of at least the five previous years, and the actual fixed and variable costs, including an imputed management cost, incurred in growing corn and soybeans over the same period of time. ~~The manual shall contain recommended adjustments to the net income per acre ranges for the growing of crops subject to acreage or poundage allotments.~~

Expected net income per acre ranges shall be similarly established for horticultural land and forestland, using typical horticultural or forest products in various growing regions of the State instead of corn and soybeans."

Section 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1998.

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — MAY 6 , 1997

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Natalie Hopkins	Charlotte Chamber of Commerce
Dave Upchurch	CP&L
John McAlister	Duke Power
W.J. Clinton	Little Rock Ark.
Garrett Alexander	Cumberland County
John C. Brooks	Dept. of Pesticides
Kenneth B Hayes	Chatham County
John W. Edmondson	Wilson County
Deborah Lamm	Commerce / Energy
George Fong	DDR
John Underwood	DDR
David Meredith	N.C. State Grange
David Simmons	ZDA, PA

AGENDA

HOUSE AGRICULTURE COMMITTEE
TUESDAY, MAY 13, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL
SPONSOR REP. EDWIN HARDY

H.B. #998 - SOUTHERN DAIRY COMPACT
SPONSOR REP. FRANK MITCHELL

H.B. #1193 - AGRICULTURAL FAIRS COMMITTEE/FUNDS
SPONSOR REP. JOHN BROWN

ANNOUNCEMENTS

ADJOURNMENT

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. EDWIN HARDY**

OFFICE: **ROOM 417A**

DATE: **THURSDAY, MAY 8, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 13, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 13, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL
H.B. #998 - SOUTHERN DAIRY COMPACT
H.B. #1193 - AGRICULTURAL FAIRS COMMITTEE/FUNDS

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **10:00 A.M.** on **THURSDAY MAY 8, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. FRANK MITCHELL**

OFFICE: **ROOM 638**

DATE: **THURSDAY, MAY 8, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 13, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #998 - SOUTHERN DAIRY COMPACT

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

MAY 13, 1997

The House Committee on Agriculture met on Tuesday, May 13, 1997 at 10:00 a.m. in Room 1425 of the Legislative Building. Chairman John W. Brown presided with twenty one House Members present and five House Members absent.

Representative Brown welcomed guests and introduced the pages serving the Committee. At this time, Chairman Brown introduced Representative Frank Mitchell to explain House bill #998 entitled: **AN ACT TO ENACT INTO LAW THE SOUTHERN DAIRY COMPACT, TO DIRECT THE APPOINTMENT OF MEMBERS FROM NORTH CAROLINA TO THE SOUTHERN DAIRY COMPACT COMMISSION, AND TO APPROPRIATE FUNDS.** Representative Frank Mitchell stated that he was gathering further information on the bill and requested it be pulled off the calendar.

Representative Hardy sponsor for House Bill #980 entitled: **AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES** was introduced next. Since Representative Hardy was not present, the bill was pulled from the calendar.

Chairman Brown next introduced Representative Mitchell to speak on House Bill #1193. Representative Mitchell explained that House Bill #1193 entitled: **AN ACT TO CREATE AN AGRICULTURAL FAIRS ADVISORY COMMITTEE IN THE DEPARTMENT OF AGRICULTURE AND TO APPROPRIATE FUNDS FOR LOCAL** was introduced by Representative Brown. This bill creates the North Carolina Agricultural Fair Committee. The Committee would consist of 5 members including the President of the North Carolina Association of Agricultural Fairs and 4 county fair managers appointed by the Commissioner of Agriculture.

The bill also vies the Commissioner the authority, with the advice of the Committee and subject to available funds, to make grants to qualified fairs. These grants may be for premium awards, establishing new facilitates, improving existing facilities, and, in an amount not to exceed $1,000, for promoting agricultural commodities.

He went on to explain that to be eligible for a grant a recipient must be:

1. sponsor a licensed agricultural fair;
2. be a nonprofit or a governmental organization;

3. provide an annual fair that runs for at least 3 days;
4. present through youth organizations such as 4-H educational programs concerning the production, marketing, and consumption of agricultural products; and
5. comply with NCDA rules.

Mr. Mitchell explained that Section 2 of the bill removes the $100 limitation on contributions by counties and municipalities to agricultural fairs. Section 3 repeals G.S. 106-508,509 and 510, dealing with the payment of premiums and annual statements to the State Treasurer.

The bill provides an appropriation for FY 1997-1998 of $100,000 from the General Fund to NCDA to be used for grants to local agricultural fairs.

Several questions were taken from the floor. Representative Tolson moved that the bill be given a favorable report and be referred to the Committee on Appropriations. The bill was voted upon and given a favorable report.

The meeting adjourned at 10:30 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1193 A BILL TO BE ENTITLED AN ACT TO CREATE AN AGRICULTURAL FAIRS ADVISORY COMMITTEE IN THE DEPARTMENT OF AGRICULTURE AND TO APPROPRIATE FUNDS FOR LOCAL AGRICULTURAL FAIRS.

☐ With a favorable report.

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

☐ 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 1193

Short Title: Agricultural Fairs Committee/Funds. (Public)

Sponsors: Representatives Brown, Mitchell, McCrary; and G. Wilson.

Referred to: Agriculture, if favorable, Appropriations.

May 1, 1997

A BILL TO BE ENTITLED

AN ACT TO CREATE AN AGRICULTURAL FAIRS ADVISORY COMMITTEE IN THE DEPARTMENT OF AGRICULTURE AND TO APPROPRIATE FUNDS FOR LOCAL AGRICULTURAL FAIRS.

The General Assembly of North Carolina enacts:

Section 1. Article 45 of Chapter 106 of the General Statutes is amended by adding a new Part to read:

"Part 5. Agricultural Fairs Advisory Committee.

"**§ 106-520.12. North Carolina Agricultural Fairs Advisory Committee.**

(a) The North Carolina Agricultural Fairs Advisory Committee is created within the Department of Agriculture.

(b) The Committee shall consist of five members as follows:

(1) The President of the North Carolina Association of Agricultural Fairs, as appointed by that association.

(2) Four county agricultural fair managers, to be appointed by the Commissioner of Agriculture.

The Commissioner of Agriculture or the Commissioner's designee, shall serve as an ex officio member. The members of the Advisory Committee appointed under subdivision (2) of this subsection shall serve for a term of four years. In the event of a vacancy, the Commissioner shall appoint a replacement in the same manner as for the original appointment to serve for the remainder of the unfinished term.

(c) The Commissioner of Agriculture or the Commissioner's designee shall serve as chairman. A majority of the members shall constitute a quorum for the purpose of transacting business.

"**§ 106-520.13. Advisory duties.**

The Committee shall advise the Commissioner of Agriculture in matters pertaining to the development and improvement of local agricultural fairs.

"**§ 106-520.14. Powers and duties of the Commissioner of Agriculture.**

(a) The Commissioner of Agriculture, with the advice of the Committee and subject to available funds, may make grants to qualified local agricultural fairs. The Commissioner may make grants to be used by local agricultural fairs to pay premium awards for competitive exhibits of products of agriculture and home economics and of domestic livestock, and for vocational and judging skills.

(b) The Commissioner may make grants to help establish new facilities and to improve existing facilities used in conducting events at local agricultural fairs. Grants for facilities shall be made under conditions as may be imposed by the Commissioner with the advice of the Committee. Grants to improve existing facilities shall require matching funds from the local agricultural fair in an amount to be determined by the Commissioner, with the advice of the Committee. Preference shall be given to agricultural fair associations that are most representative of agricultural interests. Grants to establish new agricultural fairs may be made to agricultural fair associations without matching funds.

(c) The Commissioner may make grants, not to exceed one thousand dollars ($1,000) to any one fair, to be used to promote agricultural commodities.

"**§ 106-520.15. Eligibility for grants.**

(a) In order to be eligible to receive a grant under this Part, a recipient must satisfy all of the following:

(1) Sponsor a fair that is licensed as an agricultural fair by the Commissioner of Agriculture pursuant to G.S. 106-520.3.

(2) Be a nonprofit or governmental organization.

(3) Provide for an annual fair running for at least three days.

(4) Present through the medium of youth organizations such as 4-H Clubs, Future Farmers of America, Future Homemakers of America, and other similar organizations, an educational program concerning the production, marketing, and consumption of livestock, poultry, field crops, and horticultural crops.

(5) Comply with rules adopted by the Department of Agriculture.

(b) Any local agricultural fair or agricultural fair association receiving a grant shall file with the Department of Agriculture by February 1 following the year in which the grant is received satisfactory proof that all State premium awards have been paid. As used in this subsection, 'proof' means a certified financial report notarized and submitted by the treasurer of the local fair association."

Section 2. G.S. 106-520 reads as rewritten:

"**§ 106-520. Local aid to agricultural, animal, and poultry exhibits.**

Any ~~city, town, or~~ county or municipality may appropriate ~~not to exceed one hundred dollars ($100.00)~~ funds to aid any ~~agricultural, animal, or poultry~~ agricultural exhibition ~~held within such city, town, or county.~~ or fair."

Section 3. G.S. 106-508, 106-509, and 106-510 are repealed.

Section 4. G.S. 106-516.1 reads as rewritten:

"**§ 106-516.1. Carnivals and similar amusements not to operate without permit.**

Every person, firm, or corporation engaged in the business of a carnival company or a show of like kind, including menageries, merry-go-rounds, Ferris wheels, riding devices, circus and similar amusements and enterprises operated and conducted for profit, shall, prior to exhibiting in any county annually staging an agricultural fair, apply to the sheriff of the county in which the exhibit is to be held for a permit to exhibit. The sheriff of the county shall issue a permit without ~~charge; provided, however, that no~~ charge. No permit shall be issued if ~~he shall find~~ the sheriff finds that the requested exhibition date is less than 30 days prior to a regularly advertised agricultural ~~fair and so in conflict with G.S. 105-37.1(d).~~ fair. Exhibition without a permit from the sheriff of the county in which the exhibition is to be held shall constitute a Class 1 ~~misdemeanor: Provided, that nothing~~ misdemeanor. Nothing contained in this section ~~shall prevent~~ prevents veterans' organizations and posts chartered by Congress or organized and operated on a statewide or nationwide basis from holding fairs or tobacco festivals on any dates ~~which~~ that they ~~may~~ select if ~~such~~ these fairs or festivals have ~~heretofore~~ been held previously as annual events."

Section 5. There is appropriated from the General Fund to the Department of Agriculture the sum of one hundred thousand dollars ($100,000) for the 1997-98 fiscal year to be used for grants for local agricultural fairs pursuant to Part 5 of Article 45 of Chapter 106 of the General Statutes, as enacted in Section 1 of this act.

Section 6. This act becomes effective July 1, 1997.

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE MAY 13, , 1997
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	NC Assoc. of County Commrs.
SAM JOHNSON	AT&T
HOWK JOHNSON	Philip Morris
JULIAN PHILPOTT	NCFB
HAROLD H. WEBB	DAIRY ASSN
Glen Brothers	UNC Gen. Admin - NCSU Ag Pgm
David Mueller	N.C. State Grange
John Cyrus	N.C. State Grange
David McLeod	N.C.D.A.
Chester Lowder	NC Farm Bureau
W.B. Jenkins	" " "
Norman Jordan Jr.	NC Dairy Producers Assn.
Ed Bowen	R W Bone
William Connolly	N.C Dept of Revenue
John Bruton	" " "
John W. Edmundson	Wilson County
Burke Daniel	DOR
Joseph J. Nolen	Fort Hill Bee Co Vale N.C 28168
	NCFB
Dewitt Hardee	NCAA
W Clyde Daniels	64 Daniels circle Louisburg
Jim Howie	PO Box 32317 Char 28232 Carolina Virginia MPA
John May	2731 S. Memorial Dr Greenville 27834 Dairy Coop
Peter Daniel	NCDA
Welden Denny	"

AGENDA

HOUSE AGRICULTURE COMMITTEE
TUESDAY, MAY 20, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

S.B. #508 - TURKEY GROWER USE VALUE EXCEPTION
SPONSOR SEN. PLYLER

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL
SPONSOR REP. EDWIN HARDY

H.B. # 998 - SOUTHERN DAIRY COMPACT
SPONSOR REP. FRANK MITCHELL

ANNOUNCEMENTS

ADJOURNMENT

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 20, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

S.B. 508 - TURKEY GROWER USE VALUE EXCEPTION
H.B. 980 - CROP ALLOTMENT TAX APPRAISAL
H.B. 998 - SOUTHERN DAIRY COMPACT

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **10:00 A.M.** on **THURSDAY, MAY 15, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. EDWIN HARDY**

OFFICE: **ROOM 417A**

DATE: **WEDNESDAY, MAY 14, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 20, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. FRANK MITCHELL**

OFFICE: **ROOM 638**

DATE: **WEDNESDAY, MAY 14, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 20, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #998 - SOUTHERN DAIRY COMPACT

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **SEN. AARON W. PLYLER**

OFFICE: **ROOM 627**

DATE: **WEDNESDAY, MAY 14, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 20, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

S.B. #508 - TURKEY GROWER USE VALUE EXCEPTION

We would like to have you attend this meeting.

Representative JOHN W. BROWN

Chairman

ANNA KIDD (Committee Clerk)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

MAY 20, 1997

The House Committee on Agriculture met on Tuesday, May 20, 1997 at 10:00 a.m. in Room 1425 of the Legislative Building. Chairman John W. Brown presided with eighteen House Members present and eight House Members absent.

Chairman Brown introduced the pages and welcomed all guests to the Agriculture meeting. Next, Mr. Brown turned the meeting over to Representative Edwin Hardy sponsor of House Bill #980 entitled: **AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES**. Representative Hardy introduced Mr. John Bailey with the North Carolina Department of Revenue. Mr. Bailey was able to show the committee members a chart with the Department of Revenue's estimates, county by county, of tax revenue losses for those counties taking peanut and tobacco allotments. The data also includes charts with estimates of potential revenues for those counties that do not currently tax peanut and tobacco allotments (Attachment I).

Several of the members had numerous questions and several guests were recognized to speak. At one point an amendment was offered by Representative Smith. After several more questions, legal staff offered the amendment but Representative Ownes offered an adjustment to the amendment. At this point, Representative Hill wanted to offer another adjustment to the second amendment.

Chairman Brown decided that this needed to go to a Sub-Committee for further discussion and appraisal. Representative Brown appointed Representative Hill as Chairman of the Sub-Committee with the following Representatives: Smith, Rogers, and Yongue.

Senator Plyler sponsor for Senate Bill #508 entitled: **AN ACT TO PROVIDE THAT A TURKEY GROWER SHALL NOT BE DISQUALIFIED FROM USE VALUE TAXATION FOR A TWO YEAR PERIOD IF THE GROWER'S LAND IS TAKEN OUT OF PRODUCTION SOLELY BECAUSE OF THE PRESENCE OF TURKEY DISEASE IN THE AREA WAS INTRODUCED NEXT**. Since Senator Plyler was not present, the bill was pulled from the calendar.

Chairman Brown next introduced Representative Mitchell to speak on House Bill #998 entitled: **AN ACT TO ENACT INTO LAW THE SOUTHERN DAIRY COMPACT, TO DIRECT THE APPOINTMENT OF MEMBERS FROM NORTH CAROLINA TO THE SOUTHERN DAIRY COMPACT COMMISSION, AND TO APPROPRIATE FUNDS.** Mr. Mitchell stated that this bill introduced by Representative Brown, enacts into North Carolina law the Southern Dairy Compact. The compact legislation was developed in meetings of 14 southern states in an effort to address the problems faced by the southern dairy industry, Its purpose is to regulate the price for milk received by the farmers, by setting prices for milk above those set by federal marketing orders, in order to assure a stable, local supply of milk and the continued viability of a dairy industry in the southern region.

He also mentioned that the legislation established a Compact Commission, that would consist of a delegation of 3 to 5 members from each participating state. Each state would have one vote and Commission matters would be decided by majority vote, except for the establishment or termination of an "over-order" price or a commission marketing order, which would require a 2/3 vote of the Commission.

A compact "over-order" price shall apply only to Class I milk and shall not exceed $1.50 per gallon at Atlanta. This price may be adjusted to reflect differences in minimum federal order prices in the region. In the event the federal marketing orders are terminated, the Commission has the authority to establish commission marketing orders. A commission marketing order may apply to all classes and uses of milk.

He further stated that the Commission would have the authority to adopt rules using the rule-making procedures of Section 4 of the Federal Administrative Procedure Act. In establishing an over-order pricing order or commission marketing order, the Commission shall conduct a referendum among producers to determine their approval or disapproval of the proposed pricing order.

Costs of establishg the Commission may be covered by an assessment on milk handlers who purchase milk from producers in the region of $.015 per hundred weight. The assessment is to be collected monthly for up to 1 year after the Commission convenes. In addition, the Commission has the authority borrow funds, however, it may not pledge the credit of any participating state.

The Compact takes effect when three States of the listed states have enacted its provisions into law and the consent of Congress has been obtained. To date, Louisiana and Arkansas have enacted this legislation.

The bill calls for an appropriation of $25,000 for FY 1197-1998 and $25,000 for FY 1998-1999 to the Compact Commission to conduct its activities.

The act becomes effect July 1, 1997.

Several people spoke from the floor and questions were taken from members. Additional information was given out (Attachment II and III).

Since the committee's hour was coming to a close, Chairman Brown announced that House Bill #998 would be continued at the next meeting.

The meeting adjourned at 11:00 a.m.

JOHN W. BROWN, CHAIRMAN ANNA P. KIDD, CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 980

Short Title: Crop Allotment Tax Appraisal. (Public)

Sponsors: Representatives Hardy, Baker, Daughtry; Aldridge, Arnold, Berry, Brown, Cansler, Capps, Clary, Creech, Davis, Decker, Eddins, Hall, Hiatt, Hill, McComas, Miner, Mitchell, Morris, Nichols, Russell, Sherrill, Starnes, and G. Wilson.

Referred to: Agriculture, if favorable, Finance.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.01 reads as rewritten:

"**§ 105-277.01. Certain farm products and land with crop allotments classified for taxation at reduced valuation.**

(a) Farm ~~products (including~~ products, including crops but excluding poultry and other ~~livestock)~~ livestock, held by or for a cooperative stabilization or marketing association or corporation to which they have been delivered, conveyed, or assigned by the original producer for the purpose of sale are hereby designated a special class of property under authority of ~~Article V, Sec. 2(2),~~ Section 2(2) of Article V of the North Carolina Constitution. Before being assessed for taxation the appraised valuation of farm products so classified shall be reduced by the amount of any unpaid loan or advance made or granted thereon by the United States government, an agency of the United States government, or a cooperative stabilization or marketing association or corporation.

(b) Land on which there are acreage or poundage allotments for farm commodities is designated a special class of property under authority of Section 2(2)

of Article V of the North Carolina Constitution. The value of these allotments shall not be considered in appraising land classified under this subsection."

Section 2. G.S. 105-289(a)(5) reads as rewritten:

"(5) To prepare and distribute annually to each assessor a manual that establishes five expected net income per acre ranges for agricultural land, horticultural land, and forestland, and establishes a method for appraising nonproductive land as a percentage of the lowest use-value established for productive land. The high and low net income amount in each range may differ by no more than fifteen dollars ($15.00). The basis for establishing each range shall be soil productivity.

For agricultural land, the expected net income per acre ranges shall be based on the actual yields and prices of corn and soybeans over a period of at least the five previous years, and the actual fixed and variable costs, including an imputed management cost, incurred in growing corn and soybeans over the same period of time. ~~The manual shall contain recommended adjustments to the net income per acre ranges for the growing of crops subject to acreage or poundage allotments.~~

Expected net income per acre ranges shall be similarly established for horticultural land and forestland, using typical horticultural or forest products in various growing regions of the State instead of corn and soybeans."

Section 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1998.

ATTACHMENT I

North Carolina General Assembly
Legislative Services Office

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(919) 733-7044

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Administrative Division
Room 5, Legislative Building
16 W. Jones Street
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Thomas L. Covington, Director
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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 21, 1997

TO: House Agriculture Committee

FROM: Barbara Riley, Committee Counsel

RE: **House Bill 980: Crop Allotment Tax Appraisal**

Attached please find the Department of Revenue's estimates, county by county, of tax revenue losses for those counties taxing peanut and tobacco allotments. The data also includes charts with estimates of potential revenues for those counties that do not currently tax peanut and tobacco allotments.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

ESTIMATE OF TAX REVENUE LOSS
FOR COUNTIES TAXING PEANUT ALLOTMENTS

COUNTY	PEANUT PRODUCTION [POUNDS]	ALLOTMENT VALUE PER POUND	TAX RATE PER $100 OF ASSESSED VALUE	ESTIMATE OF TAX REVENUE
BERTIE	46,209,000	0.30	0.76	$105,357
BLADEN	8,295,000	0.20	0.7375	$12,235
CRAVEN	125,000	0.29	0.585	$212
EDGECOMBE	26,892,000	0.30	0.88	$70,995
GATES	23,020,000	0.30	0.88	$60,773
GREENE	292,000	0.38	0.835	$927
HALIFAX*	54,469,000	0.38	0.69	$142,818
HERTFORD	32,124,000	0.32	0.96	$98,685
MARTIN	38,341,000	0.30	0.77	$88,568
NASH	5,728,000	0.30	0.61	$10,482
NORTHAMPTON	63,481,000	0.28	0.76	$135,088
PENDER	676,000	0.10	0.61	$412
PITT	9,100,000	0.38	0.66	$22,823
WASHINGTON	6,632,000	0.25	0.92	$15,254
			TOTAL	$764,627

EXPLANATORY NOTES:

[1.] PRODUCTION NUMBERS ARE FROM NORTH CAROLINA AGRICULTURAL STATISTICS [1996 EDITION] AND ARE FOR 1995 (THE LATEST AVAILABLE PRODUCTION NUMBERS ON A COUNTY BY COUNTY BASIS).

[2.] ESTIMATE OF TAX REVENUE ASSUMES THAT PRODUCTION NUMBERS ARE CLOSELY REPRESENTATIVE OF ACTUAL ALLOTMENTS AND THAT THE COUNTIES ARE ASSESSING FOR ALL OF THE ALLOTMENT.

[3.] TAX RATES ARE FOR FISCAL YEAR 1996–1997 (SOURCE: N C DEPT OF REVENUE TAX RESEARCH DIVISION)

[4.] ASSUMPTION FOR THIS PURPOSE IS THAT ALL PROPERTIES ARE OUTSIDE OF CITY LIMITS. ONLY THE BASE COUNTY RATE WAS USED. REVENUE WOULD BE HIGHER FOR ALL PROPERTIES IN THE CITY LIMITS.

[5.] THIS LIST OF COUNTIES WHICH ARE TAXING ALLOTMENTS IS DERIVED FROM A 1996 SURVEY BY THE N C DEPT OF REVENUE AD VALOREM TAX DIVISION TO THE INDIVIDUAL COUNTIES.

[6.] VERIFICATION BY PHONE HAS BEEN ATTEMPTED BUT NOT ALL COUNTIES HAVE BEEN VERIFIED. WHERE NO VERIFICATION WAS OBTAINED, THE TAX VALUATION RATE FOR THE ALLOTMENT WAS TAKEN FROM THE USE VALUE ADVISORY BOARD RECOMMENDED RATES. THOSE COUNTIES WHICH WERE NOT VERIFIED WILL BE INDICATED BY AN ASTERISK (*) AFTER THEIR NAME.

NC DEPT. OF REVENUE Fax:919-733-1021 May 12 97 14:45 P.03

ESTIMATE OF POTENTIAL TAX REVENUE FOR COUNTIES NOT TAXING PEANUT ALLOTMENTS

COUNTY	PEANUT PRODUCTION [POUNDS]	ALLOTMENT VALUE PER POUND	TAX RATE PER $100 OF ASSESSED VALUE	ESTIMATE OF TAX REVENUE
ALAMANCE	0	0.38		
ALEXANDER	0	0.38	0.5300	$0
ALLEGHANY	0	0.38	0.5800	$0
ANSON	0	0.38	0.8350	$0
ASHE	0	0.38	0.5800	$0
AVERY	0	0.38	0.5800	$0
BEAUFORT	481,000	0.38	0.6000	$1,097
BRUNSWICK	0	0.38	0.6850	$0
BUNCOMBE	0	0.38	0.7300	$0
BURKE	0	0.38	0.5900	$0
CABARRUS	0	0.38	0.6100	$0
CALDWELL	0	0.38	0.6390	$0
CAMDEN	0	0.38	0.7500	$0
CARTERET	0	0.38	0.5050	$0
CASWELL	0	0.38	0.7050	$0
CATAWBA	0	0.38	0.5200	$0
CHATHAM	0	0.38	0.7400	$0
CHEROKEE	0	0.38	0.4700	$0
CHOWAN	17,828,000	0.38	0.7700	$52,165
CLAY	0	0.38	0.4300	$0
CLEVELAND	0	0.38	0.6200	$0
COLUMBUS	2,563,000	0.38	0.7800	$7,597
CUMBERLAND	418,000	0.38	0.7500	$1,191
CURRITUCK	136,000	0.38	0.6500	$336
DARE	0	0.38	0.4000	$0
DAVIDSON	0	0.38	0.5400	$0

DAVIE	0	0.38	0.6000	$0
DUPLIN	0	0.38	0.7750	$0
DURHAM	0	0.38	0.9597	$0
FORSYTH	0	0.38	0.7264	$0
FRANKLIN	0	0.38	0.9000	$0
GASTON	0	0.38	0.8410	$0
GRAHAM	0	0.38	0.6000	$0
GRANVILLE	0	0.38	0.7200	$0
GUILFORD	0	0.38	0.6572	$0
HARNETT	0	0.38	0.7000	$0
HAYWOOD	0	0.38	0.6100	$0
HENDERSON	0	0.38	0.5150	$0
HOKE	0	0.38	0.9400	$0
HYDE	0	0.38	0.8900	$0
IREDELL	0	0.38	0.4500	$0
JACKSON	0	0.38	0.5300	$0
JOHNSTON	134,000	0.38	0.7400	$377
JONES	0	0.38	0.8400	$0
LEE	0	0.38	0.6800	$0
LENOIR	41,000	0.38	0.7500	$117
LINCOLN	0	0.38	0.6150	$0
MACON	0	0.38	0.4950	$0
MADISON	0	0.38	0.6500	$0
MCDOWELL	0	0.38	0.6375	$0
MECKLENBURG	0	0.38	0.7300	$0
MITCHELL	0	0.38	0.5400	$0
MONTGOMERY	0	0.38	0.6700	$0
MOORE	0	0.38	0.4500	$0
NEW HANOVER	0	0.38	0.6450	$0
ONSLOW	11000	0.38	0.6440	$27
ORANGE	0	0.38	0.9975	$0
PAMLICO	0	0.38	0.6943	$0
PASQUOTANK	315,000	0.38	0.7700	$922
PERQUIMANS	8,927,000	0.38	0.7800	$26,460
PERSON	0	0.38	0.6500	$0
POLK	0	0.38	0.4933	$0
RANDOLPH	0	0.38	0.4650	$0
RICHMOND	0	0.38	0.9700	$0

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ROBESON	169000	0.38	0.8100	$520
ROCKINGHAM	0	0.38	0.8100	$0
ROWAN	0	0.38	0.6375	$0
RUTHERFORD	0	0.38	0.5500	$0
SAMPSON	368,000	0.38	0.6700	$937
SCOTLAND	0	0.38	0.9500	$0
STANLY	0	0.38	0.6675	$0
STOKES	0	0.38	0.5700	$0
SURRY	0	0.38	0.5200	$0
SWAIN	0	0.38	0.5700	$0
TRANSYLVANIA	0	0.38	0.5410	$0
TYRRELL	146,000	0.38	1.0300	$571
UNION	0	0.38	0.6600	$0
VANCE	0	0.38	0.8000	$0
WAKE	0	0.38	0.6300	$0
WARREN	0	0.38	0.8800	$0
WATAUGA	0	0.38	0.4350	$0
WAYNE	17000	0.38	0.6500	$42
WILKES	0	0.38	0.6300	$0
WILSON	91000	0.38	0.7700	$266
YADKIN	0	0.38	0.6800	$0
YANCEY	0	0.38	0.5000	$0
			TOTAL	$92,624

EXPLANATORY NOTES:

[1.] PRODUCTION NUMBERS ARE FROM NORTH CAROLINA AGRICULTURAL STATISTICS [1996 EDITION] AND ARE FOR 1995 (THE LATEST AVAILABLE PRODUCTION NUMBERS ON A COUNTY BY COUNTY BASIS).

[2.] ESTIMATE OF TAX REVENUE ASSUMES THAT PRODUCTION NUMBERS ARE CLOSELY REPRESENTATIVE OF ACTUAL ALLOTMENTS AND THAT THE COUNTIES WOULD BE ASSESSING FOR ALL OF THE ALLOTMENT.

[3.] TAX RATES ARE FOR FISCAL YEAR 1996–1997 (SOURCE: N C DEPT OF REVENUE TAX RESEARCH DIVISION)

[4.] ASSUMPTION FOR THIS PURPOSE IS THAT ALL PROPERTIES ARE OUTSIDE OF CITY LIMITS. ONLY

NC Dept. of Revenue Fax:919-733-1821 May 12 '97 14:44 P.06

THE BASE COUNTY RATE WAS USED. REVENUE WOULD BE HIGHER FOR ALL PROPERTIES IN THE CITY LIMITS.

[5.] THIS LIST OF COUNTIES WHICH ARE NOT TAXING ALLOTMENTS IS DERIVED FROM A 1996 SURVEY BY THE N C DEPT OF REVENUE AD VALOREM TAX DIVISION TO THE INDIVIDUAL COUNTIES.

[6.] SINCE THE ABOVE COUNTIES DO NOT APPEAR TO BE TAXING THE ALLOTMENT (PER THE 1996 N C DOR SURVEY], THE USE VALUE ADVISORY BOARD RECOMMENDED RATES HAVE BEEN USED TO ESTIMATE TAX REVENUE.

NC Dept. of Revenue Fax:919-733-1021 May 12 '97 14:44 P.0/

ESTIMATE OF TAX REVENUE LOSS
FOR COUNTIES TAXING TOBACCO ALLOTMENTS

COUNTY	TOBACCO PRODUCTION [POUNDS]	ALLOTMENT VALUE PER POUND	TAX RATE PER $100 OF ASSESSED VALUE	ESTIMATE OF TAX REVENUE
ALAMANCE	3,726,000	1.31	0.53	$25,870
AVERY	182,000	1.21	0.58	$1,277
BERTIE	6,328,000	1.81	0.76	$87,048
BLADEN	6,449,000	1.60	0.7375	$76,098
CARTERET*	1,376,000	2.01	0.5050	$13,967
CASWELL	7,892,000	1.28	0.705	$71,217
CRAVEN	8,631,000	1.93	0.585	$97,448
CUMBERLAND	4,114,000	2.00	0.75	$61,710
DAVIE	770,000	0.40	0.60	$1,848
EDGECOMBE	12,562,000	1.77	0.88	$195,666
FORSYTH	4,006,000	1.63	0.7264	$47,432
GATES	267,000	1.75	0.88	$4,112
GREENE	12,560,000	2.08	0.835	$218,142
GUILFORD	7,796,000	1.71	0.6572	$87,612
HALIFAX*	5,767,000	2.08	0.69	$82,768
HERTFORD	3,496,000	1.75	0.96	$58,733
IREDELL	994,000	0.75	0.45	$3,355
LEE	3,257,000	0.0025	0.68	$55
MARTIN	10,100,000	1.75	0.77	$136,098
NASH	22,412,000	1.59	0.61	$217,374
NORTHAMPTON	412,000	1.56	0.76	$4,885
ONSLOW	5,191,000	1.00	0.644	$33,430
PENDER	2,772,000	1.25	0.61	$21,137
PERSON	9,488,000	1.71	0.65	$105,459
PITT	25,155,000	2.00	0.66	$332,046
ROBESON	23,598,000	1.00	0.81	$191,144

WARREN	6,102,000	1.25	0.88	$67,122
WASHINGTON	879,000	1.00	0.92	$8,087
WAYNE	17,817,000	2.00	0.65	$231,621
WILSON	20,180,000	1.73	0.77	$268,818
			TOTAL	$2,751,578

EXPLANATORY NOTES:

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NC Dept. of Revenue Fax:919-733-1821 May 12 '97 14:45 P.09

ESTIMATE OF POTENTIAL TAX REVENUE
FOR COUNTIES NOT TAXING TOBACCO ALLOTMENTS

COUNTY	TOBACCO PRODUCTION [POUNDS]	ALLOTMENT VALUE PER POUND	TAX RATE PER $100 OF ASSESSED VALUE	ESTIMATE OF TAX REVENUE
ALEXANDER	1,134,000	1.71	0.5300	$10,277
ALLEGHANY	416,000	1.22	0.5800	$2,944
ANSON	172,000	1.71	0.8350	$2,456
ASHE	1,032,000	1.22	0.5800	$7,302
BEAUFORT	8,398,000	2.01	0.6000	$101,280
BRUNSWICK	3,361,000	2.01	0.6850	$46,276
BUNCOMBE	1,508,000	1.22	0.7300	$13,430
BURKE	1,000	1.71	0.5900	$10
CABARRUS	0	1.71	0.6100	$0
CALDWELL	505,000	1.71	0.6390	$5,518
CAMDEN	0	2.02	0.7500	$0
CATAWBA	0	1.71	0.5200	$0
CHATHAM	1,814,000	1.71	0.7400	$22,954
CHEROKEE	93,000	1.22	0.4700	$533
CHOWAN	596,000	2.02	0.7700	$9,270
CLAY	111,000	1.22	0.4300	$582
CLEVELAND	0	1.71	0.6200	$0
COLUMBUS	21,582,000	2.01	0.7800	$338,363
CURRITUCK	0	2.02	0.6500	$0
DARE	0	2.02	0.4000	$0
DAVIDSON	3,080,000	1.71	0.5400	$28,441
DUPLIN	15,806,000	2.08	0.7750	$254,793
DURHAM	2,158,000	1.71	0.9597	$35,415
FRANKLIN	12,552,000	1.71	0.9000	$193,175
GASTON	0	1.71	0.8410	$0
GRAHAM	258,000	1.22	0.6000	$1,889

N.C. Dept. of Revenue FAX:919-733-1821 May 17 96 14:45 P.10

GRANVILLE	12,740,000	1.71	0.7200	$156,855
HARNETT	12,888,000	2.08	0.7000	$187,649
HAYWOOD	1,038,000	1.22	0.6100	$7,725
HENDERSON	22,000	1.22	0.5150	$138
HOKE	2,565,000	2.10	0.9400	$50,633
HYDE	0	2.02	0.8900	$0
JACKSON	62,000	1.22	0.5300	$401
JOHNSTON	22,236,000	2.08	0.7400	$342,257
JONES	5,343,000	2.01	0.8400	$90,211
LENOIR	16,676,000	2.01	0.7500	$251,391
LINCOLN	0	1.71	0.6150	$0
MACON	37,000	1.22	0.4950	$223
MADISON	2,917,000	1.22	0.6500	$23,132
MCDOWELL	0	1.22	0.6375	$0
MECKLENBURG	0	1.71	0.7300	$0
MITCHELL	673,000	1.22	0.5400	$4,434
MONTGOMERY	958,000	1.71	0.6700	$10,976
MOORE	5,009,000	2.10	0.4500	$47,335
NEW HANOVER	54,000	2.01	0.6450	$700
ORANGE	3,383,000	1.71	0.9975	$57,705
PAMLICO	790,000	2.02	0.6943	$11,080
PASQUOTANK	0	2.02	0.7700	$0
PERQUIMANS	0	2.02	0.7800	$0
POLK	0	1.22	0.4933	$0
RANDOLPH	2,274,000	1.71	0.4650	$18,082
RICHMOND	2,108,000	2.10	0.9700	$42,940
ROCKINGHAM	11,616,000	1.71	0.8100	$160,893
ROWAN	13,000	1.71	0.6375	$142
RUTHERFORD	3,000	1.71	0.5500	$28
SAMPSON	11,718,000	2.08	0.6700	$163,302
SCOTLAND	1,061,000	2.08	0.9500	$20,965
STANLY	0	1.71	0.6675	$0
STOKES	10,101,000	1.71	0.5700	$98,454
SURRY	10,737,000	1.71	0.5200	$95,473
SWAIN	57,000	1.22	0.5700	$396
TRANSYLVANIA	18,000	1.22	0.5410	$119
TYRRELL	0	2.02	1.0300	$0
UNION	0	1.71	0.6600	$0

VANCE	8,536,000	1.71	0.8000	$116,772
WAKE	18,946,000	1.71	0.6300	$204,105
WATAUGA	888,000	1.22	0.4350	$4,713
WILKES	1,456,000	1.71	0.6300	$15,685
YADKIN	7,687,000	1.71	0.6800	$89,384
YANCEY	1,122,000	1.22	0.5000	$6,844
			TOTAL	$3,356,052

EXPLANATORY NOTES:

[1.] PRODUCTION NUMBERS ARE FROM NORTH CAROLINA AGRICULTURAL STATISTICS [1996 EDITION] AND ARE FOR 1995 (THE LATEST AVAILABLE PRODUCTION NUMBERS ON A COUNTY BY COUNTY BASIS).

[2.] ESTIMATE OF TAX REVENUE ASSUMES THAT PRODUCTION NUMBERS ARE CLOSELY REPRESENTATIVE OF ACTUAL ALLOTMENTS AND THAT THE COUNTIES WOULD BE ASSESSING FOR ALL OF THE ALLOTMENT.

[3.] TAX RATES ARE FOR FISCAL YEAR 1996–1997 (SOURCE: N C DEPT OF REVENUE TAX RESEARCH DIVISION)

[4.] ASSUMPTION FOR THIS PURPOSE IS THAT ALL PROPERTIES ARE OUTSIDE OF CITY LIMITS. ONLY THE BASE COUNTY RATE WAS USED. REVENUE WOULD BE HIGHER FOR ALL PROPERTIES IN THE CITY LIMITS.

[5.] THIS LIST OF COUNTIES WHICH ARE NOT TAXING ALLOTMENTS IS DERIVED FROM A 1996 SURVEY BY THE N C DEPT OF REVENUE AD VALOREM TAX DIVISION TO THE INDIVIDUAL COUNTIES.

[6.] SINCE THE ABOVE COUNTIES DO NOT APPEAR TO BE TAXING THE ALLOTMENT (PER THE 1996 N C DOR SURVEY), THE USE VALUE ADVISORY BOARD RECOMMENDED RATES HAVE BEEN USED TO ESTIMATE TAX REVENUE.

NC Dept. of Revenue Fax:919-733-1821 May 12 97 14:30 1.12

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 998*

Short Title: Southern Dairy Compact. (Public)

Sponsors: Representatives Brown and Mitchell.

Referred to: Agriculture, if favorable, Appropriations.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ENACT INTO LAW THE SOUTHERN DAIRY COMPACT, TO DIRECT THE APPOINTMENT OF MEMBERS FROM NORTH CAROLINA TO THE SOUTHERN DAIRY COMPACT COMMISSION, AND TO APPROPRIATE FUNDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 68.

"Southern Dairy Compact.

"**§ 106-810. Southern Dairy Compact entered into; form of Compact.**

The Southern Dairy Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I. Statement of Purpose, Findings, and Declaration of Policy

"**§ 1. Statement of purpose, findings, and declaration of policy.**

The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the Commission is to take such steps as are necessary to assure the continued viability of dairy farming in the South, and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is an essential agricultural activity of the South. Dairy farms, and associated suppliers, marketers, processors, and retailers, are an integral component of the region's economy. Their

ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential, and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

By entering into this compact, the participating states affirm that their ability to regulate the price that southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

Recent dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The system of federal orders, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the system of federal orders nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the system of federal orders be discontinued. In that event, the interstate commission may regulate the marketplace in lieu of the system of federal orders. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the system of federal orders.

ARTICLE II. Definitions and Rules of Construction

"**§ 2. Definitions.**

For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(1) 'Class I milk' means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subsection (b) of Section 3.

(2) 'Commission' means the Southern Dairy Compact Commission established by this compact.

(3) 'Commission marketing order' means regulations adopted by the Commission pursuant to Sections 9 and 10 of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the Commission. Such order may establish minimum prices for any or all classes of milk.

(4) 'Compact' means this interstate compact.

(5) 'Compact over-order price' means a minimum price required to be paid to producers for Class I milk established by the Commission in regulations adopted pursuant to Sections 9 and 10 of this compact, which is above the price established in federal marketing orders or by state farm price regulation in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the Commission.

(6) 'Milk' means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the Commission for regulatory purposes.

(7) 'Partially regulated plant' means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

(8) 'Participating state' means a state which has become a party to this compact by the enactment of concurring legislation.

(9) 'Pool plant' means any milk plant located in a regulated area.

(10) 'Region' means the territorial limits of the states which are parties to this compact.

(11) 'Regulated area' means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

(12) 'State dairy regulation' means any state regulation of dairy prices and associated assessments, whether by statute, marketing order, or otherwise.

"**§ 3. Rules of construction.**

(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the Commission the option to replace them with one or more commission marketing orders pursuant to this compact.

(b) This compact shall be construed liberally in order to achieve the purposes and intent enunciated in Section 1. It is the intent of this compact to establish a basic structure by which the Commission may achieve those purposes through the application, adaptation, and development of the regulatory techniques historically associated with milk marketing and to afford the Commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the Commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

ARTICLE III. Commission Established

"§ 4. Commission established.

There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The Commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in, the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the Commission.

"§ 5. Voting requirements.

All actions taken by the Commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment, or rescission of the Commission's bylaws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one vote in the conduct of the Commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area that covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the Commission's business.

"§ 6. Administration and management.

(a) The Commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The Commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the Commission, and, together with the treasurer, shall be bonded in an amount determined by the

Commission. The Commission may establish through its bylaws an executive committee composed of one member elected by each delegation.

(b) The Commission shall adopt bylaws for the conduct of its business by a two-thirds vote and shall have the power by the same vote to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form with the appropriate agency or officer in each of the participating states. The bylaws shall provide for appropriate notice to the delegations of all Commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The Commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the Governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the Commission may engage in all of the following:

(1) Sue and be sued in any state or federal court.

(2) Have a seal and alter the same at pleasure.

(3) Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes.

(4) Borrow money and to issue notes, to provide for the rights of the holders thereof, and to pledge the revenue of the Commission as security therefor, subject to the provisions of Section 18 of this compact.

(5) Appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties, and qualifications.

(6) Create and abolish such offices, employments, and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees.

(7) Retain personal services on a contract basis.

"§ 7. Rule-making power.

In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the Commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE IV. Powers of the Commission

"§ 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation.

The Commission may:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to

measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

(2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

(4) Prepare and release periodic reports on activities and results of the Commission's efforts to the participating states.

(5) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve, or promote more efficient assembly and distribution of milk.

(6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling, and for all other services, performed with respect to milk.

(7) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

"**§ 9. Equitable farm prices.**

(a) The powers granted in this section and Section 10 shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this Article authorizes the Commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents ($1.50) per gallon at Atlanta, Georgia, however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in 1990, and using that year as a base, the foregoing one dollar and fifty cents ($1.50) per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing

class price in accordance with and subject to such adjustments as the Commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

(d) The Commission may establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The Commission also may establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession, or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The Commission shall provide for similar treatment of producer-handlers under commission marketing orders.

(e) In determining the price, the Commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to, the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public, and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a compact over-order price, the Commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

(g) The Commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The Commission may reimburse other agencies for the reasonable cost of providing these services.

"§ 10. Optional provisions for pricing order.

Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to, any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the Commission, or a single minimum price for milk purchased from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials, and competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

a. With respect to regulations establishing a compact over-order price, the Commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

b. With respect to any commission marketing order, as defined in Section 2, subdivision (9), which replaces one or more terminated federal orders or state dairy regulation, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to subsection (a) of Section 18 of Article VII.

(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

(11) Other provisions and requirements as the Commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V. Rule-Making Procedure.

"§ 11. Rule-making procedure.

Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9, or amendment thereof, as provided in Article IV, the Commission shall conduct an informal rule-making proceeding to provide interested persons with an opportunity to present data and views. Such rule-making proceeding shall be governed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553). In addition, the Commission shall, to the extent practicable, publish notice of rule-making proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the Commission shall hold a public hearing. The Commission may commence a rule-making proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

"§ 12. Findings and referendum.

(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 53 (c)), the Commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in Section 13.

"§ 13. Producer referendum.

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9, is approved by producers, the Commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the Commission. The terms and conditions of the proposed order or amendment shall be described by the Commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the Commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the Commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the Commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) of this subsection and subject to the provisions of subdivisions (2) through (5) of this subsection.

(1) No cooperative that has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

(2) Any cooperative that is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the Commission.

(3) Any producer may obtain a ballot from the Commission in order to register approval or disapproval of the proposed order.

(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his or her approval or disapproval of the proposed order, shall notify the Commission as to the name of the cooperative of which he or she is a member, and the Commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

(5) In order to ensure that all milk producers are informed regarding a proposed order, the Commission shall notify all milk producers

that an order is being considered and that each producer may register his or her approval or disapproval with the Commission either directly or through his or her cooperative.

"**§ 14. Termination of over-order price or marketing order.**

(a) The Commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this Article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

(b) The Commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this Article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the Commission, have been engaged in the production of milk, the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this Article and shall require no hearing, but shall comply with the requirements for informal rule making prescribed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553).

ARTICLE VI. Enforcement

"**§ 15. Records, reports, access to premises.**

(a) The Commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the Commission may examine the books and records of any regulated person relating to his or her milk business and for that purpose, the Commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the Commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the Commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the Commission. The Commission may adopt rules further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the Commission of the name of any person violating any regulation of the Commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the Commission shall intentionally disclose information, by inference or otherwise, that is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars ($1,000) or to imprisonment

for not more than one year, or both, and shall be removed from office. The Commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

"**§ 16. Subpoena, hearings and judicial review.**

(a) The Commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the Commission stating that any order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. The handler shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Commission. After such hearing, the Commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within 30 days from the date of the entry of the ruling. Service of process in these proceedings may be had upon the Commission by delivering to it a copy of the complaint. If the court determines that the ruling is not in accordance with law, it shall remand such proceedings to the Commission with directions either (i) to make such ruling as the court shall determine to be in accordance with law, or (ii) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the Commission form obtaining relief pursuant to Section 17. Any proceedings brought pursuant to Section 17, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

"**§ 17. Enforcement with respect to handlers.**

(a) Any violation by a handler of the provisions of regulation establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the Commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

(1) Commencing an action for legal or equitable relief brought in the name of the Commission in any state or federal court of competent jurisdiction; or

(2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

(c) With respect to handlers, the Commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII. Finance

"§ 18. Finance of start-up and regular costs.

(a) To provide for its start-up costs, the Commission may borrow money pursuant to its general power under Section 6, subdivision (d), paragraph 4. In order to finance the cost of administration and enforcement of this compact, including payback of start-up costs, the Commission may collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the Commission convenes, in an amount not to exceed $.015 per hundred weight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the Commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the Commission's ongoing operating expenses.

(b) The Commission shall not pledge the credit of any participating state or of the United States. Notes issued by the Commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

"§ 19. Audit and accounts.

(a) The Commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(b) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the Commission.

(c) Nothing contained in this Article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

ARTICLE VIII. Entry into Force; Additional Members and Withdrawal

"§ 20. Entry into force; additional members.

The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia and when the consent of Congress has been obtained.

"§ 21. Withdrawal from compact.

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the Commission and the governors of all the participating states. No withdrawal shall affect any liability already already incurred by or chargeable to a participating state prior to the time of such withdrawal.

"§ 22. Severability.

If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compact state may accept the conditions of Congress by implementation of this compact.

"§ 106-811. Appointment of members to the Southern Dairy Compact Commission.

(a) The delegation from the State of North Carolina to the Southern Dairy Compact Commission, as established in Article IV of the Compact, shall be composed of five members appointed as follows:

(1) One member representing consumers of milk, appointed by the Governor.

(2) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

(3) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

(4) Two members appointed by the Commissioner of Agriculture, one of whom shall be a dairy farmer engaged in the production of milk at the time of appointment or reappointment.

(b) Members must be registered to vote in the State.

(c) Members shall serve a term of four years and may be reappointed, but no member shall serve more than three consecutive terms. Members shall serve until their successors are duly appointed. Any appointment to fill an unexpired term shall be for the balance of the unexpired term and shall be made by the appropriate

appointing authority. A member may be removed by the appointing authority, in accordance with G.S. 143B-13. The Commissioner of Agriculture shall designate one member of the delegation to serve as chair, at the pleasure of the Commissioner.

(d) Members of the delegation shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.

(e) A majority of the delegation shall constitute a quorum for the transaction of business.

(f) All clerical and other services required by the delegation shall be provided by the Commissioner of Agriculture."

Section 2. There is appropriated from the General Fund to the Southern Dairy Compact Commission, as established by Article III of the compact, as enacted in Section 1 of this act, the sum of twenty-five thousand dollars ($25,000) for the 1997-98 fiscal year and the sum of twenty-five thousand dollars ($25,000) for the 1998-99 fiscal year to be used by the Commission to conduct its activities pursuant to this act.

Section 3. This act becomes effective July 1, 1997.

ATTACHMENT II

SOUTHERN DAIRY COMPACT QUESTIONS AND ANSWERS

What is the procedure to enact a Southern Dairy Compact?

Under the Compact Clause (Article1, section 10, clause 3) of the United States Constitution, an interstate compact must first be adopted as uniform legislation by the compacting states and then approved by Congress. Currently two states, Louisiana and Arkansas have passed state legislation. Thirteen other states are considering legislation (AL, FL, GA, KY, MD, MS, NC, OK, SC, TN, TX, VA & WV). The Southern Dairy Compact requires a minimum of three states to start.

Why a Southern Dairy Compact?

The Southeastern United States is a deficient area for milk production and the problem is getting worse. Because of the deficiency, moving milk across state lines is a necessity and requires pricing adjustments. The Compact would enable southern states to collectively work together to resolve regional marketing and price issues for milk. The Compact would encourage stable pricing and help preserve a local supply of fresh, high quality milk at less cost than imported supplies.

The existing federal program establishes a national policy of minimum farm prices for milk. However, the federal program does not fully account for regional differences in the costs associated with milk production. In recent times, the federally established minimum prices have been unduly low and have imposed great financial stress on southern dairy farmers.

Approximately 85 percent of the southern region's production is marketed as fluid milk. Increasing consumer demand combined with decreasing milk production is resulting in a greater importation of milk from outside the region. Costs associated with milk importation increase consumer purchasing cost and lower potential producer income. The Compact would encourage stabilized pricing and preserve a local supply of fresh, high quality milk at less cost than alternative supplies.

How Does the Compact Work?

The Compact creates a Commission of delegates from each of the member states. Three to five delegates consisting of producers, processors, and consumers make up the voting body for each state. Each state delegation will be entitled to one vote. Any actions taken will depend on formal testimony about production costs and the impacts on consumers and the marketplace. The Compact must not restrict the interstate commerce of milk.
All actions taken by the Commission require a majority vote. The exceptions are the establishment or termination of an over-order price, and the adoption, amendment, or rescission of the Commission's bylaws which require a two-thirds vote.

N C. Dairy Industry Review

Production of raw milk in North Carolina averages 12,480,620 gallons per month; about 3.5 million gallons short of current consumption. As of January 1, 1997, there were only 547 commercial dairies in North Carolina, 56 fewer than a year ago and 115 fewer than two years ago. Production declined about 8% during 1996 and about 5% during 1995. Production in surrounding states is also declining, so alternative supplies are becoming fewer and farther away. They shipped raw milk to North Carolina from 18 different states during 1996 that equated to an estimated loss of 57 million dollars at the farm gate.

Since 1991, five NC dairy processing plants have closed, four since January 1995. To stay viable, the remaining processors must have a dependable local supply of milk.

According to USDA, North Carolina's production is projected to decrease by approximately 15% by the year 2000, and production in surrounding states is projected to decline, with Alabama to drop about 12%, Florida-13%, South Carolina-23%, Tennessee-20%, and Kentucky-19%. The only projected exception is Georgia, up 12%.

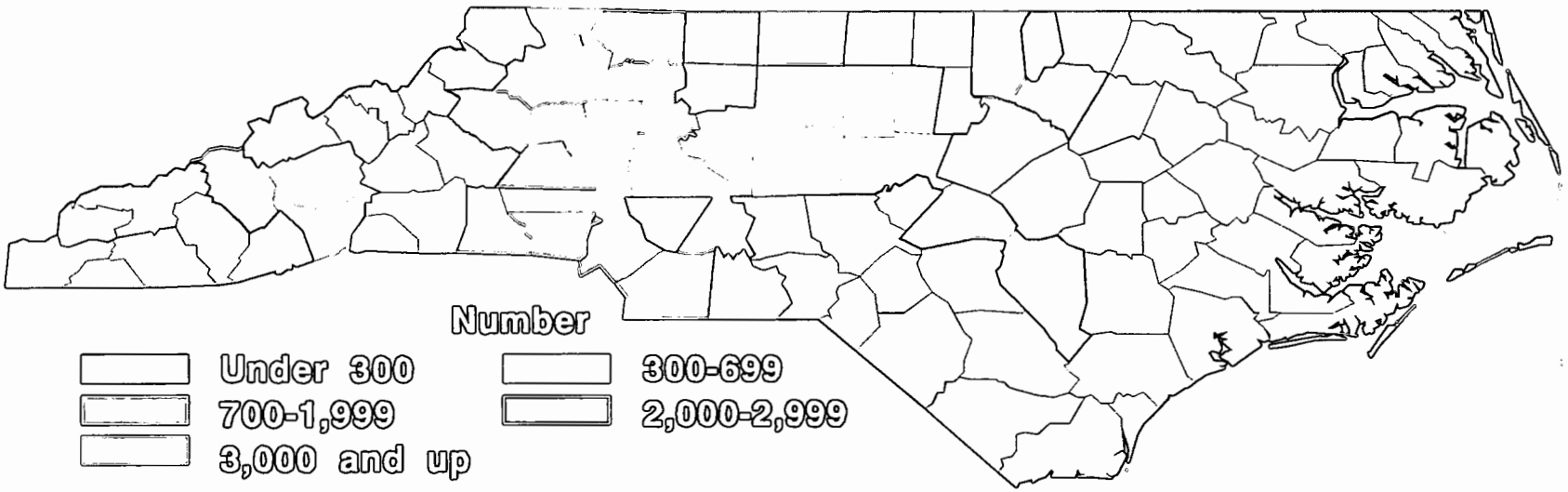
To compound the problem, consumer needs for milk products are increasing. The North Carolina Office of State Planning estimates population growth in North Carolina at 120,000 per year. Fluid milk needs will increase by approximately 260,000 gallons per month, which projects to an additional deficit of 3,120,000 gallons per year.

This all leads to two questions: Where will the dairy plants fill their increased needs for fresh, high quality raw milk and how much will North Carolina consumers be forced to pay to get fluid milk if it is available?

The enactment of a Southern Dairy Compact can resolve these questions.

Milk Cows:
Number on Farms, January 1, 1996

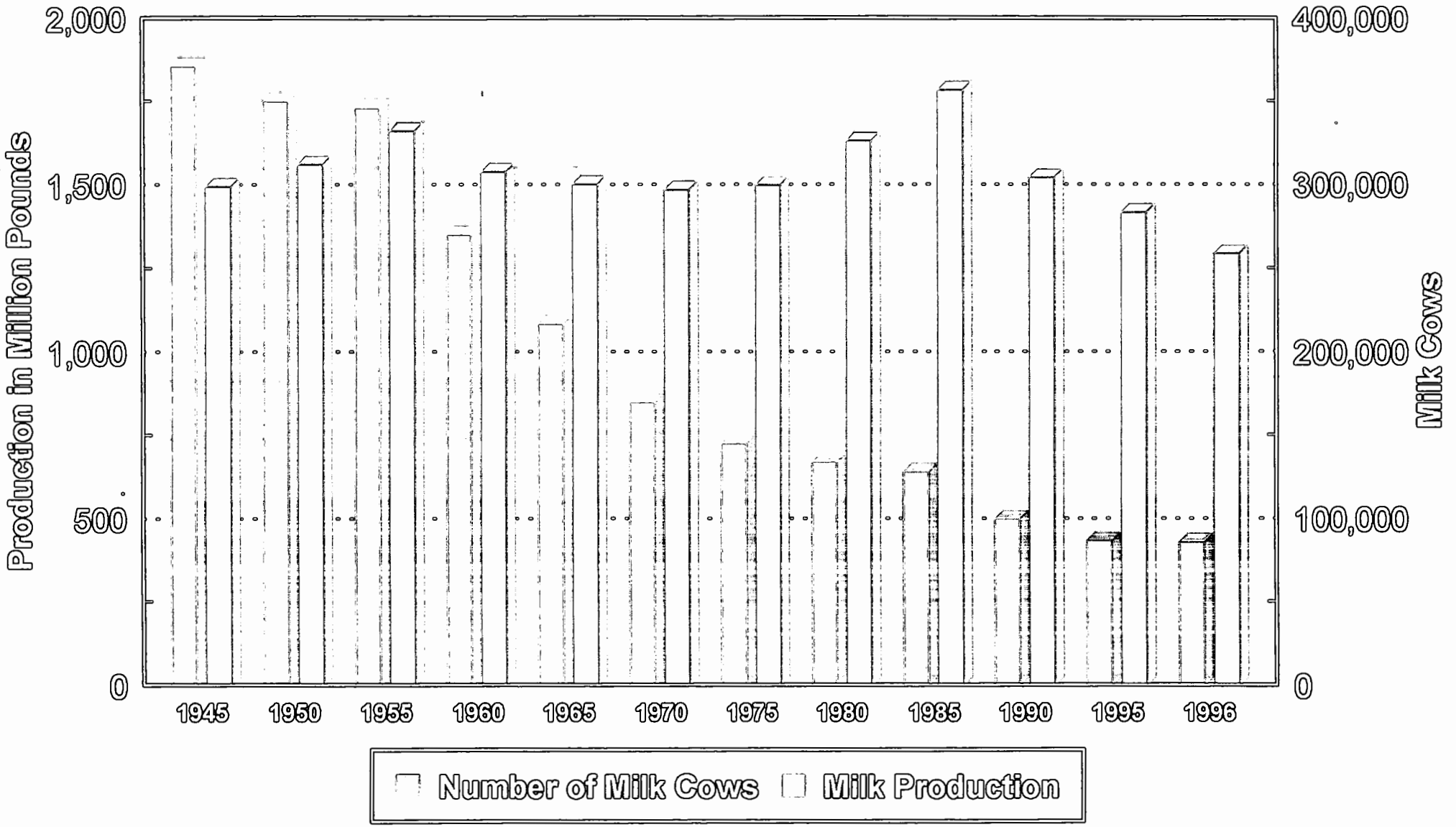
LEADING COUNTIES	NUMBER
Iredell	11,500
Randolph	5,500
Alleghany	4,600
Rowan	3,800
Alamance	3,600
Buncombe	3,400
Alexander	3,200
Henderson	3,200
Yadkin	3,200
Orange	3,000



ATTACHMENT III

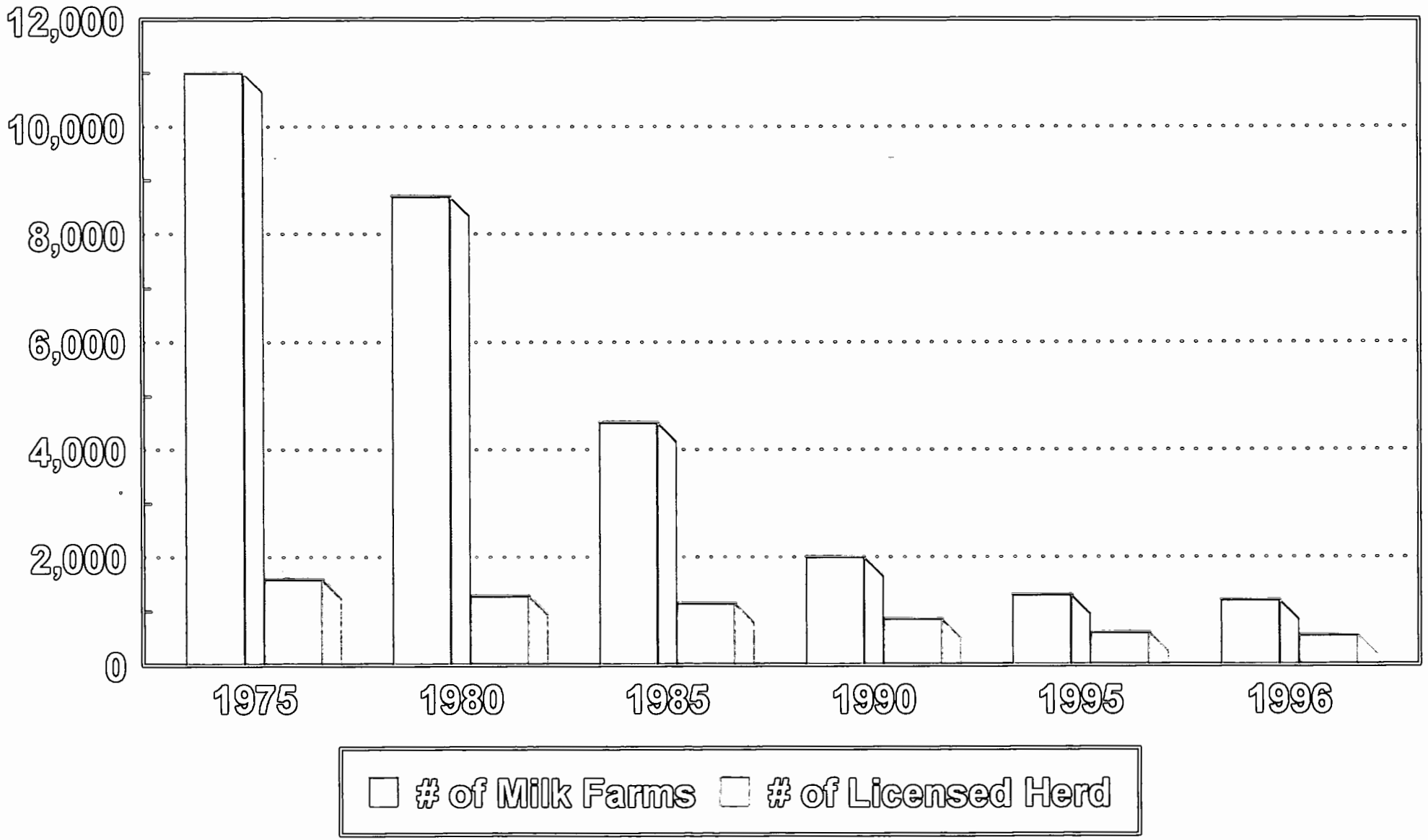
North Carolina Department of Agriculture
James A. Graham, Commissioner

Milk Cow Number and Milk Production



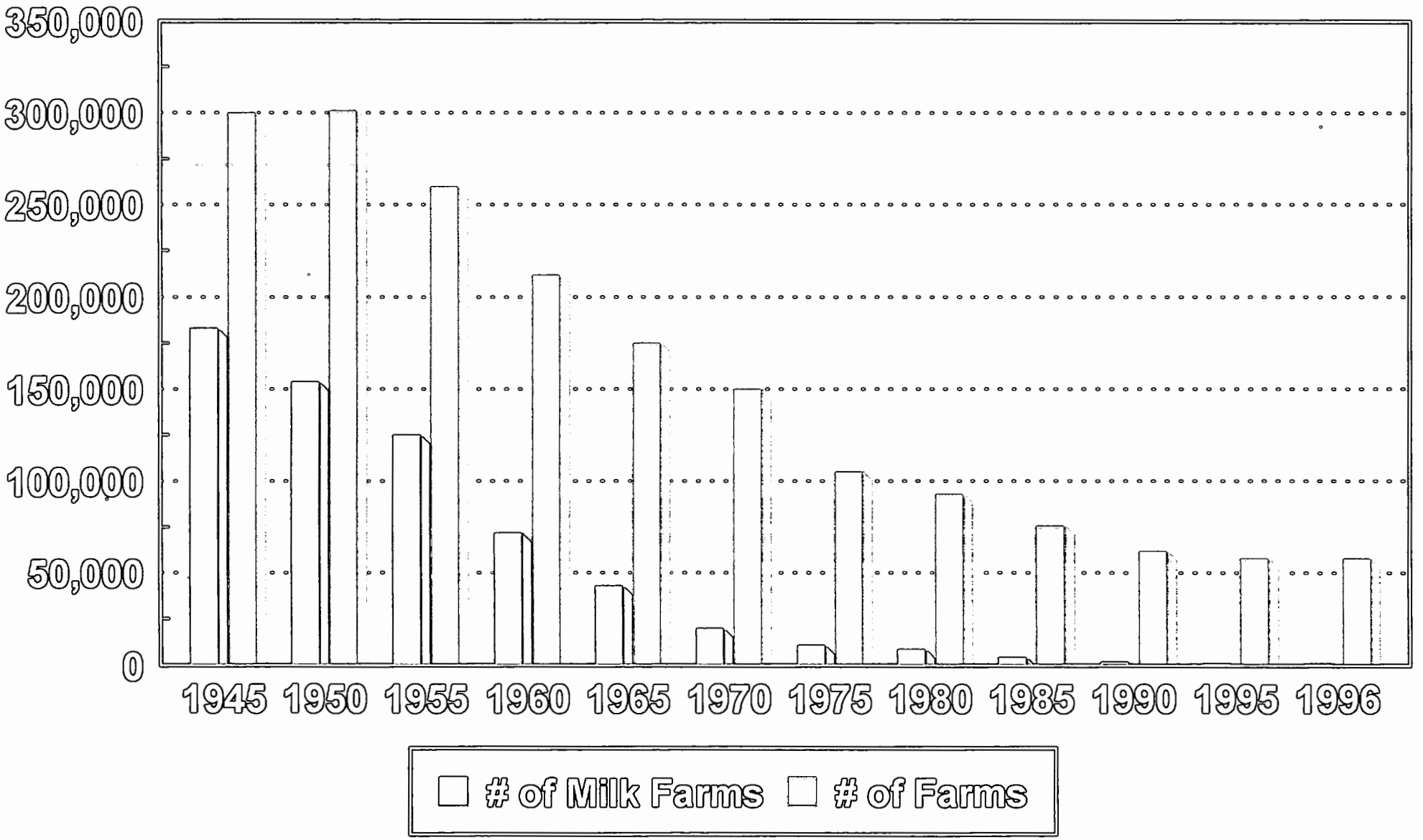
North Carolina Department of Agriculture
James A. Graham, Commissioner

Number of Milk Farms and Licensed Herds



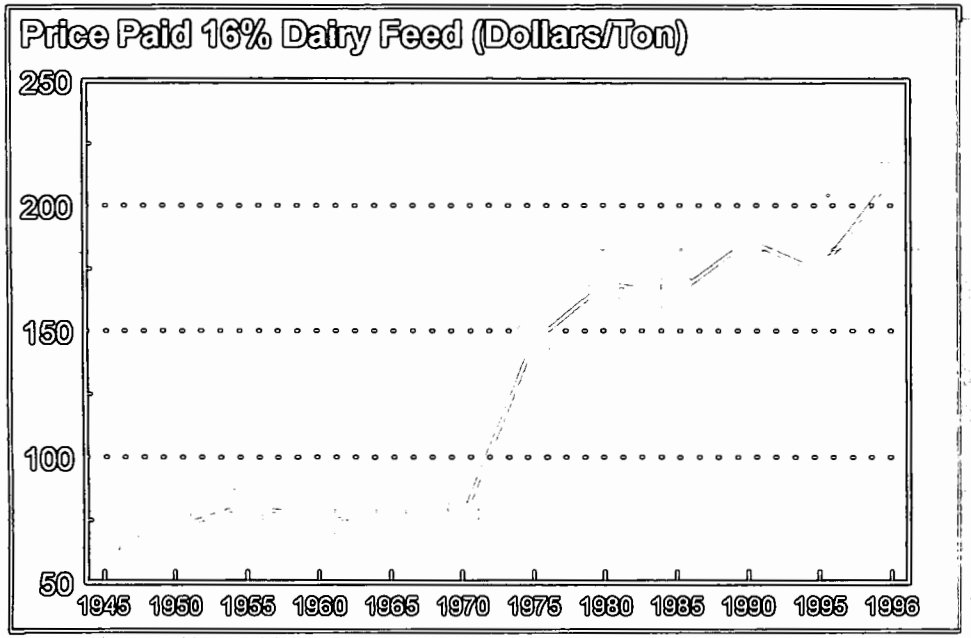
North Carolina Department of Agriculture
James A. Graham, Commissioner

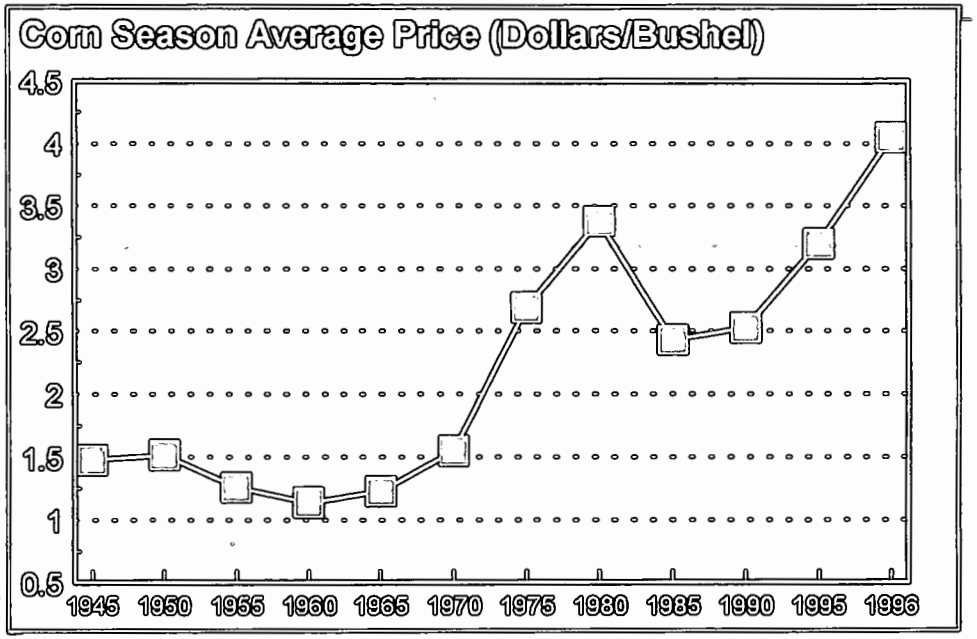
Number of Milk Farms and Number of Farms

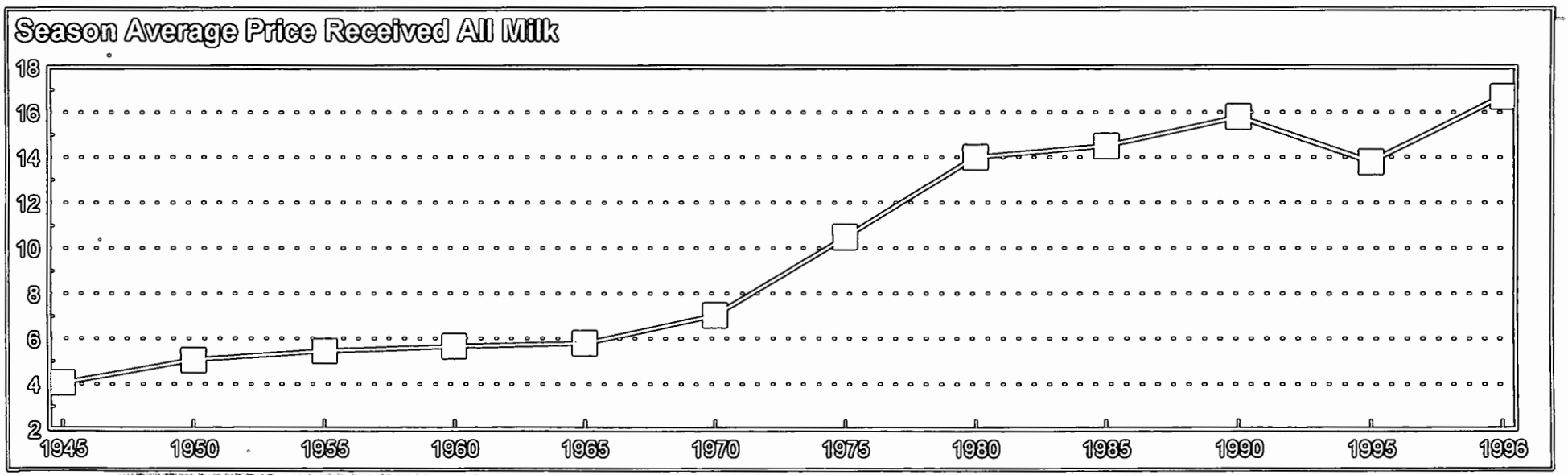


North Carolina Department of Agriculture
James A. Graham, Commissioner

Season Average Price







VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — MAY 20, 1997
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Fred Knott	2132 Hwy 158 Oxford, 27565 (retired)
Chester Lowder	NC Farm Bureau P.O. Box 27766 Raleigh
Jeffrey Bender	Bender Dairy RT 2 Box 111 Norlina 27563
[illegible]	N.C. Farm Bureau
Bill Carroll	~~NCFB~~ N.C Dept of Revenue
[illegible]	NC. Rev.
[illegible]	UNC Gen Admin - NCSU Ag Prgs
Peter Daniel	NCDA
Dewitt Hardee	NCDA
David McLeod	NCDA
Beckie Street	PPAB
[illegible]	NC Pork Council
[illegible]	N.C. Agribusiness
Leroy Jackson	Plant Food Assn of NC
David Meredith	N.C. State Grange
[illegible]	ZDA, PA
Norman Jordan Jr.	NC Dairy Products Assoc.
G. K. Davis	N.C. Dairy Producers Assoc.
Jim Knight	NC Dept of Ag
Hawk Johnson	Philip Morris
~~Land-O-Sun Dairy~~	
J. Allen Adams	LAND-O-SUN Dairy
Bill Farthing	" " " "
John May	Carolina/Virginia Dairy Producers Association
Sam Johnson	Atty

8

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 27, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

S.B. 508 - TURKEY GROWER USE VALUE EXCEPTION
H.B. 980 - CROP ALLOTMENT TAX APPRAISAL
H.B. 998 - SOUTHERN DAIRY COMPACT

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **11:00 A.M.** on **WEDNESDAY, MAY 21, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. EDWIN HARDY**

OFFICE: **ROOM 417A**

DATE: **THURSDAY, MAY 21, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 27, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. FRANK MITCHELL**

OFFICE: **ROOM 638**

DATE: **WEDNESDAY, MAY 21, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 27, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #998 - SOUTHERN DAIRY COMPACT

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **SEN. AARON W. PLYLER**

OFFICE: **ROOM 627**

DATE: **WEDNESDAY, MAY 21, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, MAY 27, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

S.B. #508 - TURKEY GROWER USE VALUE EXCEPTION

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE
TUESDAY, MAY 27, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

S.B. #508 - TURKEY GROWER USE VALUE EXCEPTION
SPONSOR SEN. PLYLER

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL
SPONSOR REP. EDWIN HARDY

H.B. #998 - SOUTHERN DAIRY COMPACT
SPONSOR REP. FRANK MITCHELL

ANNOUNCEMENTS

ADJOURNMENT

REMINDER

BE SURE AND REMIND YOUR REPRESENTATIVE:

HOUSE AGRICULTURE COMMITTEE
BREAKFAST

WE ARE HAVING BREAKFAST ONCE AGAIN AT THE FARMERS MARKET RESTAURANT

WEDNESDAY, MAY 28, 1997
7:00 A.M.

COMPLIMENTS OF
THE NORTH CAROLINA POULTRY FEDERATION, INC.

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

MAY 27, 1997
10:00 A.M.

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, May 27, 1997 at 10:00 a.m. Representative John W. Brown, Chairman, presided at the meeting with twenty House Members present and six House Members absent.

Chairman Brown introduced the pages serving the Committee and welcomed all guests.

Mr. Brown turned the meeting over to Representative Frank Mitchell to speak on House Bill #998. Representative Mitchell explained that HB #998 entitled: **AN ACT TO ENACT INTO LAW THE SOUTHERN DAIRY COMPACT, TO DIRECT THE APPOINTMENT OF MEMBERS FROM NORTH CAROLINA TO THE SOUTHERN DAIRY COMPACT COMMISSION, AND TO APPROPRIATE FUNDS** will go to Appropriations if given a favorable report by this Committee. Mr. Mitchell had a handout with some questions and answers that might be of some assistance (Attachment I).

At this time, Mr. Mitchell introduced Dr. Jeff Benson with the Department of Agriculture at North Carolina State University who would help answer any questions that the members might have. Dr. Benson stated that the University supported this bill.

Representative Hill stated that he had concerns that this bill might raise the price of milk. Dr. Benson stated that the price of milk was going up because of the lack of dairy farmers and that milk was being brought in from long distances. The price would go up regardless if this legislation passed or not.

Representative Arlie Culp moved for a favorable report and the bill be referred to the Committee on Appropriations. Further discussion followed.

Mr. Sam Johnson spoke for Carolina Virginia Dairy Products Association. He stated that there are important legal issues that have not be resolved. He further stated that the purpose of the Compact is to regulate the price that North Carolina and other southern dairy farmers in the Compact states receive for their product. The Carolina Virginia Dairy Products Association represents the dairy processors in the State and is of the opinion that the Compact will not accomplish the intended purpose but will (a) result in another layer of regulation and expense and (b) be detrimental to North Carolina producers and processors and consumers (Attachment II).

At this time, Chairman Brown recognized Weldon B. Denny, Deputy Commissioner with the North Carolina Department of Agriculture. Mr. Denny stated that the Department is in support of the bill.

Next Chairman Brown asked for a vote on Representative Culp's motion of a favorable report to the bill. The bill was voted upon, given a favorable report and refereed to the Committee of Appropriations. There was one NO vote (Representative Aldridge).

Representative Brown turned the meeting over to Senator Aaron Plyler the sponsor for Senate Bill #508. Senator Plyler explained that SB #508 entitled: **AN ACT TO PROVIDE THAT A TURKEY GROWER SHALL NOT BE DISQUALIFIED FROM USE VALUE TAXATION FOR A TWO-YEAR PERIOD IF THE GROWER'S LAND IS TAKEN OUT OF PRODUCTION SOLELY BECAUSE OF THE PRESENCE OF TURKEY DISEASE IN THE AREA** provides turkey producers who must take their land out of production because od disease an exception to the provisions in the General Statutes requiring that agricultural land be disqualified for present use valuation when it ceases to meet the qualifications for present use valuation.

Senator Plyler went on to explain when land is taken out of production, the property becomes taxable at its market value, and the difference between taxes that were due on the present use value basis and those that would hve been due on the market value for the preceding three years are immediately payable.

Senate Bill #508 provides that agricultural land in turkey production does not become disqualified if (1) the land was in turkey production within the preceding 2 years; (2) the land was taken out of production because of the presence of Poult Enteritis Mortality Syndrome in the county or a neighboring county; and (3) the land is otherwise eligible for present use value.

The act is effective for taxes imposed for taxable years beginning on or after July 1, 1997.

Several questions were taken from the floor. Representative Kaiser moved that the bill be given a favorable report. The bill was voted upon, was given a favorable report and refereed to the Committee on Finance.

Due to a the House Session at 10:45 a.m. and a Joint Session at 11:00 a.m. in honor of the Honorable Jesse A. Helms, United States Senator, the adjourned at 10:30 a.m.

John W. Brown — Anna P. Kidd

JOHN W. BROWN, CHAIRMAN ANNA P. KIDD, CLERK

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 998 A BILL TO BE ENTITLED AN ACT TO ENACT INTO LAW THE SOUTHERN DAIRY COMPACT, TO DIRECT THE APPOINTMENT OF MEMBERS FROM NORTH CAROLINA TO THE SOUTHERN DAIRY COMPACT COMMISSION, AND TO APPROPRIATE FUNDS.

☐ With a favorable report.

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

☐ 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 998*

Short Title: Southern Dairy Compact. (Public)

Sponsors: Representatives Brown and Mitchell.

Referred to: Agriculture, if favorable, Appropriations.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ENACT INTO LAW THE SOUTHERN DAIRY COMPACT, TO DIRECT THE APPOINTMENT OF MEMBERS FROM NORTH CAROLINA TO THE SOUTHERN DAIRY COMPACT COMMISSION, AND TO APPROPRIATE FUNDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 68.

"Southern Dairy Compact.

"§ 106-810. Southern Dairy Compact entered into; form of Compact.

The Southern Dairy Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I. Statement of Purpose, Findings, and Declaration of Policy

"§ 1. Statement of purpose, findings, and declaration of policy.

The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the Commission is to take such steps as are necessary to assure the continued viability of dairy farming in the South, and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is an essential agricultural activity of the South. Dairy farms, and associated suppliers, marketers, processors, and retailers, are an integral component of the region's economy. Their

ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential, and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

By entering into this compact, the participating states affirm that their ability to regulate the price that southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

Recent dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The system of federal orders, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the system of federal orders nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the system of federal orders be discontinued. In that event, the interstate commission may regulate the marketplace in lieu of the system of federal orders. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the system of federal orders.

ARTICLE II. Definitions and Rules of Construction

"**§ 2. Definitions.**

For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(1) 'Class I milk' means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subsection (b) of Section 3.

(2) 'Commission' means the Southern Dairy Compact Commission established by this compact.

(3) 'Commission marketing order' means regulations adopted by the Commission pursuant to Sections 9 and 10 of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the Commission. Such order may establish minimum prices for any or all classes of milk.

(4) 'Compact' means this interstate compact.

(5) 'Compact over-order price' means a minimum price required to be paid to producers for Class I milk established by the Commission in regulations adopted pursuant to Sections 9 and 10 of this compact, which is above the price established in federal marketing orders or by state farm price regulation in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the Commission.

(6) 'Milk' means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the Commission for regulatory purposes.

(7) 'Partially regulated plant' means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

(8) 'Participating state' means a state which has become a party to this compact by the enactment of concurring legislation.

(9) 'Pool plant' means any milk plant located in a regulated area.

(10) 'Region' means the territorial limits of the states which are parties to this compact.

(11) 'Regulated area' means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

(12) 'State dairy regulation' means any state regulation of dairy prices and associated assessments, whether by statute, marketing order, or otherwise.

"**§ 3. Rules of construction.**

(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the Commission the option to replace them with one or more commission marketing orders pursuant to this compact.

(b) This compact shall be construed liberally in order to achieve the purposes and intent enunciated in Section 1. It is the intent of this compact to establish a basic structure by which the Commission may achieve those purposes through the application, adaptation, and development of the regulatory techniques historically associated with milk marketing and to afford the Commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the Commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

ARTICLE III. Commission Established

"§ 4. Commission established.

There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The Commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in, the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the Commission.

"§ 5. Voting requirements.

All actions taken by the Commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment, or rescission of the Commission's bylaws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one vote in the conduct of the Commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area that covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the Commission's business.

"§ 6. Administration and management.

(a) The Commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The Commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the Commission, and, together with the treasurer, shall be bonded in an amount determined by the

Commission. The Commission may establish through its bylaws an executive committee composed of one member elected by each delegation.

(b) The Commission shall adopt bylaws for the conduct of its business by a two-thirds vote and shall have the power by the same vote to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form with the appropriate agency or officer in each of the participating states. The bylaws shall provide for appropriate notice to the delegations of all Commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The Commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the Governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the Commission may engage in all of the following:

(1) Sue and be sued in any state or federal court.

(2) Have a seal and alter the same at pleasure.

(3) Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes.

(4) Borrow money and to issue notes, to provide for the rights of the holders thereof, and to pledge the revenue of the Commission as security therefor, subject to the provisions of Section 18 of this compact.

(5) Appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties, and qualifications.

(6) Create and abolish such offices, employments, and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees.

(7) Retain personal services on a contract basis.

"§ 7. Rule-making power.

In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the Commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE IV. Powers of the Commission

"§ 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation.

The Commission may:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to

measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

(2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

(4) Prepare and release periodic reports on activities and results of the Commission's efforts to the participating states.

(5) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve, or promote more efficient assembly and distribution of milk.

(6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling, and for all other services, performed with respect to milk.

(7) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

"**§ 9. Equitable farm prices.**

(a) The powers granted in this section and Section 10 shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this Article authorizes the Commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents ($1.50) per gallon at Atlanta, Georgia, however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in 1990, and using that year as a base, the foregoing one dollar and fifty cents ($1.50) per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing

class price in accordance with and subject to such adjustments as the Commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

(d) The Commission may establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The Commission also may establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession, or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The Commission shall provide for similar treatment of producer-handlers under commission marketing orders.

(e) In determining the price, the Commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to, the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public, and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a compact over-order price, the Commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

(g) The Commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The Commission may reimburse other agencies for the reasonable cost of providing these services.

"§ 10. Optional provisions for pricing order.

Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to, any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the Commission, or a single minimum price for milk purchased from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials, and competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

a. With respect to regulations establishing a compact over-order price, the Commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

b. With respect to any commission marketing order, as defined in Section 2, subdivision (9), which replaces one or more terminated federal orders or state dairy regulation, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to subsection (a) of Section 18 of Article VII.

(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

(11) Other provisions and requirements as the Commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V. Rule-Making Procedure.

"**§ 11. Rule-making procedure.**

Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9, or amendment thereof, as provided in Article IV, the Commission shall conduct an informal rule-making proceeding to provide interested persons with an opportunity to present data and views. Such rule-making proceeding shall be governed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553). In addition, the Commission shall, to the extent practicable, publish notice of rule-making proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the Commission shall hold a public hearing. The Commission may commence a rule-making proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

"**§ 12. Findings and referendum.**

(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 53 (c)), the Commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in Section 13.

"**§ 13. Producer referendum.**

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9, is approved by producers, the Commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the Commission. The terms and conditions of the proposed order or amendment shall be described by the Commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the Commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the Commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the Commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) of this subsection and subject to the provisions of subdivisions (2) through (5) of this subsection.

(1) No cooperative that has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

(2) Any cooperative that is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the Commission.

(3) Any producer may obtain a ballot from the Commission in order to register approval or disapproval of the proposed order.

(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his or her approval or disapproval of the proposed order, shall notify the Commission as to the name of the cooperative of which he or she is a member, and the Commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

(5) In order to ensure that all milk producers are informed regarding a proposed order, the Commission shall notify all milk producers

that an order is being considered and that each producer may register his or her approval or disapproval with the Commission either directly or through his or her cooperative.

"**§ 14. Termination of over-order price or marketing order.**

(a) The Commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this Article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

(b) The Commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this Article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the Commission, have been engaged in the production of milk, the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this Article and shall require no hearing, but shall comply with the requirements for informal rule making prescribed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553).

ARTICLE VI. Enforcement

"**§ 15. Records, reports, access to premises.**

(a) The Commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the Commission may examine the books and records of any regulated person relating to his or her milk business and for that purpose, the Commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the Commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the Commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the Commission. The Commission may adopt rules further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the Commission of the name of any person violating any regulation of the Commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the Commission shall intentionally disclose information, by inference or otherwise, that is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars ($1,000) or to imprisonment

for not more than one year, or both, and shall be removed from office. The Commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

"**§ 16. Subpoena, hearings and judicial review.**

(a) The Commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the Commission stating that any order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. The handler shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Commission. After such hearing, the Commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within 30 days from the date of the entry of the ruling. Service of process in these proceedings may be had upon the Commission by delivering to it a copy of the complaint. If the court determines that the ruling is not in accordance with law, it shall remand such proceedings to the Commission with directions either (i) to make such ruling as the court shall determine to be in accordance with law, or (ii) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the Commission form obtaining relief pursuant to Section 17. Any proceedings brought pursuant to Section 17, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

"**§ 17. Enforcement with respect to handlers.**

(a) Any violation by a handler of the provisions of regulation establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the Commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

(1) Commencing an action for legal or equitable relief brought in the name of the Commission in any state or federal court of competent jurisdiction; or

(2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

(c) With respect to handlers, the Commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII. Finance

"§ 18. Finance of start-up and regular costs.

(a) To provide for its start-up costs, the Commission may borrow money pursuant to its general power under Section 6, subdivision (d), paragraph 4. In order to finance the cost of administration and enforcement of this compact, including payback of start-up costs, the Commission may collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the Commission convenes, in an amount not to exceed $.015 per hundred weight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the Commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the Commission's ongoing operating expenses.

(b) The Commission shall not pledge the credit of any participating state or of the United States. Notes issued by the Commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

"§ 19. Audit and accounts.

(a) The Commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(b) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the Commission.

(c) Nothing contained in this Article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

ARTICLE VIII. Entry into Force; Additional Members and Withdrawal

"**§ 20. Entry into force; additional members.**

The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia and when the consent of Congress has been obtained.

"**§ 21. Withdrawal from compact.**

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the Commission and the governors of all the participating states. No withdrawal shall affect any liability already already incurred by or chargeable to a participating state prior to the time of such withdrawal.

"**§ 22. Severability.**

If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compact state may accept the conditions of Congress by implementation of this compact.

"**§ 106-811. Appointment of members to the Southern Dairy Compact Commission.**

(a) The delegation from the State of North Carolina to the Southern Dairy Compact Commission, as established in Article IV of the Compact, shall be composed of five members appointed as follows:

(1) One member representing consumers of milk, appointed by the Governor.

(2) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

(3) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

(4) Two members appointed by the Commissioner of Agriculture, one of whom shall be a dairy farmer engaged in the production of milk at the time of appointment or reappointment.

(b) Members must be registered to vote in the State.

(c) Members shall serve a term of four years and may be reappointed, but no member shall serve more than three consecutive terms. Members shall serve until their successors are duly appointed. Any appointment to fill an unexpired term shall be for the balance of the unexpired term and shall be made by the appropriate

appointing authority. A member may be removed by the appointing authority, in accordance with G.S. 143B-13. The Commissioner of Agriculture shall designate one member of the delegation to serve as chair, at the pleasure of the Commissioner.

(d) Members of the delegation shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.

(e) A majority of the delegation shall constitute a quorum for the transaction of business.

(f) All clerical and other services required by the delegation shall be provided by the Commissioner of Agriculture."

Section 2. There is appropriated from the General Fund to the Southern Dairy Compact Commission, as established by Article III of the compact, as enacted in Section 1 of this act, the sum of twenty-five thousand dollars ($25,000) for the 1997-98 fiscal year and the sum of twenty-five thousand dollars ($25,000) for the 1998-99 fiscal year to be used by the Commission to conduct its activities pursuant to this act.

Section 3. This act becomes effective July 1, 1997.

DRAFT

Question and Answers About The Southern Interstate Dairy Compact (5/23/97)

1. Is the Compact constitutional, or does it suffer the same problem as other, state, fluid milk pricing programs?

An interstate compact is "invulnerable to constitutional attack under the Commerce Clause." Northeast Bancorp, Inc. V. Board of Governors of the Federal Reserve System, 472 U.S. 159, 174 (1985). Congressional approval of the Compact would thus eliminate the constitutional infirmity of individual state regulatory programs identified in West Lynn vs Massachusetts.

2. How is the farm price of raw milk currently regulated under federal law? Does the federal regulation distinguish between the milk produced within the Compact and that brought in from outside the Compact?

Federal law regulates uniformly the minimum price that all processors must pay for any *raw* milk purchased from dairy farmers for sale as fluid milk in a federal order. The federal regulation makes no distinction based on the geographic location of milk production for market. Processors who purchase raw milk outside the Compact area for fluid milk sales pay the same minimum price as processors located inside the Compact. Currently, most of the fluid milk consumed in the proposed Southern Compact area is processed locally.

3. What additional price regulation would be imposed by the Compact?

The prices set by the Market Orders are regulated minimum prices for the market. Farmers, individually or collectively, commonly obtain marginally higher prices through negotiation with their processor-customers. In addition, the DCMA currently negotiates some higher, "over-order" prices for Class I milk in the southern region. Unfortunately, the DCMA has not been able to hold the "over-order" price for raw milk in the southern region.

The Compact creates an interstate commission with authority to impose a regional over-order price for the Southern Compact area. The commission's authority extends only to the farm price for milk ultimately sold for fluid consumption in the Compact area. Any Compact regulation would be only a marginal, "over-order" addition to the federal floor price, and have no effect on the operation of the federal order program.

Examples of pricing under the Compact:

*For *bulk* milk: As noted above, if the Federal Market Order minimum price for *raw* milk was $14.69 per hundredweight and the Compact commission imposed a $1.00 "Compact Over-Order Price," the new regulated floor price for the Compact region would be $15.69 ($14.69 under federal regulation + $1.00 by operation of the Compact). Milk processors would thus be

required to pay $15.69 for all of the *raw* milk they purchased for ultimate sale as fluid milk in the Compact region.

*For packaged milk: The increase in the regulated floor would also be applied uniformly to packaged beverage milk brought from outside the Compact for sale in the Compact region. Using the $1.00 "Compact Over Price" example, this would mean that the processors outside the Compact providing this milk would pay $15.69 as their regulated floor price on the farm: the $14.69 federal Market Order price + the $1.00 Compact Over-Order Price for raw milk.

4. Would the Compact impose an "anti-competitive tariff" upon Southern Compact milk dealers and farmers, to enforce the Compact over-order price?

No. There would be no restriction placed on the ability of any non-Southern Compact farmer or processor, from any state, to market fluid milk in the Southern Compact region. The flow of milk into and out of the region would be according to the same competitive pattern as exists in today's market. The regulated market would also function the same as under today's federal regulation, except for any increase in the regulated floor price imposed under the Compact.

Moreover, the Compact would be administered completely unlike a tariff because the ***proceeds of the Compact regulation would be distributed to all farmers who supplied the regulated milk, without regard to the supplying farmers' states of residence.*** As under federal law, the Compact regulation would treat all of the regulated milk as part of a common, regulated "pool." The proceeds of the Compact pool, as with the federally-regulated pool, would be "blended" out uniformly to all farmers who supply the Compact pool and make up the Southern Compact milkshed, regardless of their state of residence.

In short, the Compact is not a tariff because the proceeds of the regulation will trace back to all the producing farms in any state, rather than remain only in the Southern Compact Region. As with existing federal law, this provided a uniform, regulatory framework for all farmers and processors doing business in the Southern Compact Region, without competitive advantage or disadvantage to anyone.

5. Could the Compact be used to subsidize sales of Southern Compact milk beyond the Compact region?

No. The Compact commission's regulatory authority is limited to milk sales within the Compact region and could not be used to subsidize sales beyond the Compact region.

6. What effect will the Compact have on consumer prices in the Southern Compact?

Passage of the Compact might cause a short-term increase in consumer prices. If the Compact commission does raise the farm price, it is likely the consumer price will rise in some proportionate amount in the short term. It must be noted, however, that there is a sufficient margin between the farm and consumer price to absorb a significant increase in the farm price

without any corresponding increase at the store, so that prediction of an increase in consumer prices is not a certainty.

7. What impact will the Compact have on the WIC program?

The Compact commission is expressly authorized to exempt the WIC program from application of any Compact regulation as necessary.

8. Won't increased prices reduce consumer demand, thereby harming farmers through reduced sales?

The commission must consider this elasticity of demand as part of the regulatory process of deciding whether to impose a price increase.

9. Will a higher Compact price cause increased production of surplus milk, lowering the price of farmers around the country?

No, the Compact would not cause production of surplus milk to the point of lowering the price paid to the farmer. Compact Sec 9(f) and the congressional consent provision require the Compact commission to implement a program to prevent overproduction as part of any regulation imposing an over-order price.

10. Could the Compact commission regulate the price of milk used for manufactured dairy products, or those that move in the national market?

Except the Northeast Dairy Compact, no other compacts are authorizing the pricing of a commodity. However, this Compact is significantly less complicated and less costly than some other interstate compacts that Congress has approved. The Northwest Power Act established an interstate commission responsible for designing a comprehensive energy conservation plan for the Pacific Northwest. The commission's operating budget is more than $8 million and affect the electric power rate base of every business and residence in the Pacific Northwest.

There are also a number of interstate compacts in place for the disposal of low-level radioactive waste. Strictly speaking, nuclear waste may not be a commodity, but Congressional authorization of its regulation is a far more aggressive use of the interstate compact clause than that proposed by this Dairy Compact.

12. Would this Compact be a precedent for other commodities?

A compact for fluid milk pricing is significantly different from compacts for other commodities might be. Several qualities, such as perishability, inelastic local demand and excessive bulk make milk a unique and regional commodity. In short, this compact's effect is severely limited in terms of product and geography. By contrast a compact for other commodities, such as tomatoes or wine, could not be so constrained in effect because they can be stored for long periods of time and are shipped great distances to a broader market.

The Southern Dairy Compact:

Why It Is Needed and What It Does

The Southern Dairy Compact establishes a regional milk pricing system for the southern region. Working with the existing federal milk pricing program, the Compact allows for the regulation of the farm price of fluid, or drinking, milk sold in the South. Uniquely serving both farmers and consumers in the South, the Compact will at once stabilize the region's dairy industry and protect the interests of consumers.

The southern states are establishing the Compact because the region's dairy farmers have not fared well under the current federal milk pricing system. In addition to the overall downward trend, federally established prices have also fluctuated erratically, making it difficult for farmers to develop dependable business plans for their farm operations. Not surprisingly, as a result, fully 171 of North Carolina's dairy farms have ceased operation during 1995 and 1996.

Besides their importance as the local, fresh source of a staple food stuff, dairy farms are an important part of North Carolina's agriculture economy. Sales of dairy products exceeded $192 million in 1995, fully affecting the state's economy more than $500 million.

On the other side of the equation, the Compact protects and promotes the interests of the region's consumers. The Compact would encourage stable pricing and help preserve a local supply of fresh, high quality milk at less cost than imported supplies.

In brief:

- The goal of the Compact is to stabilize milk production. GAO and USDA studies show that the erratic fluctuations in the federal price structure have paradoxically contributed to higher consumer milk prices along with reduced farmer income. Research shows also, conversely, that price stability keeps milk prices lower on the store shelf and higher on the farm.

- The Compact can stabilize milk prices to the benefit of consumers as well as farmers because the Compact Commission has the authority to adjust the erratic fluctuations in the federal price structure. By removing these erratic

fluctuations, the Commission will maintain farm price stability and, simultaneously, discourage sudden and sustained price hikes at the store level.

- The Compact also includes many specific provisions which protect the consumer -- contrary to what opponents of the Compact claim. The Compact requires that any price regulation be approved by a two-thirds vote of the Compact's delegation. Most significantly, any individual state may exempt itself from the pricing regulation by a simple vote of its delegation to the commission. These provisions simultaneously ensure that a consensus must exist before price regulations can be imposed and that the rights of the individual states are protected if such a consensus is lacking.

- The Commission has the additional authority to investigate and expose wholesale and retail price fixing. Research has shown that retail stores, especially, are able to use their market power to transmit increases in farm prices to the consumer without transmitting corresponding decreases in farm prices. The Commission's potent investigatory power will serve as a deterrent to price-fixing practices in the marketplace.

- Independent economists have studied what would have happened if the Compact had been in effect between 1992 and 1995. They determined, using USDA milk price data, that farm income could have gone up significantly without any increase in consumer prices.

SOUTHEAST DAIRY COMPACT
HOUSE BILL 998

INTRODUCTION

HB 998 was introduced by Rep. John Brown and Rep. Frank Mitchell to authorize North Carolina to appoint a delegation to the proposed Southern Dairy Compact Commission which would become operational when three of the Southern States joined and Congress authorizes the Commission to proceed.

The purpose of the Compact is to regulate the price that North Carolina and other southern dairy farmers in the Compact states receive for their product.

The Carolina Virginia Dairy Products Association represents the dairy processors in the State and is of the opinion that the Compact will not accomplish the intended purpose but will (a) result in another layer of regulation and expense and (b) be detrimental to North Carolina producers and processors and consumers.

This presentation is made in behalf of the processors by Sam Johnson, Atty., P.O. Box 1776, Raleigh, NC 27602, phone 919/743-2200 and I would appreciate the opportunity of participating in any future legislative meetings or studies.

Anti-trust laws have not permitted participation in behalf of the processors in the various meetings prior to the introduction of legislation.

SUMMARY OF LEGISLATION

Section 1. **Southern Dairy Compact Commission is Enacted** - - G.S. 106-810

Article 1. **Statement of Purpose and Declaration of Policy**

Article 2. **Definitions and Rules of Construction**

Article 3. **Commission established**
With three to five delegates and one vote from each state. Delegates must include one dairy farmer and one consumer representative. (4)
Voting Requirements
Two-thirds vote to establish or terminate an over-order price, but otherwise a simple majority. (5)
Administration and Management
Commission established and has powers. (6)
Rule-Making Power
Commission may enforce additional rules.(7)

Article 4. **Powers of Commission**

Powers of the Commission are to investigate, review marketing system, and economic forces affecting producers.

Equitable Farm Prices (9)

Commission establish marketing orders if federal marketing orders are not in effect, apply to class I milk, prices adjusted in region from $1.50 per gallon based on locations and consumer price index. (b)
Commission order applies to all classes and uses of milk. (c)
Commission may establish a compact over-order price for milk to be paid by pool plants and partially regulated plants and by other handlers receiving milk from producers located in a regulated area. (d)
In determining price Commission consider stated factors. (e)
Commission take such action as is necessary to avoid excess local production.(f)
Commission enter into agreements with state and federal agencies (g).

Optional Provisions for Pricing Order (10)

Regulations will classify milk, establish minimum prices for class I milk, may use flat pricing and formula pricing with location adjustments, zone differentials and competitive credits to regulated handlers who market outside the regulated area. (4)
Plan for uniform payment to producers and handlers, establish an equalization pool throughout the regulated area. (5)
Persons who bring class I milk into regulated area to make compensatory payments to equalize the costs. (6)
Provisions relating to partially regulated plants (7)
Accounts adjusted for payment with respect to producer settlement fund of federal or state marketing order or regulation. (8)
Handlers pay assessment to cover costs of Compact. (9)
Reimbursement to participants of WIC program. (10)
Order may contain other necessary provisions (11)

Article 5. **Rule-making Procedure**.(11)

Commission conduct informal rule-making pursuant to Federal Administrative Procedure Act, publish notices of rule-making, hold public hearings. Commission may commence rule-making or act upon the petition of milk producers or other groups.

Findings and Referendum (12)

Commission make findings of fact with respect to (a) public interest of the establishment of minimum milk prices; (b) levels of price to cover producers costs and allow supply of milk in area; (c) provisions of order in public interest; (d) terms of order or amendment approved

by producers.

Producer referendum (13)
Referendum held to determine if issuance or amendment of regulations to establish over-order price or marketing order is approved by the producers. Two-thirds or producers must approve order or amendment to become effective.

Termination of over-order price or marketing order (14)
Commission may terminate over-order price or marketing order when (a) the price or order does not follow the polices of the Compact (b) termination is favored by majority of producers. Termination of an order must comply with the Federal Administrative Procedures Act.

Article 6. **Enforcement**
Records, reports, access to premises (15)

Subpoena, hearing and judicial review (16)

Enforcement with respect to handlers (17)

Article 7. **Finance**
Finance of start-up and regular costs. (18)
Commission may borrow money, collect assessment from handlers on monthly basis for up to one year not to exceed $.015 per hundred weight of milk.

Audit and accounts (19)

Article 8. **Entry into force; Additional Members and Withdrawal**
Compact becomes effective when three states have enacted the Compact and the consent of Congress has been obtained. (20)

Withdrawal from Compact - -State can withdrawal effective one year after written notice. (21)

Severability Clause (22)

Appointment of members to Compact G.S. 106-811.- - NC delegation of five members; consumer, leg appointees, farmer. Term, quorum.

Section 2. Appropriations from the General Fund to the Southern Dairy Compact Commission of $25,000 for 1997-1998 and $25,000 for 1998-1999.

Section 3. Effective date of Legislation - - July 1, 1997.

DISCUSSION

1. Milk is a national commodity and subject to market conditions and supply and demand. Both bulk milk and packaged milk will move from region to region based on economic circumstances.

Raw milk is probably not regulated under the Congressional Act and packaged milk is apparently subject to regulation, if the compact is deemed lawful, and this creates a distribution issue from the various regions of the states in which milk can be shipped as raw or bulk or packaged.

As an example, California vegetables and Florida vegetables are an agricultural product found in the market place which can be shipped to North Carolina, even though most of the same vegetables can be grown during the correct season in our state.

At this time North Carolina milk is sold in many adjoining and nearby states by North Carolina processors and raw milk from out of state producers comes in our state and is purchased by both producer cooperatives and processors.

2. There are important legal issues that have not been resolved. A federal judge heard a challenge to the Northeast Compact on May 22, 1997 and the result will not be known for several weeks and then there are further legal steps in the case.

As stated by legal counsel at a previous meeting, some of the issues remaining in the challenge to the northeast compact are similar to issues that caused the demise of the North Carolina Milk Commission a few years ago.

Those of you who were around at that time would have concluded that the Milk Commission no longer served a useful purpose as a regulatory body.

3. It is my understanding that only Louisiana has adopted membership in the compact and Arkansas has taken a step in that direction and assuming that North Carolina moves in that direction -- this can hardly be called a compact - -these states are many miles apart and I am certain they have different interests within their jurisdictions with reference to production and marketing of milk.

This causes me to believe that much more study of the issue is seriously needed.

4. A major problem for North Carolina producers is regulatory. In response to this concern the Carolina/Virginia Dairy Products Association last month authorized me during recent weeks to work with producer groups to assist their efforts in the following areas:

a. Monitor the Environmental Management Commission meetings and committees and Water Quality and Environmental Committees and help develop an action plan and road map for interpretation of upcoming regulations.

b. Assist in requests that no new regulations be imposed on the industry until dairy producers and dairy organizations have the opportunity to respond to current regulations because of differences in interpretation and implementation.

c. Work on moving control of regulations to one state government agency versus local control and multiple state agency control, whereby dairy producers have one location to seek help in resolving regulatory concerns.

5. It is believed that North Carolina producers are efficient and with the help of state regulators and educators - - agribusiness - - environmental - - and others - - the environment can be improved in our state for the benefit of our producers/farmers and our processors/ bottlers who seek to cooperate in solving the problem of milk production and distribution in our state.

CONCLUSION

In behalf of the North Carolina Dairy Products Association, let me state there is a genuine concern for the well-being of the dairy industry in North Carolina.

Appreciation is expressed to the House Agriculture Committee for permitting us to make this presentation and we desire to participate in future discussions of this issue.

Prepared by:
Sam Johnson, Atty for.
Carolina Virginia
Dairy Products Association
P.O. Box 1776
Raleigh, NC 27602
919/743-2200

F:\DOCS\SHJ\cvadp\Dairy Summary.wpd
(May 27, 1997)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 508
Rules and Operations of the Senate Committee Substitute Adopted 4/29/97

Short Title: Turkey Grower Use Value Exception. (Public)

Sponsors:

Referred to: Finance.

March 25, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A TURKEY GROWER SHALL NOT BE DISQUALIFIED FROM USE VALUE TAXATION FOR A TWO-YEAR PERIOD IF THE GROWER'S LAND IS TAKEN OUT OF PRODUCTION SOLELY BECAUSE OF THE PRESENCE OF TURKEY DISEASE IN THE AREA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.3 is amended by adding a new subsection to read:

"(e) Notwithstanding the provisions of subsection (a) of this section, agricultural land that meets all of the following conditions does not lose its eligibility for present use value treatment solely on the grounds that it is no longer in actual production, it no longer meets the minimum income requirements, or both:

(1) The land was in actual production in turkey growing within the preceding two years and qualified for present use value treatment while it was in actual production.

(2) The land was taken out of actual production in turkey growing solely for health and safety considerations due to the presence of Poult Enteritis Mortality Syndrome among turkeys in the same county or a neighboring county.

(3) The land is otherwise eligible for present use value treatment."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1997.

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — Name of Committee

MAY 27, , 1997 — Date

10:00

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Larry M. Sand	J. G. & L. Dairy
Chris Jackson	Jackson Dairy 1566 Dairy Rd Dunn N.C.
William Blackwelder	Blackwelder Bros. Dairy 457 Blackwelder Rd Stanfield N.C. 28163
Carl T. Reed	N.C. Cooperative
J M Wright Jr	Wright Dairy 315 Wright Dairy Rd Reidsville NC
Joe A. Pless	Geo. Pless & Sons Dairy, Rockwell N.C.
Bill Carrington	Carrington Dairy Farm - Mebane, N.C.
Norman Jordan Jr.	NC Dairy Producers Assn.
Dan Hunsucker	Hunsucker Dairy
Jeff Bender	Bender Dairy Norlina, NC
Lisa Bender	Bender Dairy Norlina, NC
Bill Farthing	Parker Poe Law Firm. Charlotte
Jim Hunter	Hunter Farms - Chas. NC
Curtis Baker	Land-O-Sun Dairies
Sam Johnson	Atty
John Max	Carolina Dairies Corp.
John Cyrus	N.C. State Grange
Leroy Jackson	Plant Food Assn of NC
Dave Murdock	NC State Grange
Butch Brooks	Sunnybrook Farm Inc.
H K Davis	H.K. & Ken Davis Dairy Inc.
Larry B. Wooten	NC Farm Bureau
Denith Horne	NCDA
Fred Yates	N.C. Farm Bureau
Donald L. Davis	NC Farm Bureau 424 Waybern Ind. Dr. Rt. 8,

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

MAY 27, 1997
1:00 P.M.

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, May 27, 1997 at 1:00 p.m. Representative John W. Brown, Chairman, presided at the meeting with thirteen House Members Present, twelve House Members absent and one House Member excused.

Because of the short time allotted for the morning meeting due to the visit of the Honorable Jesse A. Helms, the Agriculture Committee met in order to discuss House Bill #980 entitled: **AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES** sponsored by Representative Edwin Hardy.

Representative Baker moved to adopt the Committee Substitute for discussion. Motion carried.

After considerable discussion and some confusion, it was the favor of the Representative Hardy, sponsor of the bill, to postpone the bill until our Tuesday meeting. Chairman Brown honored his request.

The meeting adjourned at 1:35 p.m.

John W. Brown
JOHN W. BROWN, CHAIRMAN

Anna P. Kidd
ANNA P. KIDD, CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 980

Short Title: Crop Allotment Tax Appraisal. (Public)

Sponsors: Representatives Hardy, Baker, Daughtry; Aldridge, Arnold, Berry, Brown, Cansler, Capps, Clary, Creech, Davis, Decker, Eddins, Hall, Hiatt, Hill, McComas, Miner, Mitchell, Morris, Nichols, Russell, Sherrill, Starnes, and G. Wilson.

Referred to: Agriculture, if favorable, Finance.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.01 reads as rewritten:

"**§ 105-277.01. Certain farm products and land with crop allotments classified for taxation at reduced valuation.**

(a) Farm ~~products (including~~ products, including crops but excluding poultry and other ~~livestock)~~ livestock, held by or for a cooperative stabilization or marketing association or corporation to which they have been delivered, conveyed, or assigned by the original producer for the purpose of sale are hereby designated a special class of property under authority of ~~Article V, Sec. 2(2),~~ Section 2(2) of Article V of the North Carolina Constitution. Before being assessed for taxation the appraised valuation of farm products so classified shall be reduced by the amount of any unpaid loan or advance made or granted thereon by the United States government, an agency of the United States government, or a cooperative stabilization or marketing association or corporation.

(b) Land on which there are acreage or poundage allotments for farm commodities is designated a special class of property under authority of Section 2(2)

of Article V of the North Carolina Constitution. The value of these allotments shall not be considered in appraising land classified under this subsection."

Section 2. G.S. 105-289(a)(5) reads as rewritten:

"(5) To prepare and distribute annually to each assessor a manual that establishes five expected net income per acre ranges for agricultural land, horticultural land, and forestland, and establishes a method for appraising nonproductive land as a percentage of the lowest use-value established for productive land. The high and low net income amount in each range may differ by no more than fifteen dollars ($15.00). The basis for establishing each range shall be soil productivity.

For agricultural land, the expected net income per acre ranges shall be based on the actual yields and prices of corn and soybeans over a period of at least the five previous years, and the actual fixed and variable costs, including an imputed management cost, incurred in growing corn and soybeans over the same period of time. ~~The manual shall contain recommended adjustments to the net income per acre ranges for the growing of crops subject to acreage or poundage allotments.~~

Expected net income per acre ranges shall be similarly established for horticultural land and forestland, using typical horticultural or forest products in various growing regions of the State instead of corn and soybeans."

Section 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1998.

VISITOR REGISTRATION SHEET

HOUSE AGRICULUTHRE COMMITTEE — Name of Committee
MAY 27, 1997 — Date
1:00 p.m.

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
LEIGHTON ROPER	2DA, PA
Andy Ellis	NC Farm Bureau
Julian Philpott	NC Farm Bureau
[illegible]	WCSR
R.E. Stuthers	Co. Comm
Teresa Hardesty	NC. Pork Council

HOUSE AGRICULTURE COMMITTEE

Subcommittee to study HB 980, Crop Allotment Tax Appraisal

Chairman John Brown appointed Rep. Dewey L. Hill, Chairman; Rep. Gene Rogers; Rep. Ronnie Smith and Rep. Doug Yongue to study HB 980.

The subcommittee met at 5:00 p.m. on Monday, May 26, 1997 in Room 612 of the Legislative Office Building. All subcommittee members were present. Rep. Hill recognized Rep. Smith who requested staff to prepare an amendment which would hold the counties and cities harmless from the crop allotment.

The amendment was rolled into a committee substitute which will be presented to the full committee on Tuesday, June 3, 1997.

All members were in agreement and Rep. Hill adjourned the subcommittee.

Submitted by:

Virginia M. McCann
Subcommittee Clerk

Rep. Dewey L. Hill
Subcommittee Chair

AGENDA

HOUSE AGRICULTURE COMMITTEE
TUESDAY, JUNE 3, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL
REP. SANDY HARDY

H.B. #1055 - ARBITRATION OF SEED CLAIMS
REP. CAROLYN RUSSELL

ANNOUNCEMENTS

ADJOURNMENT

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, JUNE 3, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL
H.B. #1055 - ARBITRATION OF SEED CLAIMS

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **10:00 A.M.** on **THURSDAY, MAY 29, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. CAROLYN RUSSELL**

OFFICE: **ROOM 2207**

DATE: **THURSDAY, MAY 29, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, JUNE 3, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #1055 - ARBITRATION OF SEED CLAIMS

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. SANDY HARDY**

OFFICE: **ROOM 417A**

DATE: **THURSDAY, MAY 29, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, JUNE 3, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL

We would like to have you attend this meeting.

Representative JOHN W. BROWN
Chairman

ANNA KIDD (Committee Clerk)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

JUNE 3, 1997

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, June 3, 1997 at 10:00 a.m. Chairman Brown presided at the meeting with twenty two House Members present and four House Members absent.

Chairman Brown introduced the pages serving the Committee and welcomed all guests.

At this time, Representative Brown turned the meeting over to Representative Carolyn Russell to speak on House Bill #1055. Representative Russell explained HB #1055 entitled: **AN ACT TO PROVIDE FOR THE MANDATORY ARBITRATION OF CLAIMS RELATED TO DEFECTIVE SEED** to the Members.

Representative Russell stated that this bill would mandate the arbitration of seed claims. Defective seed complaints would be required to be filed within a time frame that would allow inspection of the affected seed, crops, or plants.

She went on to explain that Section l of the bill repeals the existing provisions in the agriculture statutes allowing a farmer to file a complain with the Commissioner of Agriculture and have the Department conduct an investigation to determine the facts of the matter and, when appropriate, recommend money damages as a result of the seed failure.

Section 2 of the bill sets forth the new provisions requiring arbitration of seed claims. G.S. 106-277.30 would require a person who believes that they have been damaged by failure of seeds to perform as labeled to file a complaint with the Commissioner of Agriculture and have the matter considered by an arbitration committee as a condition precedent to the filing of a legal action.

The complaint must be filed within time to allow inspection of the affected seeds, crops, or plants. The person must pay a $100 filing fee with the complaint to offset the expenses of the arbitration committee. A copy of the complaint shall be sent to the dealer by certified mail and the dealer may file an answer within l0 days of receipt of the complaint.

Representative Russell explained that in order to trigger the mandatory arbitration requirement, the seed dealer must place on the label notice that arbitration is required under the seed laws of some states as a precondition to maintaining a legal action. A seed

dealer against whom an action has been brought may also request an investigation by the arbitration committee. A filing fee of $100 must accompany the request for an investigation.

G.S. 106-277.31 sets forth the membership of the arbitration committee. The committee is to consist of 5 members appointed by the Commissioner. The Director of the Agriculture Research Service at NCSU, the Director of the North Carolina Cooperative Extension Service, and the President of the North Carolina Seedsmen's Association shall each recommend one member for appointment. Of the other two members, one shall be a farmer who is not connected to seed sales and one shall be an employee of the Department of Agriculture.

G.S. 106-277.32 sets forth the duties of the arbitration committee. In conducting an investigation the committee may (l) examine the buyer about how the seed was used; (2) examine the seller about how the seed was packaged, labeled, and sold; (3) grow a sample of the seed; (4) hold informal hearings'(5)seek evaluations from experts in allied disciplines; and (6) inspect the affected site. No investigation shall be made by less than the whole committee unless the chair of the committee directs so in writing. The record of the committee's activities shall be kept on file at the Department. All findings shall be transmitted to the parties within 30 days of completion of the arbitration. The findings shall be binding on the parties to the extent that they have agreed to be bound in any contract governing the purchase of the seed.

G.S. 106-277l33 provides for the filing of a legal action after the arbitration proceedings are completed. The report of arbitration may be introduced as evidence of the facts found in the report and the court may give such weight to the committee's findings and conclusions of law as recommendations as the court deems appropriate. In addition the court may take into consideration any finding with respect to the effect of a failure to cooperate with the arbitration and the effect of any delay in the proceedings on the arbitration committee's ability to determine the facts.

Section 3 of the act appropriates $10,000 in each year of the biennium to implement the act.

The act becomes effective July 1, 1997.

Several questions were taken from the floor. Howard M. Singletary, Director of Plant Industry with the North Carolina Department of Agriculture stated that they supported this bill. Representative Buchanan moved for a favorable report. Representative Owen said it was a good bill and moved for a favorable report. Representative Rogers stated that this set a dangerous precedent and recommended a vote against the motion on the table. Taylor Jeffries with the North Carolina Seedsmen's Association stated that they were in support of this bill.

Representative Frank Mitchell moved for adoption of an amendment sent forth. Motion was carried. Further discussion followed.

Chairman Brown announced that there was a motion on the floor to give HB 1055 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. Motion carried.

Chairman Brown next introduced Representative Sandy Hardy sponsor for HB #980 entitled: **AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED INA PPRAISING LAND FOR AD VALOREM TAX PURPOSES.** Representative Hill moved that the members adopt the Committee Substitute for HB #980. At this time, Representative Hardy announced to the Members that this Committee Substitute was unacceptable to the sponsor. Representative Hardy stated that it is understandable that some counties would lose money under this bill. Representative Hill stated that some counties apparently are taxing, while some are not. Several questions and discussion followed.

Representative John Nichols moved for an unfavorable report for Committee Substitute PCS-1384. Representative Ownes felt that the Committee Substitute could possibly be fixed with an amendment. Representative Hill offered an amendment. Representative Nichols called for the question. Motion was carried with three NO's. The original version of HB #980 may be put back on the calendar for the next meeting.

The meeting adjourned at 11:00 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD, CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1055*

Short Title: Arbitration of Seed Claims. (Public)

Sponsors: Representative Russell.

Referred to: Agriculture, if favorable, Finance.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE MANDATORY ARBITRATION OF CLAIMS RELATED TO DEFECTIVE SEED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-277.29 is repealed.

Section 2. Article 31 of Chapter 106 of the General Statutes is amended by adding the following new sections:

"**§ 106-277.30. Condition precedent to filing an action; notice required.**

(a) Complaint by Buyer. -- When a buyer believes that he or she has suffered damages due to the failure of agricultural or vegetable seed to produce or perform as labeled, as warranted, or as a result of negligence, the buyer shall make a sworn complaint against the dealer from whom the seeds were purchased, alleging the damages sustained or to be sustained, and file the complaint with the Commissioner of Agriculture within such time as to permit inspection of the seed, crops, or plants. The buyer shall send a copy of the complaint to the dealer by registered mail. A filing fee of one hundred dollars ($100.00) shall be paid to the Commissioner of Agriculture with each complaint filed. This fee may be used by the Commissioner to offset the expenses of the arbitration committee incurred under G.S. 106-277.32. Within 10 days after receipt of a copy of the complaint, the dealer may file an answer to the complaint and, in that event, shall send a copy to the buyer by registered mail.

(b) Notice Required. -- The seed dealer shall legibly print or type on the seed container or affix a label on the seed container a notice in the following form or using reasonably equivalent language:

'Notice of Mandatory Arbitration

Under the seed laws of some states, arbitration is required as a precondition of maintaining certain legal actions against a seller of seed. Information about this requirement where applicable, may be obtained from a State's Commissioner of Agriculture or corresponding chief agricultural official.'

(c) Condition Precedent. -- Complying with subsection (a) of this section is a condition precedent to the buyer's right to file an action against the seed dealer. This subsection does not apply if the seed dealer fails to provide notice as required under subsection (b) of this section.

(d) Investigation Requested by Seed Dealer. -- Any seed dealer against whom an action is brought in any court, State or federal, by a buyer who alleges that the buyer has suffered damages due to the failure of seeds purchased from a seed dealer to perform as labeled, as warranted, or as a result of negligence may request an investigation by the arbitration committee pursuant to G.S. 106-277.32. A filing fee of one hundred dollars ($100.00) shall be paid to the Department of Agriculture by the party requesting the investigation.

(e) Referral to Committee. -- The Commissioner of Agriculture shall refer the complaint and the answer to the complaint, if any, to the arbitration committee to investigate and make findings and recommendations on the matters complained of pursuant to G.S. 106-277.32.

"**§ 106-277.31. Arbitration committee created; membership; duties.**

(a) The Commissioner of Agriculture shall appoint an arbitration committee composed of five members, three of whom shall be appointed upon the recommendation of the following: Director of the Agricultural Research Service, North Carolina State University; Director of the North Carolina Cooperative Extension Service, North Carolina State University; and President of the North Carolina Seedsmen's Association. The other two members shall include: one farmer who is not connected in any way to selling seeds at retail or wholesale and one employee of the Department of Agriculture. An alternate for each member shall also be appointed in the same manner as that member was appointed to serve whenever that member is unable or unwilling to serve. Each member of the committee shall serve until replaced by the Commissioner of Agriculture. The committee shall elect a chairperson. The chairperson shall conduct all meetings and deliberations and direct all other activities of the committee.

(b) A clerk shall be appointed to serve the committee. The clerk shall be an employee of the Department of Agriculture. The clerk shall keep accurate and correct records of all meetings and deliberations and perform other duties for the committee as directed by the chairperson.

(c) The purpose of the arbitration committee is to assist seed buyers and agricultural seed dealers in determining the matters alleged in complaints made by buyers against seed dealers.

(d) The arbitration committee may be called into session by the Commissioner of Agriculture at the Commissioner's discretion or upon the direction of the chairperson to consider the matters referred to it by the Commissioner of Agriculture.

(e) The Department shall provide administrative support for the investigation under this section. The committee shall adopt rules to govern investigations and hearings. A copy of the rules shall be mailed to each party to a dispute upon receipt of a complaint.

(f) Members of the committee appointed by the Commissioner who are not governmental employees shall be entitled to receive reimbursement for necessary travel and subsistence expenses pursuant to G.S. 138-5. Other members of the committee shall not be entitled to any compensation or reimbursement of expenses from the Department of Agriculture.

(g) The Attorney General shall represent the committee in any and all legal proceedings that may arise concerning or against the committee.

"§ 106-277.32. Duties of arbitration committee.

(a) In conducting its investigation of claims referred by the Commissioner of Agriculture, the arbitration committee may engage in all of the following activities:

(1) Examine the buyer regarding the buyer's use of the seed of which the buyer complains and examine the seed dealer on the dealer's packaging, labeling, and selling of the seed alleged to be faulty.

(2) Grow a representative sample of the alleged faulty seed to production when such action is deemed by the committee to be necessary.

(3) Hold informal hearings at a time and place directed by the chairperson upon reasonable notice to the buyer and the seed dealer.

(4) Seek evaluations from authorities in allied disciplines, when deemed necessary by the committee.

(5) Visit and inspect the affected site and take samples, make plant counts, and take pictures of affected and unaffected areas.

(b) The committee shall keep a record of its activities and reports on file in the Department of Agriculture. The Department shall transmit all findings and recommendations to the buyer and to the seed dealer within 30 days of completion of the arbitration.

(c) No investigation shall be made by less than the whole membership of the committee unless the chairperson directs such investigation in writing. Such investigation shall be summarized in writing and considered by the committee in reporting its findings and making its recommendations.

(d) The report of arbitration shall be binding upon all parties to the extent, if any, that they have so agreed in any contract governing the sale of the seed.

"§ 106-277.33. Filing an action regarding a defective seed claim.

(a) In the absence of an agreement to be bound by arbitration, a buyer may file an action against a seed seller or assert such claim as a counterclaim or defense in any action brought by the seed seller at any time after the receipt of the report of arbitration under G.S. 106-277.32.

(b) In any action involving a complaint that has been the subject of arbitration under G.S. 106-277.32, any party may introduce the report of arbitration as evidence

of the facts found in the report, and the court may give such weight to the committee's findings and conclusions of law and recommendations as to damages and costs as the court deems appropriate, based upon all the evidence before the court. The court may consider any finding of the committee with respect to the failure of any party to cooperate in the arbitration proceedings, including any finding as to the effect of delay in filing the arbitration claim upon the committee's ability to determine the facts of the case."

Section 3. There is appropriated from the General Fund to the Department of Agriculture the sum of ten thousand dollars ($10,000) for the 1997-98 fiscal year and the sum of ten thousand dollars ($10,000) for the 1998-99 fiscal year to be used to implement and administer this act.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1055*
Proposed Committee Substitute H1055-PCS4123

Short Title: Arbitration of Seed Claims. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE MANDATORY ARBITRATION OF CLAIMS RELATED TO DEFECTIVE SEED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-277.29 is repealed.

Section 2. Article 31 of Chapter 106 of the General Statutes is amended by adding the following new sections:

"**§ 106-277.30. Condition precedent to filing an action; notice required.**

(a) Complaint by Buyer. -- When a buyer believes that he or she has suffered damages due to the failure of agricultural or vegetable seed to produce or perform as labeled, as warranted, or as a result of negligence, the buyer shall make a sworn complaint against the dealer from whom the seeds were purchased, alleging the damages sustained or to be sustained, and file the complaint with the Commissioner of Agriculture within such time as to permit inspection of the seed, crops, or plants. The buyer shall send a copy of the complaint to the dealer by registered mail. A filing fee of one hundred dollars ($100.00) shall be paid to the Commissioner of Agriculture with each complaint filed. This fee may be used by the Commissioner to offset the expenses of the arbitration committee incurred under G.S. 106-277.32. Within 10 days after receipt of a copy of the complaint, the dealer may file an answer to the complaint and, in that event, shall send a copy to the buyer by registered mail.

(b) Notice Required. -- The seed dealer shall legibly print or type on the seed container or affix a label on the seed container a notice in the following form or using reasonably equivalent language:

'Notice of Mandatory Arbitration

Under the seed laws of some states, arbitration is required as a precondition of maintaining certain legal actions against a seller of seed. Information about this requirement where applicable, may be obtained from a State's Commissioner of Agriculture or corresponding chief agricultural official.'

(c) Condition Precedent. -- Complying with subsection (a) of this section is a condition precedent to the buyer's right to file an action against the seed dealer. This subsection does not apply if the seed dealer fails to provide notice as required under subsection (b) of this section.

(d) Investigation Requested by Seed Dealer. -- Any seed dealer against whom an action is brought in any court, State or federal, by a buyer who alleges that the buyer has suffered damages due to the failure of seeds purchased from a seed dealer to perform as labeled, as warranted, or as a result of negligence may request an investigation by the arbitration committee pursuant to G.S. 106-277.32. A filing fee of one hundred dollars ($100.00) shall be paid to the Department of Agriculture by the party requesting the investigation.

(e) Referral to Committee. -- The Commissioner of Agriculture shall refer the complaint and the answer to the complaint, if any, to the arbitration committee to investigate and make findings and recommendations on the matters complained of pursuant to G.S. 106-277.32.

"**§ 106-277.31. Arbitration committee created; membership; duties.**

(a) The Commissioner of Agriculture shall appoint an arbitration committee composed of five members, three of whom shall be appointed upon the recommendation of the following: Director of the Agricultural Research Service, North Carolina State University; Director of the North Carolina Cooperative Extension Service, North Carolina State University; and President of the North Carolina Seedsmen's Association. The other two members shall include: one farmer who is not connected in any way to selling seeds at retail or wholesale and one employee of the Department of Agriculture. An alternate for each member shall also be appointed in the same manner as that member was appointed to serve whenever that member is unable or unwilling to serve. Each member of the committee shall serve until replaced by the Commissioner of Agriculture. The committee shall elect a chairperson. The chairperson shall conduct all meetings and deliberations and direct all other activities of the committee.

(b) A clerk shall be appointed to serve the committee. The clerk shall be an employee of the Department of Agriculture. The clerk shall keep accurate and correct records of all meetings and deliberations and perform other duties for the committee as directed by the chairperson.

(c) The purpose of the arbitration committee is to assist seed buyers and agricultural seed dealers in determining the matters alleged in complaints made by buyers against seed dealers.

(d) The arbitration committee may be called into session by the Commissioner of Agriculture at the Commissioner's discretion or upon the direction of the chairperson to consider the matters referred to it by the Commissioner of Agriculture.

(e) The Department shall provide administrative support for the investigation under this section. The committee shall adopt rules to govern investigations and hearings. A copy of the rules shall be mailed to each party to a dispute upon receipt of a complaint.

(f) Members of the committee appointed by the Commissioner who are not governmental employees shall be entitled to receive reimbursement for necessary travel and subsistence expenses pursuant to G.S. 138-5. Other members of the committee shall not be entitled to any compensation or reimbursement of expenses from the Department of Agriculture.

(g) The Attorney General shall represent the committee in any and all legal proceedings that may arise concerning or against the committee.

"**§ 106-277.32. Duties of arbitration committee.**

(a) In conducting its investigation of claims referred by the Commissioner of Agriculture, the arbitration committee may engage in all of the following activities:

(1) Examine the buyer regarding the buyer's use of the seed of which the buyer complains and examine the seed dealer on the dealer's packaging, labeling, and selling of the seed alleged to be faulty.

(2) Grow a representative sample of the alleged faulty seed to production when such action is deemed by the committee to be necessary.

(3) Hold informal hearings at a time and place directed by the chairperson upon reasonable notice to the buyer and the seed dealer.

(4) Seek evaluations from authorities in allied disciplines, when deemed necessary by the committee.

(5) Visit and inspect the affected site and take samples, make plant counts, and take pictures of affected and unaffected areas.

(b) The committee shall keep a record of its activities and reports on file in the Department of Agriculture. The Department shall transmit all findings and recommendations to the buyer and to the seed dealer within 30 days of completion of the arbitration.

(c) No investigation shall be made by less than the whole membership of the committee unless the chairperson directs such investigation in writing. Such investigation shall be summarized in writing and considered by the committee in reporting its findings and making its recommendations.

(d) The report of arbitration shall be binding upon all parties to the extent, if any, that they have so agreed in writing subsequent to the filing of a complaint pursuant to G.S. 106-277.30.

"**§ 106-277.33. Filing an action regarding a defective seed claim.**

(a) In the absence of an agreement to be bound by arbitration, a buyer may file an action against a seed seller or assert such claim as a counterclaim or defense in any action brought by the seed seller at any time after the receipt of the report of arbitration under G.S. 106-277.32.

(b) In any action involving a complaint that has been the subject of arbitration under G.S. 106-277.32, any party may introduce the report of arbitration as evidence of the facts found in the report, and the court may give such weight to the committee's findings and conclusions of law and recommendations as to damages and costs as the court deems appropriate, based upon all the evidence before the court. The court may consider any finding of the committee with respect to the failure of any party to cooperate in the arbitration proceedings, including any finding as to the effect of delay in filing the arbitration claim upon the committee's ability to determine the facts of the case."

Section 3. There is appropriated from the General Fund to the Department of Agriculture the sum of ten thousand dollars ($10,000) for the 1997-98 fiscal year and the sum of ten thousand dollars ($10,000) for the 1998-99 fiscal year to be used to implement and administer this act.

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1053 DATE 6/3/97

S. B. No. _____ Amendment No. 1

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page 3, line 37

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting that line to read:

4

5 "that they have so agreed in writing

6 subsequent to the filing of a complaint

7 pursuant to G.S. 106-277.30."

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SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **JOHN W. BROWN** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 1055 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE MANDATORY ARBITRATION OF CLAIMS RELATED TO DEFECTIVE SEED.

☐ 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

HOUSE BILL 980

Short Title: Crop Allotment Tax Appraisal. (Public)

Sponsors: Representatives Hardy, Baker, Daughtry; Aldridge, Arnold, Berry, Brown, Cansler, Capps, Clary, Creech, Davis, Decker, Eddins, Hall, Hiatt, Hill, McComas, Miner, Mitchell, Morris, Nichols, Russell, Sherrill, Starnes, and G. Wilson.

Referred to: Agriculture, if favorable, Finance.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.01 reads as rewritten:

"**§ 105-277.01. Certain farm products and land with crop allotments classified for taxation at reduced valuation.**

(a) Farm ~~products (including~~ products, including crops but excluding poultry and other ~~livestock)~~ livestock, held by or for a cooperative stabilization or marketing association or corporation to which they have been delivered, conveyed, or assigned by the original producer for the purpose of sale are hereby designated a special class of property under authority of ~~Article V, Sec. 2(2),~~ Section 2(2) of Article V of the North Carolina Constitution. Before being assessed for taxation the appraised valuation of farm products so classified shall be reduced by the amount of any unpaid loan or advance made or granted thereon by the United States government, an agency of the United States government, or a cooperative stabilization or marketing association or corporation.

(b) Land on which there are acreage or poundage allotments for farm commodities is designated a special class of property under authority of Section 2(2)

of Article V of the North Carolina Constitution. The value of these allotments shall not be considered in appraising land classified under this subsection."

Section 2. G.S. 105-289(a)(5) reads as rewritten:

"(5) To prepare and distribute annually to each assessor a manual that establishes five expected net income per acre ranges for agricultural land, horticultural land, and forestland, and establishes a method for appraising nonproductive land as a percentage of the lowest use-value established for productive land. The high and low net income amount in each range may differ by no more than fifteen dollars ($15.00). The basis for establishing each range shall be soil productivity.

For agricultural land, the expected net income per acre ranges shall be based on the actual yields and prices of corn and soybeans over a period of at least the five previous years, and the actual fixed and variable costs, including an imputed management cost, incurred in growing corn and soybeans over the same period of time. ~~The manual shall contain recommended adjustments to the net income per acre ranges for the growing of crops subject to acreage or poundage allotments.~~

Expected net income per acre ranges shall be similarly established for horticultural land and forestland, using typical horticultural or forest products in various growing regions of the State instead of corn and soybeans."

Section 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 980
Proposed Committee Substitute H980-PCS1384

Short Title: Crop Allotment Tax Appraisal. (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES AND TO REIMBURSE LOCAL GOVERNMENTS FOR THEIR RESULTING REVENUE LOSS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.01 reads as rewritten:

"**§ 105-277.01. Certain farm products and land with crop allotments classified for taxation at reduced valuation.**

(a) Farm ~~products (including~~ products, including crops but excluding poultry and other ~~livestock)~~ livestock, held by or for a cooperative stabilization or marketing association or corporation to which they have been delivered, conveyed, or assigned by the original producer for the purpose of sale are hereby designated a special class of property under authority of ~~Article V, Sec. 2(2),~~ Section 2(2) of Article V of the North Carolina Constitution. Before being assessed for taxation the appraised valuation of farm products so classified shall be reduced by the amount of any unpaid loan or advance made or granted thereon by the United States government, an agency of the United States government, or a cooperative stabilization or marketing association or corporation.

(b) Land on which there are acreage or poundage allotments for farm commodities is designated a special class of property under authority of Section 2(2) of Article V of the North Carolina Constitution. The value of these allotments shall not be considered in appraising land classified under this subsection."

Section 2. G.S. 105-289(a)(5) reads as rewritten:

"(5) To prepare and distribute annually to each assessor a manual that establishes five expected net income per acre ranges for agricultural land, horticultural land, and forestland, and establishes a method for appraising nonproductive land as a percentage of the lowest use-value established for productive land. The high and low net income amount in each range may differ by no more than fifteen dollars ($15.00). The basis for establishing each range shall be soil productivity.

For agricultural land, the expected net income per acre ranges shall be based on the actual yields and prices of corn and soybeans over a period of at least the five previous years, and the actual fixed and variable costs, including an imputed management cost, incurred in growing corn and soybeans over the same period of time. ~~The manual shall contain recommended adjustments to the net income per acre ranges for the growing of crops subject to acreage or poundage allotments.~~

Expected net income per acre ranges shall be similarly established for horticultural land and forestland, using typical horticultural or forest products in various growing regions of the State instead of corn and soybeans."

Section 3. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277B. Reimbursement for exclusion of crop allotments.**

(a) Submission of Claims. -- On or before January 15, 1999, the governing body of each county and city shall furnish to the Secretary a list of all the allotment land that was required to be listed and assessed as of January 1, 1997. The list shall contain the difference in the value of the land if the value of the crop allotments is considered and if the value of the crop allotments is not considered, as well as the property tax rates in effect in the county or city for the eight years from 1990 through 1997. The list shall also contain the property tax rates in effect for those years in each special district for which the county or city collected taxes in 1997 but whose tax rates were not included in the rates listed for the county or city, and the difference in the value of the allotment land required to be listed as of January 1, 1997, in each district if the value of the crop allotments is considered and if the value of the crop allotments is not considered. The list shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary.

The Secretary shall calculate an average rate for each county and city, and for each special district whose tax rates were not included in the tax rates of a county or city, as the arithmetic mean of the property tax rates in effect in the county, city, or district for the eight years from 1990 through 1997. If a county, city, or district did not have tax rates in effect for the entire eight-year period, the average rate shall be

the arithmetic mean of the property rates in effect for the years during the eight-year period that it did have rates in effect.

(b) Claims-Based Distribution. -- On or before March 20, 1999, the Secretary shall distribute to each county and city an amount equal to the county or city's crop allotment loss, as defined in subsection (d) of this section. Except as provided in subsection (f) of this section, each year thereafter, on or before April 30, the Secretary shall distribute to each county and city the amount it received the previous year under this subsection.

(c) Distribution to Special Districts. -- Of the funds received by each county and city pursuant to subsection (b) of this section, the portion that was received because the county or city was collecting taxes for a special district shall be distributed among the districts in the county or city in proportion to the amount of each special district's allotment levy, as defined in subsection (d) of this section, as soon as practicable after the city or county receives funds under this subsection. The Local Government Commission may adopt rules for the resolution of disputes and correction of errors in the distribution among special districts provided in this paragraph. In addition, the Local Government Commission may adopt rules for the reallocation of funds when a special district is dissolved, merged, or consolidated, or when a special district ceases to levy tax, either temporarily or permanently.

(d) Definitions. -- The following definitions apply in this section:

(1) Allotment land. -- Land on which there are crop allotments.

(2) City. -- Defined in G.S. 153A-1(1).

(3) City's crop allotment loss. -- The city's average rate multiplied by the difference in value of allotment land reported to the Secretary under subsection (a) of this section by the city, plus the average rate for each special district for which the city collected taxes in 1997, but whose tax rates were not included in the city's rates, multiplied by the difference in value of allotment land in the district reported to the Secretary under subsection (a) of this section in behalf of the district, plus or minus the percentage of this amount that equals the lesser of five percent (5%) or the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

(4) County's crop allotment loss. -- The county's average rate multiplied by the difference in value of allotment land reported to the Secretary under subsection (a) of this section by the county, plus the average rate for each special district for which the county collected taxes in 1997, but whose tax rates were not included in the county's rates, multiplied by the difference in value of allotment land in the district reported to the Secretary under subsection (a) of this section in behalf of the district, plus or minus the percentage of this amount that equals the lesser of five percent

(5%) or the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

(5) Crop allotment. -- An acreage or poundage allotment for farm commodities.

(6) Special district's allotment levy. -- The special district's average rate multiplied by the difference in value of allotment land in the district reported to the Secretary under subsection (a) of this section in behalf of the district.

(e) Source of Funds. -- To pay for the distribution required by this section and the cost of making the distribution, the Secretary shall draw from collections received under Division II of Article 4 of this Chapter an amount equal to the amount distributed and the cost of making the distribution.

(f) Correction of Errors. -- If the Secretary discovers that the amount or value of any allotment land listed by a county or city pursuant to subsection (a) of this section was overstated or understated, the Secretary shall adjust the amount to be distributed under subsection (b) as follows. For the distribution to be made in the year following discovery of the overstatement or understatement, the Secretary shall distribute to the county or city the amount it would have received under subsection (b) in 1999 if it had not overstated or understated the amount or value of any allotment land, plus the total amount it failed to receive in 1999 and subsequent years due to understatement of the amount or value of the allotment land, or minus the total amount it received in 1999 and subsequent years due to overstatement of the amount or value of the allotment land. Thereafter, each year the Secretary shall distribute to the county or city the amount it would have received under subsection (b) in 1999 if it had not overstated or understated the amount or value of any allotment land."

Section 4. Section 3 of this act is effective when this act becomes law. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1998.

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE — JUNE 3, 1997

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Glenn Jernigan	Agricultural Alliance of N.C.
Leighton Roper	ZDA, P.A.
Ed Bowen	R W Bone
David McLeod	NCDA
Taylor Jeffreys	Jeffreys Seed Company
Ron Aycock	County Com. Assoc
John Bailey	Dept. of Ag
Julian Philpott	NCFB
Leroy Joe Vernon	Plant Food Assn of NC.
Joe Clegg	CCWC / Sierra Club
Rod Akins	CNANC
John Cyrus	N.C. State Grange
Vernon James	N C State Grange
[illegible]	WCBR
Jim Wilder	N C Soybean Assn.
Paul Reese	N. C. Agribusiness
Howard Singletary	NCDA
Wade Bland	NCDA
Peter Daniel	NCDA

AGENDA

HOUSE AGRICULTURE COMMITTEE
TUESDAY, JUNE 10, 1997
ROOM 1425
10:00 A.M.

CALL MEETING TO ORDER

REMARKS BY CHAIRMAN

INTRODUCTION OF PAGES

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL

ANNOUNCEMENTS

ADJOURNMENT

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, JUNE 10, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

The following bills will be considered (Bill # & Short Title):

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL

Respectfully,

Representative JOHN W. BROWN
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **10:00 A.M.** on **THURSDAY, JUNE 5, 1997**.

___Principal Clerk
___Reading Clerk - House Chamber

ANNA KIDD (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **REP. SANDY HARDY**

OFFICE: **ROOM 417A**

DATE: **WEDNESDAY, JUNE 4, 1997**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **TUESDAY, JUNE 10, 1997**

TIME: **10:00 A.M.**

LOCATION: **ROOM 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. #980 - CROP ALLOTMENT TAX APPRAISAL

We would like to have you attend this meeting.

Representatives JOHN W. BROWN
Co-Chairs

ANNA KIDD (Committee Clerk)

HOUSE COMMITTEE ON AGRICULTURE

June 10, 1997

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, June 10, 1997 at 10:00 a.m. Representative John W. Brown, Chairman, presided. There were 19 members present. The Attendance Sheet indicates members present and will be filed in the Legislative Library as a part of the record of the Minutes.

The purpose of the meeting was to consider House Bill 980, **AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES**. This bill's chief sponsor was Representative Hardy. Representative Baker explained the bill in Representative Hardy's absence. Committee Counsel, Ms. Barbara Riley, provided handouts ,which are attached as a matter of record, to further explain HB 980.

There was detailed discussion and objections expressed by members of the Committee regarding House Bill 980 in its present form as it relates to local governments. An amendment to HB 980 was offered by Representative Owens with a motion for its adoption for the purpose of discussion. The motion carried.

Representative Baker moved that the amendment be rolled into a House Committee Substitute and that the Committee Substitute be given a favorable report and be re-referred to FINANCE, and that the original bill be given an unfavorable report.

Because of the controversy surrounding HB 980, Representative Baker moved for a Roll Call Vote and the motion carried.

The question was called and House Bill 980 was reported favorable as to committee substitute, which changes title, unfavorable as to original bill and recommendation that the committee substitute bill be re-referred to the Committee on Finance. The Roll Call Vote is attached as a matter of record to the Minutes. The vote was eleven (11) yes, nine (9) no.

The title change on the said Committee Substitute reads "**AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES AND TO REIMBURSE LOCAL GOVERNMENTS FOR THEIR RESULTING REVENUE LOSS.**

The meeting was adjourned at 11:00 a.m.

John W. Brown

JOHN W. BROWN, CHAIRMAN

JACKIE HAMBY, CLERK

File
Agriculture
June 10, 1997

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **J. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 980 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES.

☐ 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)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 980
Proposed Committee Substitute H980-PCS2347

Short Title: Crop Allotment Tax Appraisal. (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES AND TO REIMBURSE LOCAL GOVERNMENTS FOR THEIR RESULTING REVENUE LOSS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.01 reads as rewritten:

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Section 2. G.S. 105-289(a)(5) reads as rewritten:

"(5) To prepare and distribute annually to each assessor a manual that establishes five expected net income per acre ranges for agricultural land, horticultural land, and forestland, and establishes a method for appraising nonproductive land as a percentage of the lowest use-value established for productive land. The high and low net income amount in each range may differ by no more than fifteen dollars ($15.00). The basis for establishing each range shall be soil productivity.

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Expected net income per acre ranges shall be similarly established for horticultural land and forestland, using typical horticultural or forest products in various growing regions of the State instead of corn and soybeans."

Section 3. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277B. Reimbursement for exclusion of crop allotments.**

(a) Submission of Claims. -- On or before January 15, 1999, the governing body of each county and city shall furnish to the Secretary a list of all the allotment land that was required to be listed and assessed as of January 1, 1997, and was appraised and assessed at a value based on consideration of the value of the crop allotments. The list shall contain the difference in the value at which the land was assessed and the value at which it would have been assessed if the value of the crop allotments had not been considered, and shall contain the property tax rates in effect in the county or city for the eight years from 1990 through 1997. The list shall also contain the property tax rates in effect for those years in each special district for which the county or city collected taxes in 1997 but whose tax rates were not included in the rates listed for the county or city, and the difference in the value of the allotment land required to be listed as of January 1, 1997, in each district if the value of the crop allotments is considered and if the value of the crop allotments is not considered. The list shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary.

The Secretary shall calculate an average rate for each county and city, and for each special district whose tax rates were not included in the tax rates of a county or city, as the arithmetic mean of the property tax rates in effect in the county, city, or district for the eight years from 1990 through 1997. If a county, city, or district did not have tax rates in effect for the entire eight-year period, the average rate shall be

the arithmetic mean of the property rates in effect for the years during the eight-year period that it did have rates in effect.

(b) Claims-Based Distribution. -- On or before March 20, 1999, the Secretary shall distribute to each county and city an amount equal to the county or city's crop allotment loss, as defined in subsection (d) of this section. Except as provided in subsection (f) of this section, each year thereafter, on or before April 30, the Secretary shall distribute to each county and city the amount it received the previous year under this subsection.

(c) Distribution to Special Districts. -- Of the funds received by each county and city pursuant to subsection (b) of this section, the portion that was received because the county or city was collecting taxes for a special district shall be distributed among the districts in the county or city in proportion to the amount of each special district's allotment levy, as defined in subsection (d) of this section, as soon as practicable after the city or county receives funds under this subsection. The Local Government Commission may adopt rules for the resolution of disputes and correction of errors in the distribution among special districts provided in this paragraph. In addition, the Local Government Commission may adopt rules for the reallocation of funds when a special district is dissolved, merged, or consolidated, or when a special district ceases to levy tax, either temporarily or permanently.

(d) Definitions. -- The following definitions apply in this section:

(1) Allotment land. -- Land on which there are crop allotments.

(2) City. -- Defined in G.S. 153A-1(1).

(3) City's crop allotment loss. -- The city's average rate multiplied by the difference in value of allotment land reported to the Secretary under subsection (a) of this section by the city, plus the average rate for each special district for which the city collected taxes in 1997, but whose tax rates were not included in the city's rates, multiplied by the difference in value of allotment land in the district reported to the Secretary under subsection (a) of this section in behalf of the district, plus or minus the percentage of this amount that equals the lesser of five percent (5%) or the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

(4) County's crop allotment loss. -- The county's average rate multiplied by the difference in value of allotment land reported to the Secretary under subsection (a) of this section by the county, plus the average rate for each special district for which the county collected taxes in 1997, but whose tax rates were not included in the county's rates, multiplied by the difference in value of allotment land in the district reported to the Secretary under subsection (a) of this section in behalf of the district, plus or minus the percentage of this amount that equals the lesser of five percent

(5%) or the percentage by which State personal income has increased or decreased during the most recent 12-month period for which State personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

(5) Crop allotment. -- An acreage or poundage allotment for farm commodities.

(6) Special district's allotment levy. -- The special district's average rate multiplied by the difference in value of allotment land in the district reported to the Secretary under subsection (a) of this section in behalf of the district.

(e) Source of Funds. -- To pay for the distribution required by this section and the cost of making the distribution, the Secretary shall draw from collections received under Division II of Article 4 of this Chapter an amount equal to the amount distributed and the cost of making the distribution.

(f) Correction of Errors. -- If the Secretary discovers that the amount or value of any allotment land listed by a county or city pursuant to subsection (a) of this section was overstated or understated, the Secretary shall adjust the amount to be distributed under subsection (b) as follows. For the distribution to be made in the year following discovery of the overstatement or understatement, the Secretary shall distribute to the county or city the amount it would have received under subsection (b) in 1999 if it had not overstated or understated the amount or value of any allotment land, plus the total amount it failed to receive in 1999 and subsequent years due to understatement of the amount or value of the allotment land, or minus the total amount it received in 1999 and subsequent years due to overstatement of the amount or value of the allotment land. Thereafter, each year the Secretary shall distribute to the county or city the amount it would have received under subsection (b) in 1999 if it had not overstated or understated the amount or value of any allotment land."

Section 4. Section 3 of this act is effective when this act becomes law. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1998.

ROLL CALL VOTE

____ ____ = _____(TOTAL)
YES NO

HB# 980 #1
SB# ____

HOUSE STANDING COMMITTEE ON AGRICULTURE

"Crop Allotment Tax Appraisal"

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		BROWN,CHAIR			
✓		CULP, V.CHAIR			
✓		CARPENTER, V.CHAIR			
	✓	MITCHELL, V.CHAIR			
	✓	HILL, RANKING M.M.			
	✓	ALDRIDGE			WEATHERLY
✓		BAKER		✓	YONGUE
	✓	BUCHANAN			
	------	DAVIS			
✓		EDDINS			
	✓	FOX			
		HARDAWAY			
	✓	HIGHTOWER			
		HUNTER,H.			
		KISER			
	✓	MCCRARY			
		MERCER			
		NICHOLS			
✓		OWENS			
✓		REYNOLDS			
✓		ROGERS			
	✓	SMITH	Ex officio Members		
✓		TOLSON			Speaker Pro Tem
✓		WATSON			Majority Leader

Anna Kidd (Rep. J.Brown)

From: Audrey Johnson (Rep. Davis)
Sent: Monday, June 09, 1997 5:36 PM
To: Anna Kidd (Rep. J.Brown)
Subject: Rep Davis Absent from Agriculture Comm Meeting

I wanted to let you know Rep. Davis will not be able to attend the Agriculture Committee meeting tomorrow, June 10th at 10:00AM.

PUBLIC BILL

980

H.B. _____ CHAP. _____

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES.

Introduced by Representative(s) (Hardy, Hall, Baker, Aldridge and Daughtry)

Morris (minor), Stamey, Davis, Daughtry

Russell, Culp, Davis, Edwards

Arnold, Hiatt, McDaniel, Wilson

Principal Clerk's Use Only

Carole, Arnold, Creech

Berry, Braswell, Hills

Mitchell

PASSED 1st READING
APR 17 1997
AND REFERRED TO COMMITTEE
ON Agriculture
if favorable, Finance

26

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 980

Short Title: Crop Allotment Tax Appraisal. (Public)

Sponsors: Representatives Hardy, Baker, Daughtry; Aldridge, Arnold, Berry, Brown, Cansler, Capps, Clary, Creech, Davis, Decker, Eddins, Hall, Hiatt, Hill, McComas, Miner, Mitchell, Morris, Nichols, Russell, Sherrill, Starnes, and G. Wilson.

Referred to: Agriculture, if favorable, Finance.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.01 reads as rewritten:

"**§ 105-277.01. Certain farm products and land with crop allotments classified for taxation at reduced valuation.**

(a) Farm ~~products (including~~ products, including crops but excluding poultry and other ~~livestock)~~ livestock, held by or for a cooperative stabilization or marketing association or corporation to which they have been delivered, conveyed, or assigned by the original producer for the purpose of sale are hereby designated a special class of property under authority of ~~Article V, Sec. 2(2),~~ Section 2(2) of Article V of the North Carolina Constitution. Before being assessed for taxation the appraised valuation of farm products so classified shall be reduced by the amount of any unpaid loan or advance made or granted thereon by the United States government, an agency of the United States government, or a cooperative stabilization or marketing association or corporation.

(b) Land on which there are acreage or poundage allotments for farm commodities is designated a special class of property under authority of Section 2(2)

of Article V of the North Carolina Constitution. The value of these allotments shall not be considered in appraising land classified under this subsection."

Section 2. G.S. 105-289(a)(5) reads as rewritten:

"(5) To prepare and distribute annually to each assessor a manual that establishes five expected net income per acre ranges for agricultural land, horticultural land, and forestland, and establishes a method for appraising nonproductive land as a percentage of the lowest use-value established for productive land. The high and low net income amount in each range may differ by no more than fifteen dollars ($15.00). The basis for establishing each range shall be soil productivity.

For agricultural land, the expected net income per acre ranges shall be based on the actual yields and prices of corn and soybeans over a period of at least the five previous years, and the actual fixed and variable costs, including an imputed management cost, incurred in growing corn and soybeans over the same period of time. ~~The manual shall contain recommended adjustments to the net income per acre ranges for the growing of crops subject to acreage or poundage allotments.~~

Expected net income per acre ranges shall be similarly established for horticultural land and forestland, using typical horticultural or forest products in various growing regions of the State instead of corn and soybeans."

Section 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1998.

North Carolina General Assembly
Legislative Services Office

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(919) 733-2578

April 28, 1997

TO: House Agriculture Committee

FROM: Barbara Riley, Committee Counsel

RE: **House Bill 980: Crop Allotment Tax Appraisal**

House Bill 980, introduced by Representative Hardy, amends the property tax laws to provide that the value of crop allotments (primarily peanuts and tobacco) may not be considered in appraising land for tax purposes. Land to which such an allotment is attached is classified as a special class of property under Section 2(2) of Article V of the North Carolina Constitution.

Section 2 amends G.S. 105-289(a)(5), which sets forth the duty of the Department of Revenue to prepare an assessor's manual for valuing expected net income from agricultural land, by deleting the requirement that the manual contain recommended adjustments to the net income per acre for growing crops subject to allotments.

The act is effective for taxable years beginning on or after July 1, 1998.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

North Carolina General Assembly
Legislative Services Office

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April 21, 1997

TO: House Agriculture Committee

FROM: Barbara Riley, Committee Counsel

RE: **House Bill 980: Crop Allotment Tax Appraisal**

Attached please find the Department of Revenue's estimates, county by county, of tax revenue losses for those counties taxing peanut and tobacco allotments. The data also includes charts with estimates of potential revenues for those counties that do not currently tax peanut and tobacco allotments.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

ESTIMATE OF TAX REVENUE LOSS
FOR COUNTIES TAXING PEANUT ALLOTMENTS

COUNTY	PEANUT PRODUCTION [POUNDS]	ALLOTMENT VALUE PER POUND	TAX RATE PER $100 OF ASSESSED VALUE	ESTIMATE OF TAX REVENUE
BERTIE	46,209,000	0.30	0.76	$105,357
BLADEN	8,295,000	0.20	0.7375	$12,235
CRAVEN	125,000	0.29	0.585	$212
EDGECOMBE	26,892,000	0.30	0.88	$70,995
GATES	23,020,000	0.30	0.88	$60,773
GREENE	292,000	0.38	0.835	$927
HALIFAX*	54,469,000	0.38	0.69	$142,818
HERTFORD	32,124,000	0.32	0.96	$98,685
MARTIN	38,341,000	0.30	0.77	$88,568
NASH	5,728,000	0.30	0.61	$10,482
NORTHAMPTON	63,481,000	0.28	0.76	$135,088
PENDER	676,000	0.10	0.61	$412
PITT	9,100,000	0.38	0.66	$22,823
WASHINGTON	6,632,000	0.25	0.92	$15,254
			TOTAL	$764,627

EXPLANATORY NOTES:

[1.] PRODUCTION NUMBERS ARE FROM NORTH CAROLINA AGRICULTURAL STATISTICS [1996 EDITION] AND ARE FOR 1995 (THE LATEST AVAILABLE PRODUCTION NUMBERS ON A COUNTY BY COUNTY BASIS).

[2.] ESTIMATE OF TAX REVENUE ASSUMES THAT PRODUCTION NUMBERS ARE CLOSELY REPRESENTATIVE OF ACTUAL ALLOTMENTS AND THAT THE COUNTIES ARE ASSESSING FOR ALL OF THE ALLOTMENT.

NC Dept. of Revenue Fax:919-733-1821 May 12 '97 14:42 P.02

[3.] TAX RATES ARE FOR FISCAL YEAR 1996–1997 (SOURCE: N C DEPT OF REVENUE TAX RESEARCH DIVISION)

[4.] ASSUMPTION FOR THIS PURPOSE IS THAT ALL PROPERTIES ARE OUTSIDE OF CITY LIMITS. ONLY THE BASE COUNTY RATE WAS USED. REVENUE WOULD BE HIGHER FOR ALL PROPERTIES IN THE CITY LIMITS.

[5.] THIS LIST OF COUNTIES WHICH ARE TAXING ALLOTMENTS IS DERIVED FROM A 1996 SURVEY BY THE N C DEPT OF REVENUE AD VALOREM TAX DIVISION TO THE INDIVIDUAL COUNTIES.

[6.] VERIFICATION BY PHONE HAS BEEN ATTEMPTED BUT NOT ALL COUNTIES HAVE BEEN VERIFIED. WHERE NO VERIFICATION WAS OBTAINED, THE TAX VALUATION RATE FOR THE ALLOTMENT WAS TAKEN FROM THE USE VALUE ADVISORY BOARD RECOMMENDED RATES. THOSE COUNTIES WHICH WERE NOT VERIFIED WILL BE INDICATED BY AN ASTERISK (*) AFTER THEIR NAME.

NC Dept. of Revenue Fax:919-733-1821 May 12 '97 14:43 P.03

ESTIMATE OF POTENTIAL TAX REVENUE
FOR COUNTIES NOT TAXING PEANUT ALLOTMENTS

COUNTY	PEANUT PRODUCTION [POUNDS]	ALLOTMENT VALUE PER POUND	TAX RATE PER $100 OF ASSESSED VALUE	ESTIMATE OF TAX REVENUE
ALAMANCE	0	0.38		
ALEXANDER	0	0.38	0.5300	$0
ALLEGHANY	0	0.38	0.5800	$0
ANSON	0	0.38	0.8350	$0
ASHE	0	0.38	0.5800	$0
AVERY	0	0.38	0.5800	$0
BEAUFORT	481,000	0.38	0.6000	$1,097
BRUNSWICK	0	0.38	0.6850	$0
BUNCOMBE	0	0.38	0.7300	$0
BURKE	0	0.38	0.5900	$0
CABARRUS	0	0.38	0.6100	$0
CALDWELL	0	0.38	0.6390	$0
CAMDEN	0	0.38	0.7500	$0
CARTERET	0	0.38	0.5050	$0
CASWELL	0	0.38	0.7050	$0
CATAWBA	0	0.38	0.5200	$0
CHATHAM	0	0.38	0.7400	$0
CHEROKEE	0	0.38	0.4700	$0
CHOWAN	17,828,000	0.38	0.7700	$52,165
CLAY	0	0.38	0.4300	$0
CLEVELAND	0	0.38	0.6200	$0
COLUMBUS	2,563,000	0.38	0.7800	$7,597
CUMBERLAND	418,000	0.38	0.7500	$1,191
CURRITUCK	136,000	0.38	0.6500	$336
DARE	0	0.38	0.4000	$0
DAVIDSON	0	0.38	0.5400	$0

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DAVIE	0	0.38	0.6000	$0
DUPLIN	0	0.38	0.7750	$0
DURHAM	0	0.38	0.9597	$0
FORSYTH	0	0.38	0.7264	$0
FRANKLIN	0	0.38	0.9000	$0
GASTON	0	0.38	0.8410	$0
GRAHAM	0	0.38	0.6000	$0
GRANVILLE	0	0.38	0.7200	$0
GUILFORD	0	0.38	0.6572	$0
HARNETT	0	0.38	0.7000	$0
HAYWOOD	0	0.38	0.6100	$0
HENDERSON	0	0.38	0.5150	$0
HOKE	0	0.38	0.9400	$0
HYDE	0	0.38	0.8900	$0
IREDELL	0	0.38	0.4500	$0
JACKSON	0	0.38	0.5300	$0
JOHNSTON	134,000	0.38	0.7400	$377
JONES	0	0.38	0.8400	$0
LEE	0	0.38	0.6800	$0
LENOIR	41,000	0.38	0.7500	$117
LINCOLN	0	0.38	0.6150	$0
MACON	0	0.38	0.4950	$0
MADISON	0	0.38	0.6500	$0
MCDOWELL	0	0.38	0.6375	$0
MECKLENBURG	0	0.38	0.7300	$0
MITCHELL	0	0.38	0.5400	$0
MONTGOMERY	0	0.38	0.6700	$0
MOORE	0	0.38	0.4500	$0
NEW HANOVER	0	0.38	0.6450	$0
ONSLOW	11000	0.38	0.6440	$27
ORANGE	0	0.38	0.9975	$0
PAMLICO	0	0.38	0.6943	$0
PASQUOTANK	315,000	0.38	0.7700	$922
PERQUIMANS	8,927,000	0.38	0.7800	$26,460
PERSON	0	0.38	0.6500	$0
POLK	0	0.38	0.4933	$0
RANDOLPH	0	0.38	0.4650	$0
RICHMOND	0	0.38	0.9700	$0

ROBESON	169000	0.38	0.8100	$520
ROCKINGHAM	0	0.38	0.8100	$0
ROWAN	0	0.38	0.6375	$0
RUTHERFORD	0	0.38	0.5500	$0
SAMPSON	368,000	0.38	0.6700	$937
SCOTLAND	0	0.38	0.9500	$0
STANLY	0	0.38	0.6675	$0
STOKES	0	0.38	0.5700	$0
SURRY	0	0.38	0.5200	$0
SWAIN	0	0.38	0.5700	$0
TRANSYLVANIA	0	0.38	0.5410	$0
TYRRELL	146,000	0.38	1.0300	$571
UNION	0	0.38	0.6600	$0
VANCE	0	0.38	0.8000	$0
WAKE	0	0.38	0.6300	$0
WARREN	0	0.38	0.8800	$0
WATAUGA	0	0.38	0.4350	$0
WAYNE	17000	0.38	0.6500	$42
WILKES	0	0.38	0.6300	$0
WILSON	91000	0.38	0.7700	$266
YADKIN	0	0.38	0.6800	$0
YANCEY	0	0.38	0.5000	$0
			TOTAL	$92,624

EXPLANATORY NOTES:

[1.] PRODUCTION NUMBERS ARE FROM NORTH CAROLINA AGRICULTURAL STATISTICS [1996 EDITION] AND ARE FOR 1995 (THE LATEST AVAILABLE PRODUCTION NUMBERS ON A COUNTY BY COUNTY BASIS).

[2.] ESTIMATE OF TAX REVENUE ASSUMES THAT PRODUCTION NUMBERS ARE CLOSELY REPRESENTATIVE OF ACTUAL ALLOTMENTS AND THAT THE COUNTIES WOULD BE ASSESSING FOR ALL OF THE ALLOTMENT.

[3.] TAX RATES ARE FOR FISCAL YEAR 1996–1997 (SOURCE: N C DEPT OF REVENUE TAX RESEARCH DIVISION)

[4.] ASSUMPTION FOR THIS PURPOSE IS THAT ALL PROPERTIES ARE OUTSIDE OF CITY LIMITS. ONLY

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THE BASE COUNTY RATE WAS USED. REVENUE WOULD BE HIGHER FOR ALL PROPERTIES IN THE CITY LIMITS.

[5.] THIS LIST OF COUNTIES WHICH ARE NOT TAXING ALLOTMENTS IS DERIVED FROM A 1996 SURVEY BY THE N C DEPT OF REVENUE AD VALOREM TAX DIVISION TO THE INDIVIDUAL COUNTIES.

[6.] SINCE THE ABOVE COUNTIES DO NOT APPEAR TO BE TAXING THE ALLOTMENT (PER THE 1996 N C DOR SURVEY], THE USE VALUE ADVISORY BOARD RECOMMENDED RATES HAVE BEEN USED TO ESTIMATE TAX REVENUE.

ESTIMATE OF TAX REVENUE LOSS
FOR COUNTIES TAXING TOBACCO ALLOTMENTS

COUNTY	TOBACCO PRODUCTION [POUNDS]	ALLOTMENT VALUE PER POUND	TAX RATE PER $100 OF ASSESSED VALUE	ESTIMATE OF TAX REVENUE
ALAMANCE	3,726,000	1.31	0.53	$25,870
AVERY	182,000	1.21	0.58	$1,277
BERTIE	6,328,000	1.81	0.76	$87,048
BLADEN	6,449,000	1.60	0.7375	$76,098
CARTERET*	1,376,000	2.01	0.5050	$13,967
CASWELL	7,892,000	1.28	0.705	$71,217
CRAVEN	8,631,000	1.93	0.585	$97,448
CUMBERLAND	4,114,000	2.00	0.75	$61,710
DAVIE	770,000	0.40	0.60	$1,848
EDGECOMBE	12,562,000	1.77	0.88	$195,666
FORSYTH	4,006,000	1.63	0.7264	$47,432
GATES	267,000	1.75	0.88	$4,112
GREENE	12,560,000	2.08	0.835	$218,142
GUILFORD	7,796,000	1.71	0.6572	$87,612
HALIFAX*	5,767,000	2.08	0.69	$82,768
HERTFORD	3,496,000	1.75	0.96	$58,733
IREDELL	994,000	0.75	0.45	$3,355
LEE	3,257,000	0.0025	0.68	$55
MARTIN	10,100,000	1.75	0.77	$136,098
NASH	22,412,000	1.59	0.61	$217,374
NORTHAMPTON	412,000	1.56	0.76	$4,885
ONSLOW	5,191,000	1.00	0.644	$33,430
PENDER	2,772,000	1.25	0.61	$21,137
PERSON	9,488,000	1.71	0.65	$105,459
PITT	25,155,000	2.00	0.66	$332,046
ROBESON	23,598,000	1.00	0.81	$191,144

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WARREN	6,102,000	1.25	0.88	$67,122
WASHINGTON	879,000	1.00	0.92	$8,087
WAYNE	17,817,000	2.00	0.65	$231,621
WILSON	20,180,000	1.73	0.77	$268,818
			TOTAL	$2,751,578

EXPLANATORY NOTES:

[1.] PRODUCTION NUMBERS ARE FROM NORTH CAROLINA AGRICULTURAL STATISTICS [1996 EDITION] AND ARE FOR 1995 (THE LATEST AVAILABLE PRODUCTION NUMBERS ON A COUNTY BY COUNTY BASIS).

[2.] ESTIMATE OF TAX REVENUE ASSUMES THAT PRODUCTION NUMBERS ARE CLOSELY REPRESENTATIVE OF ACTUAL ALLOTMENTS AND THAT THE COUNTIES ARE ASSESSING FOR ALL OF THE ALLOTMENT.

[3.] TAX RATES ARE FOR FISCAL YEAR 1996–1997 (SOURCE: N C DEPT OF REVENUE TAX RESEARCH DIVISION)

[4.] ASSUMPTION FOR THIS PURPOSE IS THAT ALL PROPERTIES ARE OUTSIDE OF CITY LIMITS. ONLY THE BASE COUNTY RATE WAS USED. REVENUE WOULD BE HIGHER FOR ALL PROPERTIES IN THE CITY LIMITS.

[5.] THIS LIST OF COUNTIES WHICH ARE TAXING ALLOTMENTS IS DERIVED FROM A 1996 SURVEY BY THE N C DEPT OF REVENUE AD VALOREM TAX DIVISION TO THE INDIVIDUAL COUNTIES.

[6.] VERIFICATION BY PHONE HAS BEEN ATTEMPTED BUT NOT ALL COUNTIES HAVE BEEN VERIFIED. WHERE NO VERIFICATION WAS OBTAINED, THE TAX VALUATION RATE FOR THE ALLOTMENT WAS TAKEN FROM THE USE VALUE ADVISORY BOARD RECOMMENDED RATES. THOSE COUNTIES WHICH WERE NOT VERIFIED WILL BE INDICATED BY AN ASTERISK (*) AFTER THEIR NAME.

NC Dept. of Revenue Fax:919-733-1821 May 12 '97 14:45 P.09

ESTIMATE OF POTENTIAL TAX REVENUE
FOR COUNTIES NOT TAXING TOBACCO ALLOTMENTS

COUNTY	TOBACCO PRODUCTION [POUNDS]	ALLOTMENT VALUE PER POUND	TAX RATE PER $100 OF ASSESSED VALUE	ESTIMATE OF TAX REVENUE
ALEXANDER	1,134,000	1.71	0.5300	$10,277
ALLEGHANY	416,000	1.22	0.5800	$2,944
ANSON	172,000	1.71	0.8350	$2,456
ASHE	1,032,000	1.22	0.5800	$7,302
BEAUFORT	8,398,000	2.01	0.6000	$101,280
BRUNSWICK	3,361,000	2.01	0.6850	$46,276
BUNCOMBE	1,508,000	1.22	0.7300	$13,430
BURKE	1,000	1.71	0.5900	$10
CABARRUS	0	1.71	0.6100	$0
CALDWELL	505,000	1.71	0.6390	$5,518
CAMDEN	0	2.02	0.7500	$0
CATAWBA	0	1.71	0.5200	$0
CHATHAM	1,814,000	1.71	0.7400	$22,954
CHEROKEE	93,000	1.22	0.4700	$533
CHOWAN	596,000	2.02	0.7700	$9,270
CLAY	111,000	1.22	0.4300	$582
CLEVELAND	0	1.71	0.6200	$0
COLUMBUS	21,582,000	2.01	0.7800	$338,363
CURRITUCK	0	2.02	0.6500	$0
DARE	0	2.02	0.4000	$0
DAVIDSON	3,080,000	1.71	0.5400	$28,441
DUPLIN	15,806,000	2.08	0.7750	$254,793
DURHAM	2,158,000	1.71	0.9597	$35,415
FRANKLIN	12,552,000	1.71	0.9000	$193,175
GASTON	0	1.71	0.8410	$0
GRAHAM	258,000	1.22	0.6000	$1,889

GRANVILLE	12,740,000	1.71	0.7200	$156,855
HARNETT	12,888,000	2.08	0.7000	$187,649
HAYWOOD	1,038,000	1.22	0.6100	$7,725
HENDERSON	22,000	1.22	0.5150	$138
HOKE	2,565,000	2.10	0.9400	$50,633
HYDE	0	2.02	0.8900	$0
JACKSON	62,000	1.22	0.5300	$401
JOHNSTON	22,236,000	2.08	0.7400	$342,257
JONES	5,343,000	2.01	0.8400	$90,211
LENOIR	16,676,000	2.01	0.7500	$251,391
LINCOLN	0	1.71	0.6150	$0
MACON	37,000	1.22	0.4950	$223
MADISON	2,917,000	1.22	0.6500	$23,132
MCDOWELL	0	1.22	0.6375	$0
MECKLENBURG	0	1.71	0.7300	$0
MITCHELL	673,000	1.22	0.5400	$4,434
MONTGOMERY	958,000	1.71	0.6700	$10,976
MOORE	5,009,000	2.10	0.4500	$47,335
NEW HANOVER	54,000	2.01	0.6450	$700
ORANGE	3,383,000	1.71	0.9975	$57,705
PAMLICO	790,000	2.02	0.6943	$11,080
PASQUOTANK	0	2.02	0.7700	$0
PERQUIMANS	0	2.02	0.7800	$0
POLK	0	1.22	0.4933	$0
RANDOLPH	2,274,000	1.71	0.4650	$18,082
RICHMOND	2,108,000	2.10	0.9700	$42,940
ROCKINGHAM	11,616,000	1.71	0.8100	$160,893
ROWAN	13,000	1.71	0.6375	$142
RUTHERFORD	3,000	1.71	0.5500	$28
SAMPSON	11,718,000	2.08	0.6700	$163,302
SCOTLAND	1,061,000	2.08	0.9500	$20,965
STANLY	0	1.71	0.6675	$0
STOKES	10,101,000	1.71	0.5700	$98,454
SURRY	10,737,000	1.71	0.5200	$95,473
SWAIN	57,000	1.22	0.5700	$396
TRANSYLVANIA	18,000	1.22	0.5410	$119
TYRRELL	0	2.02	1.0300	$0
UNION	0	1.71	0.6600	$0

VANCE	8,536,000	1.71	0.8000	$116,772
WAKE	18,946,000	1.71	0.6300	$204,105
WATAUGA	888,000	1.22	0.4350	$4,713
WILKES	1,456,000	1.71	0.6300	$15,685
YADKIN	7,687,000	1.71	0.6800	$89,384
YANCEY	1,122,000	1.22	0.5000	$6,844
			TOTAL	$3,356,052

EXPLANATORY NOTES:

[1.] PRODUCTION NUMBERS ARE FROM NORTH CAROLINA AGRICULTURAL STATISTICS [1996 EDITION] AND ARE FOR 1995 (THE LATEST AVAILABLE PRODUCTION NUMBERS ON A COUNTY BY COUNTY BASIS).

[2.] ESTIMATE OF TAX REVENUE ASSUMES THAT PRODUCTION NUMBERS ARE CLOSELY REPRESENTATIVE OF ACTUAL ALLOTMENTS AND THAT THE COUNTIES WOULD BE ASSESSING FOR ALL OF THE ALLOTMENT.

[3.] TAX RATES ARE FOR FISCAL YEAR 1996–1997 (SOURCE: N C DEPT OF REVENUE TAX RESEARCH DIVISION)

[4.] ASSUMPTION FOR THIS PURPOSE IS THAT ALL PROPERTIES ARE OUTSIDE OF CITY LIMITS. ONLY THE BASE COUNTY RATE WAS USED. REVENUE WOULD BE HIGHER FOR ALL PROPERTIES IN THE CITY LIMITS.

[5.] THIS LIST OF COUNTIES WHICH ARE NOT TAXING ALLOTMENTS IS DERIVED FROM A 1996 SURVEY BY THE N C DEPT OF REVENUE AD VALOREM TAX DIVISION TO THE INDIVIDUAL COUNTIES.

[6.] SINCE THE ABOVE COUNTIES DO NOT APPEAR TO BE TAXING THE ALLOTMENT (PER THE 1996 N C DOR SURVEY), THE USE VALUE ADVISORY BOARD RECOMMENDED RATES HAVE BEEN USED TO ESTIMATE TAX REVENUE.

NC Dept. of Revenue Fax:919-733-1821 May 12 '97 14:56 P.12

NORTH CAROLINA GENERAL ASSEMBLY
PENDING HOUSE COMMITTEE ON
AGRICULTURE

Date: 6/ 5/97
Time: 12:19 p.m.
Page: 1
Leg. day:H-074/S-074

1997-98 Biennium

BILL	SHORT TITLE		DATE	LATEST ACTION
H 980=	CROP ALLOTMENT TAX APPRAISAL	H	4-17-97	REF TO COM ON AGRICULT
H1015=	CROP ALLOTMENT TAX APPRAISAL	H	4-21-97	REF TO COM ON AGRICULT

Bolded line indicates bill is an appropriation bill.
* indicates that text of original bill was changed by some action.
= sign indicates that the original bill is identical to another bill.

PUBLIC BILL

1015

H.B. _____ CHAP. _____

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CROP ALLOTMENTS SHALL NOT BE CONSIDERED IN APPRAISING LAND FOR AD VALOREM TAX PURPOSES.

Introduced by Representative(s) Russell, Bowen, Stamer

Principal Clerk's Use Only

PASSED 1st READING
APR 21 1997
AND REFERRED TO COMMITTEE
ON Agriculture, if fav. Finance

VISITOR REGISTRATION SHEET

HOUSE AGRICULTURE COMMITTEE JUNE 10 , 1997

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Cyrus	NC State Grange
Vernon James	NC State Grange
Ed Regan	N.C.A.C.C.
John Bailey	D.O.R.
Bill Coward	DOT
Herb Sendek	NCSU
Leighton Pope	DA, BA
Paula Hughes	NCFB
Peter Daniel	NCDA
Roger Bone	Bone & Assoc - TI - NR

North Carolina General Assembly
Legislative Services Office

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

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

February 11, 1997

Representative John Brown
Room 1111
State Legislative Building
Raleigh, North Carolina 27603

Dear Representative Brown:

As we discussed, I have asked Ms. Barbara Riley to serve as counsel to the House Agriculture Committee, which you chair. She will attend the meetings of the Committee when it meets on Tuesdays at 10 a.m. In accordance with the Committee's directions as expressed through the Chair, Ms. Riley will aid in analyzing proposed legislation and drafting amendments and committee substitutes. Like other staff, Ms. Riley will also staff several other committees.

My best wishes go to you and the House Agriculture Committee in its work. If I can be of any service to you or the Committee, please contact me.

Yours truly,

Terrence D. Sullivan
Director of Research

cc. The Honorable Harold Brubaker
Ms. Barbara Riley
Mr. George R. Hall, Jr.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

Anna Kidd (Rep. J.Brown)

From: Anna Kidd (Rep. J.Brown)
Sent: Wednesday, February 19, 1997 1:42 PM
To: @House/Agriculture/Clks
Subject: AGRICULTURE BREAKFAST

ALL HOUSE AGRICULTURE MEMBERS ARE INVITED TO BREAKFAST ON WEDNESDAY, FEBRUARY 26, 1997 AT 7:00 A.M. AT THE FARMERS MARKET RESTAURANT ON 1240 FARMER'S MARKET DRIVE IN RALEIGH.

THE BREAKFAST WILL BE SPONSORED BY MR. ROGER BONE WITH BONE AND ASSOCIATES.

1998

HOUSE AGRICULTURE

MINUTES

HOUSE STANDING COMMITTEE ON AGRICULTURE

1998 SHORT SESSION

REPRESENTATIVE JOHN W. BROWN,
CHAIRMAN

ANNA P. KIDD, CLERK

HOUSE AGRICULTURE COMMITTEE

John W. Brown

James C. Carpenter

Arlie F. Culp

Frank Mitchell

Dewey L. Hill

HOUSE AGRICULTURE COMMITTEE MEMBERS

M. W. "Henry" Aldridge

Rex L. Baker

Charles M. Buchanan

Donald Spencer Davis

Rick L. Eddins

Stan Fox

Thomas C. Hardaway

Foyle Hightower, Jr.

Howard J. Hunter, Jr.

HOUSE AGRICULTURE COMMITTEE MEMBERS

Joe Kiser

Paul Reeves McCrary

Linwood E. Mercer

John M. Nichols

Bill Owens

Dennis Alan Reynolds

Gene Rogers

Ronald L. Smith

Joe Tolson

HOUSE AGRICULTURE COMMITTEE MEMBERS

Cynthia B. Watson

John Hugh Weatherly

Douglas Y. Yongue

HOUSE AGRICULTURE COMMITTEE MEMBERS

Stephen Wood

SPEAKER PRO TEMPORE

Julia Craven Howard

MAJORITY WHIP

N. Leo Daughtry

MAJORITY LEADER

ROLL CALL VOTE

____ ____ = _____(TOTAL) HB# _____
YES NO SB# _____

HOUSE STANDING COMMITTEE ON _____

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
____	____	Brown-Chair	____	____	
____	____	Culp-V. Chair	____	____	
____	____	Carpenter-V. Chair	____	____	
____	____	Mitchell-V. Chair	____	____	
____	____	Hill-Ranking M.M.	____	____	
____	____	Aldridge	____	____	Weatherly
____	____	Baker	____	____	Yongue
____	____	Buchanan	____	____	
____	____	Davis	____	____	
____	____	Eddins	____	____	
____	____	Fox	____	____	
____	____	Hardaway	____	____	
____	____	Hightower	____	____	
____	____	Hunter,H.	____	____	
____	____	Kiser	____	____	
____	____	McCrary	____	____	
____	____	Mercer	____	____	
____	____	Nichols	____	____	
____	____	Owens	____	____	
____	____	Reynolds	____	____	
____	____	Rogers	Ex officio Members		
____	____	Smith	____	____	Speaker Pro Tem
____	____	Tolson	____	____	Majority Leader
____	____	Watson	____	____	Majority Whip

ATTENDANCE

HOUSE AGRICULTURE COMMITTEE **1998 SESSION**

(Name of Committee)

DATES	6/2	6/16	6/23											
Brown, John-Chairman	✓	✓	✓											
Carpenter-Vice Chair	✓	✓	✓											
Culp-Vice Chair	✓	✓	✓											
Mitchell-Vice Chair	✓	✓	✓											
Hill-Ranking M. Member	✓	✓	✓											
Aldridge	✓	✓												
Baker	✓	✓	✓											
Buchanan	✓	✓	✓											
Davis	✓	✓	✓											
Eddins	✓	✓												
Kiser	✓													
Nichols		✓	✓											
Reynolds	✓	EX	✓											
Watson	✓		✓											
Weatherly	✓													
Fox	EX	✓	EX											
McCrary	✓	✓	✓											
Mercer	✓	✓	✓											
Owens	✓	✓	✓											
Rogers	✓	✓	✓											
Smith	✓	✓	✓											
Tolson	✓	✓	✓											
Hardaway			✓											
Yongue	✓	✓	✓											
Hightower		✓	✓											
Hunter, H.		✓												
Riley, Barbara	✓	✓	✓											
KIDD, ANNA	✓	✓	✓											

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1997-98 Regular Session — HOUSE: AGRICULTURE — Valid Through 18-AUG-1998

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 61=	BROWN	GS 106 OBSOLETE LAWS	*R -CH. SL 97-0074	02-05-97	02-25-97
H 96	DICKSON	INTANGIBLES TAX REMEDY	*R -CH. SL 97-0318	02-11-97	02-25-97
H 210=	BROWN	AG DEPT. NAME CHANGE	*R -CH. SL 97-0261	02-17-97	02-25-97
H 238=	MITCHELL	FACILITATE ANIMAL WASTE RESEARCH	*H -REF TO COM ON RULES	02-17-97	03-11-97
H 240=	MITCHELL	REMOVE ODOR CONTROL STUDY MATCH	*S -REF TO COM ON APPROPR	02-17-97	02-25-97
H 357	MITCHELL	GENERAL ANIMAL WASTE PERMITS	*H -RE-REF COM ON FINANCE	04-24-97	04-29-97
H 357	MITCHELL	GENERAL ANIMAL WASTE PERMITS	*H -RE-REF COM ON FINANCE	04-30-97	04-30-97
H 409=	YONGUE	AGRICULTURAL EMPLOYER APPEALS	R -CH. SL 97-0035	03-06-97	03-18-97
H 457	WEATHERLY	AMEND FOREST DEVELOPMENT ACT	*R -CH. SL 97-0352	03-10-97	04-02-97
H 463	OWENS	FARM PRODUCTS WEIGHT EXEMPTION	*R -CH. SL 97-0354	03-10-97	04-02-97
H 935	BEALL	PROMOTE LLAMA BREEDING	R -CH. SL 97-0084	04-14-97	04-22-97
H 980=	HARDY	CROP ALLOTMENT TAX APPRAISAL	*H -RE-REF COM ON FINANCE	04-17-97	06-11-97
H 998=	**BROWN**	**SOUTHERN DAIRY COMPACT**	**S -RE-REF COM ON APPROPR**	**04-17-97**	**05-27-97**
H 999	ROGERS	SOIL & WATER COMMISSION/INSPECTIONS	*R -CH. SL 97-0173	04-17-97	04-23-97
H1015=	RUSSELL	CROP ALLOTMENT TAX APPRAISAL	H -REF TO COM ON AGRICULT	04-21-97	
H1037	ARNOLD	SALE OF CERTAIN EXOTIC MEATS	*S -REF TO COM ON AGRICUL&	04-21-97	04-29-97
H1037	ARNOLD	SALE OF CERTAIN EXOTIC MEATS	*S -REF TO COM ON AGRICUL&	04-30-97	04-30-97
H1043=	**BROWN**	**FARM ENVIRONMENTAL COMPLIANCE FUND**	**H -ASSIGNED TO APP-NTEC**	**04-21-97**	**04-29-97**
H1055=	**RUSSELL**	**ARBITRATION OF SEED CLAIMS**	***H -RE-REF COM ON FINANCE**	**04-21-97**	**06-04-97**
H1092=	CREECH	REDUCE FARM/INDUSTRY FUEL TAX	*H -RE-REF COM ON FINANCE	04-21-97	05-07-97
H1120=	MCCOMAS	PRESCRIBED BURNING IN FORESTS	*S -REF TO COM ON AGRICUL&	04-21-97	04-22-97
H1151	**ARNOLD**	**EASTERN NC LIVESTOCK ARENA FUNDS-2**	**H -ASSIGNED TO APP-CAP**	**04-22-97**	**05-14-97**
H1193	**BROWN**	**AGRICULTURAL FAIRS COMMITTEE/FUNDS**	**H -ASSIGNED TO APP-NTEC**	**05-01-97**	**05-13-97**
H1248=	BAKER	EXEMPT TOBACCO ASSISTANCE PAYMENTS	*S -REF TO COM ON FINANCE	05-12-98	06-04-98
H1442=	MITCHELL	EXEMPT TRANSPORT AGRIC. PRODUCTS	H -RE-REF COM ON JUDICI	05-25-98	06-23-98
H1467=	**MITCHELL**	**SOUTHERN DAIRY COMPACT FUNDS**	**H -RE-REF COM ON APPROP**	**05-25-98**	**06-23-98**
H1529=	BROWN	HORSE PROMOTION ASSESSMENT	*H -PLACED ON CAL FOR 08-18	05-27-98	06-04-98
H1543=	**MITCHELL**	**POULTRY/RATITE DEALERS REGISTRATION**	**H -RE-REF COM ON APPROP**	**05-27-98**	**06-16-98**
H1553=	BROWN	EASTERN AGRICULTURE CENTER FUNDS	H -RE-REF COM ON APPROP	05-28-98	06-16-98
H1560	**MITCHELL**	**SMALL FAMILY FARMS FUNDS**	**H -RE-REF COM ON APPROP**	**05-28-98**	**06-23-98**

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 | HOUSE: AGRICULTURE | Valid Through 18-AUG-1998

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H1617	MITCHELL	POULTRY COMPOSTING TAX CREDIT	*S -REF TO COM ON FINANCE	05-28-98	06-30-98
H1649=	**CARPENTER J**	**PIEDMONT TRIAD FARMERS MARKET FUNDS**	**H -RE-REF COM ON APPROP**	**05-28-98**	**06-23-98**
S 172	ALBERTSON	NO SAFETY COURSE/DISABLED HUNTERS	*R -CH. SL 97-0365	03-27-97	04-16-97
S 266	LEDBETTER	PRODUCTION AND SALE OF RED DEER	*R -CH. SL 97-0142	04-16-97	05-07-97
S 508	PLYLER	TURKEY GROWER USE VALUE EXCEPTION	*R -CH. SL 97-0272	05-13-97	05-27-97

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.

MEMORANDUM

TO: Representative Carolyn Russell

FROM: Chairman John W. Brown

DATE: August 12, 1998

SUBJECT: H.B. 1015=CROP ALLOTMENT TAX APPRAISAL

House Rule 36 speaks to reporting bills out of standing committees or permanent subcommittees by the last adjournment of the 1997-98 legislative session. -- "All House bills and resolutions **shall be reported from** the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair of the standing committee or permanent subcommittee that the bill not be considered.**" If it is your intent that the bill listed above not be considered by committee this legislative session, please **sign** and **date** the form and **return** it to the Committee Clerk, Anna Kidd for the Committee on AGRICULTURE in Room 1111 by August 19, 1998.

oooooooooooooo

Mr. Chairman:

I request that the above-mentioned House Bill # 1015, for which I am the principal introducer, not be considered by your committee for the 1997-98 legislative session.

Carolyn B Russell (Sign)

Representative

Aug 12, 1998 (Date)

PLEASE DO NOT DETACH THE FORM FROM THE MEMORANDUM

AGENDA

HOUSE AGRICULTURE COMMITTEE
June 2, 1998

I. CALL MEETING TO ORDER

II. REMARKS BY CHAIRMAN BROWN

III. INTRODUCTION OF PAGES

IV. H.B. 1248=EXEMPT TOBACCO ASSISTANCE PAYMENTS. SPONSOR REP. REX BAKER

V. H.B. 1529=HORSE PROMOTION ASSESSMENT. SPONSOR REP. JOHN BROWN

VI. ANNOUNCEMENTS

VII. ADJOURNMENT

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **Representative Rex Baker**

OFFICE: **Room 632**

DATE: **Thursday, May 28, 1998**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **Tuesday, June 2, 1998**

TIME: **10:00 A.M.**

LOCATION: **Room 1425**

Your Bill (or Bills) will be discussed at this time:
H.B. 1248=EXEMPT TOBACCO ASSISTANCE PAYMENT

We would like to have you attend this meeting.

Representative John W. Brown
Chairman

Anna Kidd (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **Tuesday, June 2, 1998**

TIME: **10:00 A.M.**

LOCATION: **Room 1425**

The following bills will be considered (Bill # & Short Title):
H.B. 1248=EXEMPT TOBACCO ASSISTANCE PAYMENT
H.B. 1529=AN ACT TO PROVIDE FOR A HORSE PROMOTION ASSESSMENT

Respectfully,

Representative John W. Brown
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **12:00 NOON** on **Thursday, May 28, 1998.**

___Principal Clerk
___Reading Clerk - House Chamber

Anna Kidd (Committee Clerk)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

June 2, 1998

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, June 2, 1998 at 10:00 a.m. Chairman Brown presided over the meeting with twenty one House Members present, four House Members absent and one excused absence.

Mr. Brown introduced the Pages serving the Committee and welcomed guests.

Representative Brown turned the meeting over to Representative Rex Baker to speak on House Bill #1248. Rep. Baker explained the bill entitled: **AN ACT TO EXEMPT FROM INCOME TAX FEDERAL PAYMENTS TO TOBACCO ALLOTMENT HOLDERS, TOBACCO WORKERS, AND TOBACCO FARMERS AS COMPENSATION FOR LOSSES DUE TO THE FEDERAL TOBACCO SETTLEMENT** to the Members..

Representative Jim Carpenter moved to adopt the amendment. The motion was carried. Representative Baker explained that the amendment moves to amend the bill on page 1, line 9, by deleting the term"(16)" and substituting the term "(17)". Next Representative Baker stated that this Bill would exempt from state taxation, payments made by the federal government to taxpayers under the federal Long-Term Economic Assistance for Farmers Act as reimbursements for loss of tobacco quotas.

Section 1 of the bill amends G.S. 105-130.5(b) to provide the exemption under the corporate income tax.

Section 2 of the bill amends G.S. 105-134.6(b) to provide the exemption to individual income taxpayers.

Representative Baker stated that the act is effective for taxable years beginning on or after January 1, 1998. Several questions were taken from the floor.

At this time, Representative Rick Eddins moved that the bill be given a favorable report

as to the committee substitute, be given an unfavorable to the original bill and recommended that the committee substitute bill be re-referred to the Committee on Finance. Motion carried.

Next, Chairman Brown introduced Representative Arlie Culp who spoke on House Bill #1529, entitled: **AN ACT TO PROVIDE FOR A HORSE PROMOTION ASSESSMENT**. Representative Tolson moved to accept the amendment. Motion was carried. Legal Staff explained that the amendment moves to amend the bill on page 1, lines 21 and 22, by inserting between those lines: (4) 'Equine' means a horse, pony, mule, donkey, or hinny. 'Horse owner' means a person who (i) is a North Carolina resident and (ii) owns or leases an equine or has a financial interest in equines or an equine operation." Several questions followed.

At this time, Representative Culp explained to the members that this bill was sponsored by Representative Brown and it provides for a referendum to allow horse owners to assess themselves, through a levy on commercial horse feed, in order to provide funds to the North Carolina Horse Council to promote the interest of the horse industry.

The North Carolina Horse Council is authorized to conduct a referendum among horse owners to determine if the assessment should be levied. To take effect, the assessment must be approved by a majority of votes cast in the referendum. The amount of the assessment may not exceed $2 per ton of commercial horse feed and shall not extend for a period of more than 3 years. The Council is to determine the exact amount and period of the levy.

He went on to explain that if approved, the North Carolina Department of Agriculture and Consumer Services shall notify all commercial feed dealers and distributors of the assessment and shall provide forms for reporting the assessment. The assessment is to be remitted to the Department with the inspection fee imposed under the Commercial Feed Law, Article 31C of Chapter 106 of the General Statutes. Anyone who purchases commercial horse feed may demand a refund of the assessment by writing the Horse Council within 30 days of buying the feed and providing proof of purchase.

The department is to remit funds to the North Carolina Horse Council at least quarterly. These funds may be used by the Horse Council to promote the interest of the horse industry, including administrative expenses to carry these functions.

Representative Culp stated that this act shall be effective when it becomes law.

Considerable discussion followed. Representative Owens asked the sponsor if he knew of any opposition to this bill? Representative Brown answered in the negative. Additional questions were taken from the floor.

Representative Owens moved that the bill be given a favorable report as to committee substitute, unfavorable as to original bill and recommended that the committee substitute bill be re-referred to the Committee on Finance. Motion carried.

The meeting adjourned at 10:50 a.m.

JOHN W. BROWN, CHAIRMAN

Anna P. Kidd, Clerk

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **Agriculture**.

☐ Committee Substitute for
H.B. 1248 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM INCOME TAX FEDERAL PAYMENTS TO TOBACCO ALLOTMENT HOLDERS, TOBACCO WORKERS, AND TOBACCO FARMERS AS COMPENSATION FOR LOSSES DUE TO THE FEDERAL TOBACCO SETTLEMENT.

☐ 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 House committee substitute bill, unfavorable as to original bill and recommendation that the House 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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **Agriculture**.

☐ Committee Substitute for
H.B. 1529 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR A HORSE PROMOTION ASSESSMENT.

☐ 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 House 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 1

HOUSE BILL 1248*

Short Title: Exempt Tobacco Assistance Payments. (Public)

Sponsors: Representatives Baker; Aldridge, Arnold, Buchanan, Capps, Crawford, Culp, Davis, Decker, Esposito, Grady, Gray, Hill, Hurley, Mercer, Mitchell, Nichols, Nye, Oldham, Russell, Smith, Tolson, Warwick, G. Wilson, Wood, and Yongue.

Referred to: Agriculture, if favorable, Finance.

May 12, 1998

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM INCOME TAX FEDERAL PAYMENTS TO TOBACCO ALLOTMENT HOLDERS, TOBACCO WORKERS, AND TOBACCO FARMERS AS COMPENSATION FOR LOSSES DUE TO THE FEDERAL TOBACCO SETTLEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(16) The amount paid to the taxpayer by the federal government during the taxable year under the federal Long-Term Economic Assistance for Farmers (LEAF) Act as reimbursement for loss of tobacco quotas."

Section 2. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(15) The amount paid to the taxpayer by the federal government during the taxable year under the federal Long-Term Economic Assistance for Farmers (LEAF) Act as any of the following:

a. Reimbursement for loss of tobacco quotas.

b. Transition assistance for tobacco workers.

c. Higher education assistance grants for members of tobacco farm families."

Section 3. This act is effective for taxable years beginning on or after January 1, 1998.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1248

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1248-ARF-010 Page 1 of __

Date_____,1998

Comm. Sub. [ ]
Amends Title [ ]

1 moves to amend the bill on page 1, line 9,
2 by deleting the term "(16)" and substituting the term "(17)".
3

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

FROM PAGE ONE

Competing Tobacco Plans

	Ford Plan	Lugar Plan
Tobacco Quotas	Continues quota program for burley tobacco. Ends quota program for flue-cured tobacco and replaces it with permits issued to farmers.	Ends quota programs in 1999.
Tobacco Price Supports	Continues price supports	Reduces price supports 25 percent in 1999, 10 percent in 2000 and 10 percent in 2001. Ends price supports in 2002.
Buyout for Quota Owners	Buys out quota owners at $8 a pound based on their average quota in 1995-97. Pays out in equal installments over 10 years, 1999-2008. Pays a lump sum, if quotas drop below 50 percent of 1998 level for three years or Congress eliminates price supports. Optional for burley quota owners, but required for flue-cured quota owners. Bars burley quota owners who choose a buyout and flue-cured quota owners who don't grow their own quota from growing tobacco for 25 years.	Buys out quota owners at $8 a pound based on their average quota in 1995-97. Pays out in equal installments over three years, 1999-2001.
Buyout for Quota Renters	Buys out flue-cured farmers who lease quota and opt for a buyout at $4 a pound based on their average quota in 1995-97. Pays out in equal installments over 10 years, 1999-2008.	Buys out farmers who lease quota at $4 a pound based on their average quota in 1995-97. Pays out in equal installments over three years, 1999-2001.
Loss-of-Quota Payments	Pays burley quota owners $4 a pound for every pound their quota drops each year below their average quota in 1995-97, for a lifetime limit of $8 a pound. Pays burley and flue-cured quota renters $2 a pound for every pound their quota drops each year below their average quota in 1995-97, for a lifetime limit of $4 a pound.	
Farmer Compensation	$16 billion	$17 billion
Economic Assistance	$10.5 billion	$1 billion
Education and Retraining	$2 billion	---
Total Cost	$28.5 billion	$18 billion

Source: Congressional Documents

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1248*
Proposed Committee Substitute H1248-PCS3136

Short Title: Exempt Tobacco Assistance Payments. (Public)

Sponsors:

Referred to:

May 12, 1998

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM INCOME TAX FEDERAL PAYMENTS TO TOBACCO ALLOTMENT HOLDERS, TOBACCO WORKERS, AND TOBACCO FARMERS AS COMPENSATION FOR LOSSES DUE TO THE FEDERAL TOBACCO SETTLEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(17) The amount paid to the taxpayer by the federal government during the taxable year under the federal Long-Term Economic Assistance for Farmers (LEAF) Act as reimbursement for loss of tobacco quotas."

Section 2. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(15) The amount paid to the taxpayer by the federal government during the taxable year under the federal Long-Term Economic Assistance for Farmers (LEAF) Act as any of the following:

a. Reimbursement for loss of tobacco quotas.

b. Transition assistance for tobacco workers.

c. Higher education assistance grants for members of tobacco farm families."

Section 3. This act is effective for taxable years beginning on or after January 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1529

Short Title: Horse Promotion Assessment. (Public)

Sponsors: Representatives Brown and Culp.

Referred to: Agriculture, if favorable, Finance.

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A HORSE PROMOTION ASSESSMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 69.

"Horse Industry Promotion Act.

"**§ 106-820. Title.**

This Article may be cited as the Horse Industry Promotion Act.

"**§ 106-821. Findings.**

The General Assembly finds that the horse industry makes an important contribution to the State's economy, and that it is appropriate for the State to provide a means for horse owners to voluntarily assess themselves in order to provide funds to promote the interests of the horse industry.

"**§ 106-822. Definitions.**

As used in this Article:

(1) 'Commercial horse feed' means any commercial feed, as defined in G.S. 106-284.33, labeled for equine use.

(2) 'Council' means the North Carolina Horse Council.

(3) 'Department' means the Department of Agriculture and Consumer Services.

"**§ 106-823. Referendum.**

(a) The Council may conduct a referendum among horse owners upon the question of whether an assessment shall be levied consistent with this Article.

(b) The Council shall determine all of the following:

(1) The amount of the proposed assessment, not to exceed two dollars ($2.00) per ton of commercial horse feed.

(2) The period for which the assessment shall be levied, not to exceed three years.

(3) The time and place of the referendum.

(4) Procedures for conducting the referendum and counting votes.

(5) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment and the method of collection shall be set forth on the ballot.

(d) All horse owners are eligible to vote in the referendum. Any questions concerning eligibility to vote shall be resolved by the board of directors of the Council.

"**§ 106-824. Majority vote required; collection of assessment.**

(a) The assessment shall not be collected unless a majority of the votes cast in the referendum is in favor of the assessment. If a majority of the votes cast in the referendum is in favor of the assessment, the Department shall notify all commercial horse feed manufacturers and distributors of the assessment. The assessment shall apply to all commercial horse feed subject to the provisions of G.S. 106-284.40(b), and the assessment shall be remitted to the Department with the inspection fee imposed by G.S. 106-284.40. The Department shall provide forms for reporting the assessment. Persons who purchase commercial horse feed on which the assessment has not been paid shall report these purchases and pay the assessment to the Department.

(b) The Council may bring an action to collect unpaid assessments against any horse owner, feed manufacturer, or distributor who fails to pay the assessment and, if successful, shall recover the cost of such action, including attorneys' fees.

"**§ 106-825. Use of funds; refunds.**

(a) The Department shall remit all funds collected under this Article to the Council at least quarterly. The Council shall use these funds to promote the interests of the horse industry and may use these funds for those administrative expenses that are reasonably necessary to carry out this function.

(b) Any person who purchases commercial horse feed upon which the assessment has been paid shall have the right to receive a refund of the assessment by making demand in writing to the Council within 30 days of purchase of the feed. This demand shall be accompanied by proof of purchase satisfactory to the Council."

Section 2. G.S. 106-550 reads as rewritten:

"**§ 106-550. Policy as to promotion of use of, and markets for, farm products.**

It is declared to be in the interest of the public welfare that the North Carolina farmers who are producers of livestock, poultry, field crops and other agricultural products, including cattle, sheep, broilers, turkeys, commercial eggs, peanuts, cotton, potatoes, sweet potatoes, peaches, apples, berries, vegetables and other fruits of all kinds, as well as bulbs and flowers and other agricultural products having a domestic

or foreign market, shall be permitted and encouraged to act jointly and in cooperation with growers, handlers, dealers and processors of such products in promoting and stimulating, by advertising and other methods, the increased production, use and sale, domestic and foreign, of any and all of such agricultural commodities. The provisions of this Article, however, shall not include the agricultural products of tobacco, strawberries, strawberry plants, ~~or~~ porcine animals, or horses, with respect to which separate provisions have been made."

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1529

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1529-ARF-011

Date_____,1998

Comm. Sub. [ ]
Amends Title [ ]

moves to amend the bill on page 1, lines 21 and 22, by inserting between those lines:

"(4) 'Equine' means a horse, pony, mule, donkey, or hinny.
(5) 'Horse owner' means a person who (i) is a North Carolina resident and (ii) owns or leases an equine or has a financial interest in equines or an equine operation."

SIGNED Jim Carpenter
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1529
Proposed Committee Substitute H1529-PCS6443

Short Title: Horse Promotion Assessment. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A HORSE PROMOTION ASSESSMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 69.

"Horse Industry Promotion Act.

"**§ 106-820. Title.**

This Article may be cited as the Horse Industry Promotion Act.

"**§ 106-821. Findings.**

The General Assembly finds that the horse industry makes an important contribution to the State's economy, and that it is appropriate for the State to provide a means for horse owners to voluntarily assess themselves in order to provide funds to promote the interests of the horse industry.

"**§ 106-822. Definitions.**

As used in this Article:

(1) 'Commercial horse feed' means any commercial feed, as defined in G.S. 106-284.33, labeled for equine use.

(2) 'Council' means the North Carolina Horse Council.

(3) 'Department' means the Department of Agriculture and Consumer Services.

(4) 'Equine' means a horse, pony, mule, donkey, or hinny.

(5) 'Horse owner' means a person who (i) is a North Carolina resident and (ii) owns or leases an equine or has a financial interest in equines or an equine operation.

"**§ 106-823. Referendum.**

(a) The Council may conduct a referendum among horse owners upon the question of whether an assessment shall be levied consistent with this Article.

(b) The Council shall determine all of the following:

(1) The amount of the proposed assessment, not to exceed two dollars ($2.00) per ton of commercial horse feed.

(2) The period for which the assessment shall be levied, not to exceed three years.

(3) The time and place of the referendum.

(4) Procedures for conducting the referendum and counting votes.

(5) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment and the method of collection shall be set forth on the ballot.

(d) All horse owners are eligible to vote in the referendum. Any questions concerning eligibility to vote shall be resolved by the board of directors of the Council.

"**§ 106-824. Majority vote required; collection of assessment.**

(a) The assessment shall not be collected unless a majority of the votes cast in the referendum is in favor of the assessment. If a majority of the votes cast in the referendum is in favor of the assessment, the Department shall notify all commercial horse feed manufacturers and distributors of the assessment. The assessment shall apply to all commercial horse feed subject to the provisions of G.S. 106-284.40(b), and the assessment shall be remitted to the Department with the inspection fee imposed by G.S. 106-284.40. The Department shall provide forms for reporting the assessment. Persons who purchase commercial horse feed on which the assessment has not been paid shall report these purchases and pay the assessment to the Department.

(b) The Council may bring an action to collect unpaid assessments against any horse owner, feed manufacturer, or distributor who fails to pay the assessment and, if successful, shall recover the cost of such action, including attorneys' fees.

"**§ 106-825. Use of funds; refunds.**

(a) The Department shall remit all funds collected under this Article to the Council at least quarterly. The Council shall use these funds to promote the interests of the horse industry and may use these funds for those administrative expenses that are reasonably necessary to carry out this function.

(b) Any person who purchases commercial horse feed upon which the assessment has been paid shall have the right to receive a refund of the assessment by making demand in writing to the Council within 30 days of purchase of the feed. This demand shall be accompanied by proof of purchase satisfactory to the Council."

Section 2. G.S. 106-550 reads as rewritten:

"**§ 106-550. Policy as to promotion of use of, and markets for, farm products.**

It is declared to be in the interest of the public welfare that the North Carolina farmers who are producers of livestock, poultry, field crops and other agricultural products, including cattle, sheep, broilers, turkeys, commercial eggs, peanuts, cotton, potatoes, sweet potatoes, peaches, apples, berries, vegetables and other fruits of all kinds, as well as bulbs and flowers and other agricultural products having a domestic or foreign market, shall be permitted and encouraged to act jointly and in cooperation with growers, handlers, dealers and processors of such products in promoting and stimulating, by advertising and other methods, the increased production, use and sale, domestic and foreign, of any and all of such agricultural commodities. The provisions of this Article, however, shall not include the agricultural products of tobacco, strawberries, strawberry plants, ~~or~~ porcine animals, or horses, with respect to which separate provisions have been made."

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

VISITOR REGISTRATION SHEET

AGRICULTURE & FORESTRY AWARENESS STUDY COMMISSION

JUNE 2, , 1997

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mayor Munchbetts	Payne & Symes
Rudolph S. Clark	Tri-Agency Council
David McLeod	NCDA & CS
Dick Mansmann	NC Horse Council
B.E. Scarbro	NC Horse Council
Steve Mobley	N.C. Horse Council
John H. Cymes	N.C. State Grange
Jay Hardee	NC Pork Council
Lisa Creech	AGS
Deborah Bryan	Am. Lung Assn.
Roger Bone	Bone & Assoc
C. Parker	Bone & Assoc.

AGENDA

HOUSE AGRICULTURE COMMITTEE
JUNE 16, 1998

I. CALL MEETING TO ORDER

II. REMARKS BY CHAIRMAN BROWN

III. INTRODUCTION OF PAGES

IV. H.B. #1543 POULTRY/RATITE DEALERS REGISTRATION

V. DR. LARRY TOMBAUGH, DEAN
COLLEGE OF FOREST RESOURCES
NORTH CAROLINA STATE UNIVERSITY

VI. ANNOUNCEMENTS

VII. ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

HOUSE BILL 1543

Short Title: Poultry/Ratite Dealers Registration. (Public)

Sponsors: Representatives Mitchell; and Brown.

Referred to: Agriculture, if favorable, Appropriations.

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REGISTRATION OF DEALERS IN POULTRY AND RATITES, TO PROHIBIT SPECIALTY MARKET OPERATORS FROM PERMITTING UNREGISTERED POULTRY OR RATITE DEALERS FROM OPERATING AT SPECIALTY MARKETS, AND TO APPROPRIATE FUNDS FOR THE ENFORCEMENT OF THESE REGISTRATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-540(3) reads as rewritten:

"(3) Regulate hatching egg dealers, chick dealers, poult dealers, poultry dealers, ratite dealers, and jobbers."

Section 2. G.S. 106-541 reads as rewritten:

"**§ 106-541. Definitions.**

For the purpose of this ~~Article, a hatchery shall be defined as~~ Article, the following definitions apply:

(1) 'Hatchery' means any establishment that operates hatchery equipment for the production of baby chicks or poults.

(2) ~~A hatching~~ 'Hatching egg dealer, chick ~~dealer or jobber shall mean~~ dealer, or jobber' means any person, ~~firm~~ firm, or corporation that buys hatching eggs, baby ~~chicks~~ chicks, or turkey poults and sells or offers them for sale.

(3) 'Live poultry or ratite dealer' means a person who sells or offers for sale to the general public live poultry or ratites. Live poultry or ratite dealer does not include persons who sell on their own

premises live poultry or ratites that were raised on the same premises.

(4) ~~The term "mixed~~ 'Mixed chicks' or 'assorted chicks' ~~shall mean~~ means chicks produced from eggs from purebred females of a distinct breed mated to a purebred male of a distinct breed.

(5) 'Poultry' means live chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, or turkeys other than chicks or poults.

(6) 'Ratite' has the same meaning as in G.S. 106-549.15."

Section 3. G.S. 106-542 is amended by adding the following new subsections:

"(b1) It shall be unlawful for any person, firm, or corporation to operate as a live poultry or ratite dealer without first registering with the Department of Agriculture and Consumer Services.

(b2) It shall be unlawful for a specialty market operator, as defined in G.S. 66-250, to knowingly and willfully permit an unregistered poultry or ratite dealer to operate on the premises of the specialty market, as defined in G.S. 66-250, more than 10 days after being notified in writing by the Department of Agriculture and Consumer Services that the dealer is not registered."

Section 4. G.S. 106-547 reads as rewritten:

"§ 106-547. Records to be kept.

Every hatchery, hatching egg dealer, chick ~~dealer~~ dealer, poultry dealer, ratite dealer, or jobber shall keep such records of operation as the regulations of the Department of Agriculture and Consumer Services may require for the proper inspection of said hatchery, ~~dealer~~ dealer, or jobber."

Section 5. There is appropriated from the General Fund to the Department of Agriculture and Consumer Services the sum of ten thousand dollars ($10,000) for the 1998-99 fiscal year for the enforcement of registration requirements for poultry and ratite dealers.

Section 6. Section 5 of this act becomes effective July 1, 1998. Sections 3 and 4 of this act become effective October 1, 1999. The remaining sections of this act are effective when they become law.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Agriculture** will meet as follows:

DAY & DATE: **Tuesday, June 16, 1998**

TIME: **10:00 A.M.**

LOCATION: **Room 1425**

The following bills will be considered (Bill # & Short Title):

Dr. Larry Tombaugh, Dean
College of Forest Resources
North Carolina State University

HB 1543 - Poultry/Ratite Dealers Registration - Rep. Mitchell

Respectfully,

Representative John W. Brown
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **12:30 p.m.** on **June 11, 1998**.

___Principal Clerk
___Reading Clerk - House Chamber

Anna Kidd (Committee Clerk)

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

June 16, 1998

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, June 16, 1998 at 10:00 a.m. Chairman Brown presided over the meeting with twenty one House Members present, four House Members absent and one excused absence.

Chairman Brown introduced the Pages serving the Committee and welcomed guests.

Representative Brown turned the meeting over to Representative Frank Mitchell to speak on House Bill #1543 entitled: **AN ACT TO REQUIRE THE REGISTRATION OF DEALERS IN POULTRY AND RATITES, TO PROHIBIT SPECIALTY MARKET OPERATORS FROM PERMITTING UNREGISTERED POULTRY OR RATITE DEALERS FROM OPERATING AT SPECIALTY MARKETS, AND TO APPROPRIATE FUNDS FOR THE ENFORCEMENT OF THESE REGISTRATION REQUIREMENTS.** Mr. Mitchell state that House Bill #1543, introduced by Representative Brown, would require all dealers of live poultry and ratites, other than those who sell birds on their own premises that were raised on their own premises, to register with the North Carolina Department of Agriculture and Consumer Services. The current poultry laws only require hatching egg dealers and chick dealers to obtain a license from the Department.

Mr. Mitchell reported that in addition to the registration requirement, the bill provides that specialty market operators may not knowingly allow an unregistered poultry or ratite dealer to operate on the premises more than 10 days after the operator has received notice from the Department of the dealer's unregistered status. A specialty market operator is one who leases space to another at a location other than a permanent retail store, for the purpose of selling goods at retail (ie. A flea market operator). G.S. 66-250. Live poultry and ratite dealers are further required to keep records as required by the Department.

Further, Representative Mitchell stated that persons who fail to comply with the act are guilty of a Class 2 misdemeanor and are subject to civil penalties of up to $5,000. G.S. 106-540 and G.S. 106-549.01.

The sum of $10,000 is appropriated from the General Fun to the Department for the enforcement of the registration requirements.

The definitional portions of the act, Sections 1 and 2, are effective when the bill becomes law. The appropriation becomes effective July 1, 1998. The registration and records requirements become effective October 1, 1998.

Considerable discussion followed and several questions were accepted at this time.

Representative Gene Rogers moved to give the bill a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations. Motion carried.

Next, Chairman Brown introduced Dr. Larry Tombaugh, Dean of College of Forest Resources at North Carolina State University. Dean Tombaugh gave an overview and showed a slide presentation of the College of Forest Resources to the Committee Members. He stated that North Carolina is a forested state and that 62% of the land area is forested. Our forested area is about the size of New Hampshire, Vermont, Connecticut, and Massachusetts combined. He further stated that North Carolina Forests provide environment values, tourism and recreation, products, jobs and economic opportunities. Dean Tombaugh stated that North Carolina Forests provide opportunities for hundreds of thousands of North Carolinians to make a good living and an environment that makes that good living truly worth living. (Attachment I)

Dean Tombaugh announced to the members that the critical needs in 1998 for the Agricultural Programs at the North Carolina College of Forest Resources Expansion Budget requests are as following:

- Forest Biotechnology $200,000/year
- Southern Center for Sustainable Forestry $300,000/year
- Rural Tourism Initiative $240,000/year

Consideration discussion followed and several questions were taken from the members.

The meeting adjourned at 10:55 a.m.

JOHN W. BROWN, CHAIRMAN

Anna P, Kidd

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1543 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE REGISTRATION OF DEALERS IN POULTRY AND RATITES, TO PROHIBIT SPECIALTY MARKET OPERATORS FROM PERMITTING UNREGISTERED POULTRY OR RATITE DEALERS FROM OPERATING AT SPECIALTY MARKETS, AND TO APPROPRIATE FUNDS FOR THE ENFORCEMENT OF THESE REGISTRATION REQUIREMENTS.

☐ 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

ATTACHMENT I

North Carolina State University is a land-grant university and a constituent institution of The University of North Carolina

Department of Forestry

NC STATE UNIVERSITY

College of Forest Resources
Campus Box 8002
Raleigh, NC 27695-8002

919.515.2891
919.515.8149 (fax)

FOREST BIOTECHNOLOGY

EXPANSION BUDGET PROPOSAL TO THE NORTH CAROLINA GENERAL ASSEMBLY

UNC-System/NC State University
Agricultural Programs Expansion Budget
Agricultural Production and Life Science Industries

The Issue

Increasing world population and rising affluence in many developing countries have greatly increased demands for food and fiber. Forestry firms throughout the world have responded to these demands with increased investments in forest production and manufacturing capacity. In particular, countries in the southern hemisphere now have extensive programs of tree planting of exotic pines and hardwoods. Large differences in growth rates--2 to 10 times greater in the southern hemisphere than in the U.S. South--have caused the competitive position of the South to erode rapidly in the last decade.

We must substantially increase our commitment to and investment in the basic means of timber production--genetics, biotechnology, and intensive management--if we are to remain competitive. A focused response in forest biotechnology is a key to unlocking the potentials in the South of increased forest growth rates, timber quality, and forest health. North Carolina State University is beginning its second decade of its basic research in forest biotechnology. This program has already developed the first genetic maps of loblolly pine; identified selected properties that control wood structure; and identified genes that provide resistance to fusiform rust. We now need to capitalize on these path-breaking efforts and ensure that they can be continued and applied to increase forest productivity. To date, much of our research at NCSU has been funded with external grants. More state funding is needed to ensure continued research excellence and leadership by the forest biotechnology group in the face of large investments in other states and in other countries.

Enhanced forest biotechnology research, development, and application will increase wood fiber production in North Carolina and the South. This can help us retain our competitive position as the leading producer of pulp and paper and of solid wood products in the world; produce more wood fiber; improve international competitiveness; and reduce disturbance of natural forests. Local benefits include more employment and income derived from the practice of intensive forestry, and more manufacturing capacity in local communities.

Budget

Funds for the Forest Biotechnology Group are needed for faculty or technical positions and operating funds. This request will amount to $200,000 per year.

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Department of Forestry

NC STATE UNIVERSITY

College of Forest Resources
Campus Box 8002
Raleigh, NC 27695-8002

919.515.2891
919.515.8149 (fax)

SOUTHERN CENTER FOR SUSTAINABLE FORESTS

EXPANSION BUDGET PROPOSAL TO THE NORTH CAROLINA GENERAL ASSEMBLY

UNC-System/NC State University
Agricultural Programs Expansion Budget - Natural Resources and the Environment

The Center

North Carolina has more than 19 million acres of forests, or almost 62% of its total land area. Rapid development is projected throughout the South, and particularly noticeable in North Carolina. For the next decade, we are projected to have among the highest rates of increase in the U.S. in population, gross domestic product, urban development, road construction, and timber harvesting. A host of issues from water quality to wood chip production to mountain development threaten the productivity, sustainability, and health of North Carolina forests.

Sustainable forestry implies that we must consider both market and environmental impacts of forest practices and their long run consequences. Relevant research questions must examine many issues such as selection of forest practices, effects of timber harvests, plans for regeneration, protection of water quality, improvement of wildlife habitat, markets for nonindustrial private landowners, ecological restoration, and the urban/rural interface.

We have agreed to establish a Southern Center for Sustainable Forests as a cooperative effort between NC State University, the North Carolina DENR/Division of Forest Resources, and Duke University. The Center will provide leadership to promote economically and ecologically sustainable management of forests in the South. The Center will:

- Foster research and applications on the productivity, sustainability, and stewardship of forest practices on private forests and evaluate the effects of intensive forestry at the stand and landscape scale.
- Improve state, regional, and interdisciplinary cooperation in technology transfer of existing and new research efforts to forestry professionals and to private landowners.
- Ensure development and use of appropriate guidelines for sustainable forestry that incorporate economic and ecological principles.

Budget

Funds for the Southern Center for Sustainable Forests are needed for a Director, a Technical Specialist, and an operating budget. This request will amount to $300,000 per year.

North Carolina State University is a land-grant university and a constituent institution of The University of North Carolina

Parks, Recreation and Tourism Management
Box 8004
Raleigh, N.C. 27695-8004

NC STATE UNIVERSITY

(919) 515-3276
Fax: (919) 515-3687

RURAL TOURISM DEVELOPMENT

EXPANSION BUDGET PROPOSAL TO THE NORTH CAROLINA GENERAL ASSEMBLY

UNC-System/NC State University
Agricultural Programs Expansion Budget – Community and Rural Development

North Carolina's travel and tourism industry employs over 170 thousand workers and contributes over $10 billion annually to the State's economy, including $700 million in state and local taxes. North Carolina's 15 urban counties account for 61% of the economic impact from tourism while its 85 rural counties contribute only 39%.* The impact of rural communities is limited due to the lack of professional staff in tourism planning and development. Rural communities also lack data for tourism planning and have inadequate opportunities for training in tourism and hospitality management for their workforce.

Rural communities have natural and cultural resources that can serve as attractions for tourism development, but generally lack expertise in the utilization of those resources to maximize the economic benefits from tourism. That expertise would be provided to North Carolina's rural communities by the NC Center for Rural Tourism Development.

Services to be provided by the Center include:

- Identify potential tourism attractions, activities, facilities, services and financial investments needed to maximize economic benefits to communities.
- Identify "barriers" that limit tourism development in rural communities.
- Identify tourist development alternatives with projected economic and social impacts.
- Identify strategies to develop and sustain tourism development with emphasis on the responsible use and management of natural and cultural resources.
- Determine the economic impact from tourism to rural communities.
- Provide information and training to local leaders and professionals in successful rural tourism development through the NC Cooperative Extension Service.

Proposed Budget:

NC State University contribution	$65,000
New State Appropriation	$240,000

*NCSU Office of Park and Tourism Research, 1997

Dean Larry W. Tombaugh

Education:

Ph.D., Resource Economics, University of Michigan, 1968
M.S., Forestry, Colorado State University, 1963
B.S., Forestry, Pennsylvania State University, 1960

Career Highlights:

Dean, College of Forest Resources, NCSU, 1989-present.
Chairman and Professor, Department of Forestry, Michigan State University, East Lansing, MI, 1978-1989.
Deputy Assistant Director for Planning and Analysis, National Science Foundation, Washington, D.C., 1976-1978.
Director, Division of Advanced Environmental Research and Technology, National Science Foundation, Washington, D.C., 1975-1976; Program Manager, 1971-1975.
Principal Economist, Southeastern Forest Experiment Station, U.S. Forest Service, 1969-1971.

Awards and Activities:

President, National Association of Professional Forestry Schools and Colleges, 1990-1991.
Elected Member, Forest Science and Technology Board, Society of American Foresters, 1987-1990.
Elected Member, International Council, International Union of Forestry Research Organizations, 1986.
Appointee, State Forest Industry Development Council, appointed by Governor, confirmed by Michigan Senate, 1984-1986.
National Science Foundation Meritorious Service Award (Silver Medal), 1976.
Colorado State University Alumni Association Professional Achievement Award, 1974.
Fellow, Society of American Foresters.
Fellow, American Association for the Advancement of Science.

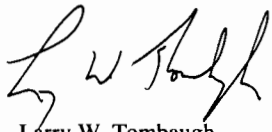
Our business is basically the natural resources of the state and the nation, since it is impossible to look at forests without looking at wildlife, water resources, soil and air. The challenge facing the College of Forest Resources in the next decade is to produce the people and new ideas that will be able to provide natural resources for a growing economy without degrading the quality of the natural environment.

Three major functions served by our forested resources define our vision for the future: commodities, leisure opportunities and the environment. Public policy, the area where these three interact and conflict, may be the most interesting of all in the years ahead. In this regard, part of our vision is a fully functioning Natural Resources Research Center to bring together the scientific and technical talents of N.C. State University and elsewhere to tackle major issues that are facing the state. Our number one job is to educate the leaders of tomorrow in each of these areas. What we try to concentrate on is the two components of leadership—competence and confidence—and we are going to do even more to instill that sense of confidence in the next decade. Equally important to us is education through extension. We have the leading forestry extension program in the nation, which is helping to make sure that citizens understand forests and natural resources and contribute to preserving them.

Undergirding our education efforts is our research program. The College is second in the University in the research dollars brought in by faculty, demonstrating the aggressiveness of our faculty and the high regard in which they are held. Maintaining a strong research program will not only help to create new knowledge but also will support our graduate program, which will grow significantly in the future.

We are also going to instill an international sense in the hearts and minds of our student body. Our leaders and our citizens must understand the global village in which we live, in addition to the fact that forestry involves international issues. This means more than offering a course here and there—we must infuse the international element into all our courses.

In this regard, we are working to establish a Center for World Environment and Sustainable Development. A cooperative effort of the NCSU Colleges of Forest Resources and Agriculture and Life Sciences with Duke University and the University of North Carolina at Chapel Hill, the Center will enable us to attract major funding from international donors and work together to improve our world.



Larry W. Tombaugh
Dean

NORTH CAROLINA STATE UNIVERSITY

College of Forest Resources

NORTH CAROLINA IS A FORESTED STATE

- **62% of Land Area is Forested**

- **Forested Area about size of New Hampshire, Vermont, Connecticut, and Massachusetts combined**

NORTH CAROLINA FORESTS PROVIDE --

ENVIRONMENTAL VALUES

- Clean Water
- Clean Air
- Wetlands
- Wildlife Habitat
- Home for Endangered Species
- Biological Diversity

NORTH CAROLINA FORESTS PROVIDE --

TOURISM AND RECREATION

- Travel and Tourism is more than a $10 billion industry in North Carolina
- 48% of tourism visits to NC are based on attraction of natural resources
- Great Smoky Mountain National Park is most heavily visited National Park

NORTH CAROLINA FORESTS PROVIDE --

PRODUCTS, JOBS AND ECONOMIC OPPORTUNITIES

- Are **2,600** wood products manufacturing firms in NC
- Forest products industry -- lumber, plywood, paper, and furniture -- ranks **second** in manufacturing employment
- **Second** in annual payroll

IN SHORT

NORTH CAROLINA FORESTS PROVIDE --

- Opportunities for hundreds of thousands of North Carolinians to make a good living

AND

- An environment that makes that good living truly worth living

WHAT IS THE PROBLEM?

- Population is EXPLODING
- Tourism is DOUBLING EVERY 7 YEARS
- Forest industry is GROWING AND SHIFTING TO SOUTH
- Public is DEMANDING environmental values associated with forests

THESE FACTORS ARE PUTTING ENORMOUS PRESSURES ON FORESTS AND FOREST RELATED INDUSTRY

WE HAVE A LITTLE TIME

- For first time in over 80 years, forests in much of South is being harvested at faster rate than is growing
- Without action, this is not sustainable
- In North Carolina, our growth rates still exceed our harvest rates
- Our forests are in better shape than in almost any other southern state

BY ACTING NOW, WE CAN

- Improve water quality
- Quadruple forest productivity
- Expand forest products industry
- Increase natural-resource based tourism
- Reduce natural resource conflicts
- Protect the environment

NC STATE CAN HELP

- Grow more wood on less land
- Increase income opportunities for 400,000 forest landowners and farmers
- Develop environmentally friendly wood products manufacturing processes
- Assist communities with sustainable tourism development
- Foster informed public discussion
- Produce natural resource and industry leaders

COLLEGE OF FOREST RESOURCES IS ORGANIZED TO DEAL WITH CRITICAL NATURAL RESOURCE ISSUES

- Department of Forestry
- Department of Parks, Recreation and Tourism Development
- Department of Wood and Paper Science

EACH HAS A CRITICAL ROLE IN LEADING US TO SUSTAINABILITY

CRITICAL NEEDS IN 1998 AGRICULTURAL PROGRAMS EXPANSION BUDGET REQUEST

- **Forest Biotechnology $200,000/year**

- **Southern Center for**
- **Sustainable Forestry $300,000/year**

- **Rural Tourism Initiative $240,000/year**

VISITOR REGISTRATION SHEET

AGRICULTURE & FORESTRY AWARENESS STUDY COMMISSION

TUESDAY, JUNE 16 , 1998

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Lassiter	NC Septic Tank Assoc
Joe McCleese	McCleese Consulting
Robert E. Cook	NC. Env. Mgt. Comm.
John H. Cyrus	N.C. State Grange
Terry Harkey	NC Pork Council
Lu-Ann Cox	FFF
Mary Britt	Sampson County Schools
Ed Woodhouse	NCFB
Phillip Rea	NC State Univ.
Bob Sloan	NC Forestry Association
Larry Tomlinson	NC State Univ.
Glenn Brothers	NCSU Ag Pgms - Chancellor's Ofc
Wilbur Kenny	NCDA&CS
David McLeod	NCDA&CS

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **Tuesday, June 23, 1998**

TIME: **10:00 A.M.**

LOCATION: **Room 1425**

The following bills will be considered (Bill # & Short Title):

HB 1442 - EXEMPT TRANSPORT AGRIC. PRODUCTS	**Rep. Mitchell**
HB 1467 - SOUTHERN DAIRY COMPACT FUNDS	**Rep. Mitchell**
HB 1617 - POULTRY COMPOSTING TAX CREDIT	**Rep. Mitchell**
HB 1560 - SMALL FAMILY FARMS FUNDS	**Rep. Mitchell**
HB 1649 - PIEDMONT TRIAD FARMERS MARKET FUNDS	**Rep. Carpenter**

Respectfully,

Representative John W. Brown
Chairman

I hereby certify this notice was filed by the committee clerk at the following offices at **12:00 Noon** on **Thursday, June 18, 1998**.

___Principal Clerk
___Reading Clerk - House Chamber

Anna Kidd (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **Representative Frank Mitchell**

OFFICE: **Room 638**

DATE: **Wednesday, June 17, 1998**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **Tuesday, June 23, 1998**

TIME: **10:00 A.M.**

LOCATION: **Room 1425**

Your Bill (or Bills) will be discussed at this time:

H.B. 1442=EXEMPT TRANSPORT AGRIC. PRODUCTS
H.B. 1467=SOUTHERN DAIRY COMPACT FUNDS
H.B. 1560=SMALL FAMILY FARMS FUNDS
H.B. 1617=POULTRY COMPOSTING TAX CREDIT

We would like to have you attend this meeting.

Representatives John W. Brown
Co-Chairs

Anna Kidd (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR

BILL SPONSOR: **Representative Jim Carpenter**

OFFICE: **Room 537**

DATE: **Wednesday, June 17, 1998**

The House Committee on **AGRICULTURE** will meet as follows:

DAY & DATE: **Tuesday, June 23, 1998**

TIME: **10:00 A.M.**

LOCATION: **Room 1425**

Your Bill (or Bills) will be discussed at this time:
H.B. 1649=PIEDMONT TRIAD FARMERS MARKET FUNDS

We would like to have you attend this meeting.

Representatives John W. Brown
Co-Chairs

Anna Kidd (Committee Clerk)

AGENDA

HOUSE AGRICULTURE COMMITTEE

June 23, 1998

I. CALL MEETING TO ORDER

II. REMARKS BY CHAIRMAN BROWN

III. INTRODUCTION OF PAGES

IV. HB 1442 - EXEMPT TRANSPORT AGRIC. PRODUCTS
SPONSOR - REP. FRANK MITCHELL
HB 1467 - SOUTHERN DAIRY COMPACT FUNDS
SPONSOR - REP. FRANK MITCHELL
HB 1617 - POULTRY COMPOSTING TAX CREDIT
SPONSOR - REP. FRANK MITCHELL
HB 1560 - SMALL FAMILY FARMS FUNDS
SPONSOR - REP. FRANK MITCHELL

HB 1649 - PIEDMONT TRIAD FARMERS MARKET FUNDS
SPONSOR - REP. JIM CARPENTER

V. ANNOUNCEMENTS

VI. ADJOURNMENT

MINUTES
HOUSE COMMITTEE ON AGRICULTURE

June 23, 1998

The House Committee on Agriculture met in Room 1425 of the Legislative Building on Tuesday, June 23, 1998 at 10:00 a.m. Chairman Brown presided over the meeting with twenty House Members present, five House Members absent and one excused absence.

Chairman Brown introduced the Pages serving the Committee and welcomed guests. At this time, Mr. Brown also introduced two special guests: Former House Agriculture Chairman Vernon James and Jim Graham, Commissioner of the Department of Agriculture and Consumer Affairs.

Representative Brown turned the meeting over to Representative Frank Mitchell to speak on House Bill #1442 entitled: **AN ACT TO EXEMPT THE TRANSPORTATION OF CERTAIN AGRICULTURAL PRODUCTS FROM VARIOUS REQUIREMENTS IN CONFORMITY WITH FEDERAL REGULATIONS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.** Mr. Mitchell stated that recent federal law has resulted in the development of uniform federal regulations governing the intrastate transportation of hazardous material. In promulgating these regulations, however, a number of exemptions were authorized in an effort to reduce the regulatory burden where small amounts of certain classes of material were involved and safety would not be compromised.

He further stated that this bill adopts the exemption authorized under 44CFR 173.5 allowing the transportation of agricultural products over local roads, between fields of the same farm. "Agricultural products" are defined to include fertilizers, pesticides, soil amendments and fuel. "Farmers" are defined as persons engaged in the production of crops, poultry, and livestock. 44CFR & 171.8.

To take advantage of the relief offered in the federal regulations, North Carolina must specifically authorize adoption of the exemption by State statute or rule prior to October 1, 1998. The Environmental Review Commission has reviewed the exemption and recommended its adoption to the General Assembly.

The act is effective when it becomes law.

Discussion followed and questions were taken from the floor.

Representative Charles Buchanan moved to give the bill a favorable report and recommended that the bill be re-referred to the Judiciary I Committee. Motion carried.

Representative Mitchell next spoke on House Bill #1467 entitled: **AN ACT TO APPROPRIATE FUNDS TO A NONREVERTING RESERVE FOR THE START-UP COSTS OF THE SOUTHERN DAIRY COMPACT COMMISSION AND THE INITIAL COSTS OF ADMINISTERING AND ENFORCING THE SOUTHERN DAIRY COMPACT, AND TO PROVIDE FOR THE REPAYMENT OF THOSE FUNDS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.**

Mr. Mitchell stated that this bill would appropriate the sum of 1.8 million dollars for the 1998-1999 fiscal year to fund the start-up costs for the Southern Dairy Compact Commission. The funds would be place in a nonreverting reserve within the North Carolina Department of Agriculture and Consumer Services. No distributions would be made from the fund unless Congress ratifies legislation authorizing the operation of the Southern Dairy Compact. Further, the State and the Southern Dairy Compact Commission must enter into an agreement establishing:

1. The administrative headquarters of the Commission in North Carolina;
2. All funds disbursed from the reserve shall be repaid to the State plus interest from revenue collected by the Commission;
3. Notes shall be issued by the Commission to the State in the amount of funds disbursed; and
4. Prior to disbursement, the Commission shall itemize the needs of the Commission to be served by the requested disbursement.

Mr. Mitchell went on to state that the contract between the State and the Commission shall not prevent another participating state from providing part or all the start-up costs. Sums repaid under the contract shall be credited to the General Fund. Any funds not disbursed by the end of the term of the contract shall revert at the end of that fiscal year. If Congress fails to ratify the Compact by June 30, 2001, all funds in the reserve shall revert to the General Fund.

The act becomes effective July 1, 1998.

Further discussion and questions followed.

At this time, Representative John Nichols moved to give the bill a favorable report and recommended that the bill be re-referred to the Committee on Appropriations. Motion carried.

Mr. Mitchell next spoke on House Bill #1617 entitled: **AN ACT TO REMOVE THE SUNSET FOR THE INCOME TAX CREDIT FOR POULTRY COMPOSTING FACILITIES.** Mr. Mitchell stated that this bill removes the sunset provision for the Poultry composting tax credit.

The poultry composting tax credit allows taxpayers, or Subchapter S corporations, to get a tax credit equal to twenty-five percent (25%) of the installation, materials, and equipment costs of construction for the building of a poultry composter that is used for composting whole unprocessed poultry carcasses from commercial operations in which poultry is raised or produced.

This credit may not exceed one thousand dollars ($1,000) for any single installation.

Representative Owens wanted to make sure that this would not change anything other than remove the sunset provision. Mr. Mitchell said that was correct. Mr. Rex Baker made a motion to adopt the committee substitute. Motion passed. Discussion followed.

At this time, Representative Owens moved for a favorable report as to committee substitute bill, unfavorable as to the original bill. Motion carried.

Chairman Brown introduced Representative Jim Carpenter sponsor of House Bill #1649. Representative Carpenter explained **AN ACT TO APPROPRIATE FUNDS FOR THE PIEDMONT TRIAD FARMERS MARKET** to the Members of the Committee. He stated that there is appropriated from the General Fund to the Department of Agriculture and Consumer Services the sum of fifty-three thousand six hundred thirty-two dollars ($53,632) for the 1998-99 fiscal year for additional personnel to allow the Piedmont Triad Farmers Market to be open around the clock for wholesale shipping and receiving.

At this time, Representative Don Davis moved to give the bill a favorable report and recommended that the bill be re-referred to the Appropriations Committee. Motion carried.

Representative Brown turned the meeting back to Representative Frank Mitchell for explanation of House Bill #1560 entitled: **AN ACT TO PROVIDE ASSISTANCE FOR SMALL, FAMILY-OWNED FARMS THROUGH GRANTS AND LOANS.** Mr. Mitchell stated that this bill makes a number of appropriations to the North Carolina Department of Agriculture and Consumer Services for the assistance of small, family-owned farms.

Twelve million dollars is appropriated to the North Carolina Rural Rehabilitation Corporation, within NCDA, for leans to small, family-owned farms that are in financial difficulty as evidence by their inability to obtain conventional financing. Loan priorities under this fund would include:

1. Dairy farms with fewer than 300 dairy cows.
2. Turkey farms that have lost contracts with integrators for reasons other than environmental violations.
3. Swine farms with fewer than 500 head.
4. Peach or apple farms that have lost 50% or more of their crop due to freeze damage.

Mr. Mitchell stated that these loans would not exceed 20 years and shall be made pursuant to the lending requirements of the North Carolina Rural Rehabilitation Corporation.

He further explained that the bill would also appropriate 2 million dollars to the NCDA to be used as grants to farmers of family-owned dairies having fewer than 300 dairy cows for purchase of animal waste management equipment. No funds may be used for the expansion or maintenance of anaerobic lagoons. The recipient of the grant funds must maintain the current level of dairy production for at least 5 years or the grant must be repaid on a prorated basis.

Finally, he stated that the sum of $250,000 is appropriated to NCDA for grants for local farmers markets to promote and sell farm products produced by local small, family-owned farms.

Considerable discussion with several questions followed.

Representative Douglas Yongue moved to give the bill a favorable report and recommended that the bill be re-referred to the Committee on Appropriations. Motion carried.

The meeting adjourned at 10:50 a.m.

JOHN W. BROWN, CHAIRMAN

ANNA P. KIDD

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1442*

Short Title: Trans. Ag. Products Exempt. (Public)

Sponsors: Representatives Mitchell; Hill, Tolson, and Warwick.

Referred to: Agriculture, if favorable, Judiciary I.

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE TRANSPORTATION OF CERTAIN AGRICULTURAL PRODUCTS FROM VARIOUS REQUIREMENTS IN CONFORMITY WITH FEDERAL REGULATIONS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-377 reads as rewritten:

"**§ 20-377. General powers of ~~Division.~~ Division; agricultural exemption.**

(a) The Division shall have and exercise such general power and authority to supervise and control the motor carriers of the State as may be necessary to carry out the laws providing for their regulation, and all such other powers and duties as may be necessary or incident to the proper discharge of its duties.

(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. The citations to the Code of Federal Regulations (CFR) refer to the 1 October 1997 Edition of the CFR. The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5."

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 1442 A BILL TO BE ENTITLED AN ACT TO EXEMPT THE TRANSPORTATION OF CERTAIN AGRICULTURAL PRODUCTS FROM VARIOUS REQUIREMENTS IN CONFORMITY WITH FEDERAL REGULATIONS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☒ 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 1467*

Short Title: Southern Dairy Compact Cmsn. Funds. (Public)

Sponsors: Representatives Mitchell; and Hackney.

Referred to: Agriculture, if favorable, Appropriations.

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO A NONREVERTING RESERVE FOR THE START-UP COSTS OF THE SOUTHERN DAIRY COMPACT COMMISSION AND THE INITIAL COSTS OF ADMINISTERING AND ENFORCING THE SOUTHERN DAIRY COMPACT AND TO PROVIDE FOR THE REPAYMENT OF THOSE FUNDS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to a nonreverting reserve within the Department of Agriculture and Consumer Services the sum of one million eight hundred thousand dollars ($1,800,000) for the 1998-99 fiscal year for the start-up costs of the Southern Dairy Compact Commission, to be established pursuant to Section 4 of the Southern Dairy Compact as set forth in G.S. 106-810, and the initial costs of administration and enforcement of the Southern Dairy Compact.

Section 2. (a) The Director of the Budget shall make no disbursements from the reserve established in Section 1 of this act to the Southern Dairy Compact Commission unless Congress ratifies legislation authorizing the operation of the Southern Dairy Compact, and the State of North Carolina and the Southern Dairy Compact Commission enter into a contract, approved by the Attorney General and the Commissioner of Agriculture, that contains all of the following provisions:

(1) That the administrative headquarters of the Southern Dairy Compact Commission shall be located within this State.

(2) That all funds disbursed from the reserve to the Southern Dairy Compact Commission shall be repaid to the State, plus interest at an amount to be agreed upon by the parties, from revenue pledged by the Commission, assessments collected by the Commission, or the reserve of the Commission, in accordance with a repayment schedule to be agreed upon by the parties.

(3) That the Southern Dairy Compact Commission shall issue notes to the State of North Carolina in the amount of the funds disbursed from the reserve under this act.

(4) That, prior to each disbursement, the Southern Dairy Compact Commission shall itemize the needs of the Commission to be served by the requested disbursement and an itemized list showing how the most recent disbursement was spent.

(b) The contract under this section shall not contain any provision that prevents another participating state, as defined in Section 2 of the Southern Dairy Compact as set forth in G.S. 106-810, from providing some or all of the start-up costs of the Southern Dairy Compact Commission or its initial costs of administration and enforcement of the Southern Dairy Compact.

(c) All sums repaid to the State pursuant to the contract under this section shall be credited to the General Fund.

(d) Any funds not disbursed from the reserve under this act by the end of the term of years provided in the contract under this section shall revert at the end of that fiscal year.

(e) Upon the failure of Congress to ratify legislation authorizing the operation of the Southern Dairy Compact by June 30, 2001, all funds in the reserve shall revert to the General Fund.

Section 3. This act becomes effective July 1, 1998.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1467 A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO A NONREVERTING RESERVE FOR THE START-UP COSTS OF THE SOUTHERN DAIRY COMPACT COMMISSION AND THE INITIAL COSTS OF ADMINISTERING AND ENFORCING THE SOUTHERN DAIRY COMPACT AND TO PROVIDE FOR THE REPAYMENT OF THOSE FUNDS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW 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 (#), ☐ 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 1560

Short Title: Small Family Farms Act. (Public)

Sponsors: Representatives Mitchell; Baker, Buchanan, Cansler, Culp, Davis, Hackney, Hiatt, Justus, Kiser, Owens, Sexton, Sherrill, Tolson, G. Wilson, and Wood.

Referred to: Agriculture, if favorable, Appropriations.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ASSISTANCE FOR SMALL, FAMILY-OWNED FARMS THROUGH GRANTS AND LOANS.

The General Assembly of North Carolina enacts:

Section 1. Legislative Findings. -- The General Assembly recognizes the economic and environmental advantages in maintaining and promoting small tracts of land for agricultural production. Small-farm families are providing necessary food and fiber for North Carolina citizens. Small farms provide beautiful land and open spaces for the enjoyment of all North Carolina citizens. By using best management practices, farmers of small, family-owned farms are actively working to protect the environment. At the same time, they provide valuable products to our citizens and preserve a way of life important to our cultural heritage. The Department of Agriculture and Consumer Services should offer assistance for small, family-owned farms through grants and loans.

Section 2. (a) There is appropriated from the General Fund to the North Carolina Rural Rehabilitation Corporation within the Department of Agriculture and Consumer Services the sum of twelve million dollars ($12,000,000) for the 1998-99 fiscal year to be used to make loans to those farmers of small, family-owned farms having financial difficulty as shown by their inability to obtain affordable conventional loans from other sources.

(b) Priority for loans from the funds appropriated under this section shall be extended for the following small, family-owned farms:

(1) Dairy farms with fewer than 300 dairy cows.
(2) Turkey farms that have lost contracts with integrators for reasons not related to having violated environmental laws or rules.
(3) Swine farms of fewer than 500 swine at any time.
(4) Peach or apple farms that have lost fifty percent (50%) or more of their fruit crop due to frost or freeze damage.

(c) The term of the loans under this section shall not exceed 20 years. These loans shall be provided in accordance with the lending requirements of the North Carolina Rural Rehabilitation Corporation pursuant to Article 2 of Chapter 137 of the General Statutes.

(d) The Department of Agriculture and Consumer Services shall adopt rules to implement this section.

Section 3. (a) There is appropriated from the General Fund to the Department of Agriculture and Consumer Services the sum of two million dollars ($2,000,000) for the 1998-99 fiscal year to be used for grants to farmers of family-owned dairies for the purchase of equipment that is a component of an animal waste management system and that is used solely for the purpose of transporting, storing, or distributing animal waste. This equipment shall be limited to: pumps, spraying equipment, scrape blades, box blades, storage equipment, and any transport equipment, including tanks, spreaders, and applicators.

(b) No funds appropriated under this section shall be used to enlarge anaerobic lagoons or for the maintenance of anaerobic lagoons.

(c) The Department shall adopt rules that establish guidelines for disbursing the funds in a fair and equitable manner and any other rules needed to implement this section. Each recipient of grant funds under this section shall enter into a contract with the Department that contains provisions of the loan that are consistent with these guidelines. This contract shall provide for the enforcement of the terms of the contract. This contract shall provide that the recipient continue to operate at the current level of dairy production for a period of at least five years. This contract shall provide that if the recipient reduces the number of dairy cows or ceases operation in fewer than five years, the recipient shall repay the Department of Agriculture and Consumer Services a prorated share of the grant funds received by that recipient.

(d) Only dairies with fewer than 300 dairy cows that were in operation prior to January 1, 1998, are eligible for grants under this section.

Section 4. There is appropriated from the General Fund to the Department of Agriculture and Consumer Services the sum of two hundred fifty thousand dollars ($250,000) for the 1998-99 fiscal year to be used as grants to local farmers markets for the purpose of promoting or selling farm products produced by local small, family-owned farms. The Department shall establish guidelines and procedures for disbursing these grants in a fair and equitable manner. The Department shall adopt any rules needed to implement this section.

Section 5. This act becomes effective July 1, 1998.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1560 A BILL TO BE ENTITLED AN ACT TO PROVIDE ASSISTANCE FOR SMALL, FAMILY-OWNED FARMS THROUGH GRANTS AND LOANS.

☐ 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 1

HOUSE BILL 1649

Short Title: Piedmont Triad Farmers Mkt. Funds. (Public)

Sponsors: Representatives Carpenter, Brown; Culp, Jarrell, Jeffus, and Sexton.

Referred to: Agriculture, if favorable, Appropriations.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR THE PIEDMONT TRIAD FARMERS MARKET.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture and Consumer Services the sum of fifty-three thousand six hundred thirty-two dollars ($53,632) for the 1998-99 fiscal year for additional personnel to allow the Piedmont Triad Farmers Market to be open around the clock for wholesale shipping and receiving.

Section 2. This act becomes effective July 1, 1998.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE.**

☐ Committee Substitute for
H.B. 1649 A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR THE PIEDMONT TRIAD FARMERS MARKET.

☐ 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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **John W. Brown** for the Committee on **AGRICULTURE**.

☐ Committee Substitute for
H.B. 1617 A BILL TO BE ENTITLED AN ACT TO REMOVE THE SUNSET FOR THE INCOME TAX CREDIT FOR POULTRY COMPOSTING FACILITIES.

☐ 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)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1617

Short Title: Poultry Composting Tax Credit. (Public)

Sponsors: Representatives Mitchell; Allred, Davis, and Hackney.

Referred to: Agriculture, if favorable, Finance.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE SUNSET FOR THE INCOME TAX CREDIT FOR POULTRY COMPOSTING FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 543 of the 1995 Session Laws reads as rewritten:

"Sec. 4. Section 1 of this act becomes effective for taxable years beginning on or after January 1, ~~1995, and expires for taxable years beginning on or after January 1, 1998.~~ 1995. The remainder of this act is effective upon ratification."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1617
Proposed Committee Substitute H1617-PCS3149-RF01

Short Title: Poultry Composting Tax Credit. (Public)

Sponsors:

Referred to:

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE INCOME TAX CREDIT FOR POULTRY COMPOSTING FACILITIES TO CORPORATE ENTITIES AND TO REMOVE THE SUNSET FOR THE TAX CREDIT.

The General Assembly of North Carolina enacts:

Section 1. Division I of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-130.43. Credit for construction of poultry composting facility.**

A taxpayer who constructs in this State a poultry composting facility as defined in G.S. 106-549.51 for the composting of whole, unprocessed poultry carcasses from commercial operations in which poultry is raised or produced is allowed as a credit against the tax imposed by this Division an amount equal to twenty-five percent (25%) of the installation, materials, and equipment costs of construction paid during the taxable year. This credit may not exceed one thousand dollars ($1,000) for any single installation. The credit allowed by this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable, except payments of tax by or on behalf of the taxpayer. The credit allowed by this section does not apply to costs paid with funds provided the taxpayer by a State or federal agency."

Section 2. G.S. 105-151.25(a) reads as rewritten:

"(a) Credit. -- A taxpayer ~~or Subchapter S corporation~~ who constructs in this State a poultry composting facility as defined in G. S. 106-549.51 for the composting of whole, unprocessed poultry carcasses from commercial operations in which poultry

is raised or produced is allowed as a credit against the tax imposed by this Division an amount equal to twenty-five percent (25%) of the installation, materials, and equipment costs of construction paid during the taxable year. This credit may not exceed one thousand dollars ($1,000) for any single installation. The credit allowed by this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable, except payments of tax by or on behalf of the taxpayer. The credit allowed by this section does not apply to costs paid with funds provided the taxpayer by a State or federal agency."

Section 3. This act is effective for taxable years beginning on or after January 1, 1998.

VISITOR REGISTRATION SHEET

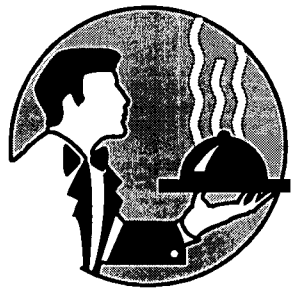
AGRICULTURE & FORESTRY AWARENESS STUDY COMMISSION

TUESDAY, JUNE 23 , 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Debra Swicer	Department of Revenue
SGT. DAVE A. MOODY	DMV ENFORCEMENT SECTION
MAJ. CHARLIE CARDEN	NCDMV Enforcement
Mackenzie Reaves	NCDA&CS
Vernon James	Grange NC
Everett Ramsey	N.C. Dept of Agri
David McLeod	NCDA & CS
Jim Graham	Commissioner of Agric
Wilbur B Perry	NCDA



BREAKFAST IS SERVED

THE HOUSE AGRICULTURE COMMITTEE

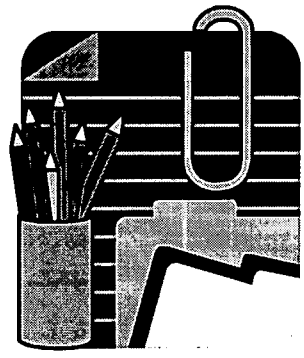
WILL MEET FOR BREAKFAST

WEDNESDAY, JULY 1, 1998
7 A.M.
PAM'S FARM HOUSE
(formerly Neptune's Galley)
5111 Western Boulevard

SPONSORED
BY

ROGER BONE AND ASSOCIATES
AND
THE PORK COUNCIL

OUR SPONSORS NEED A HEAD COUNT
PLEASE RSVP—ASAP
THANKS



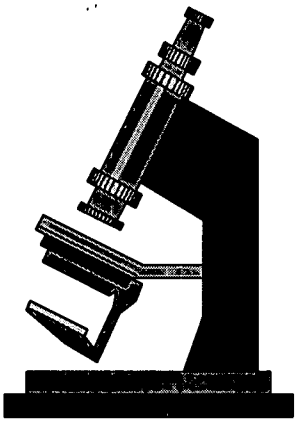
REMINDER

THE HOUSE AGRICULTURE COMMITTEE WILL BE HAVING BREAKFAST IN THE MORNING

I HAVE HEARD FROM LESS THEN HALF OF THE TWENTY-EIGHT MEMBERS

PLEASE LET ME KNOW IF YOUR MEMBER DOES NOT PLAN TO ATTEND

YOUR HELP IS GREATLY APPRECIATED!



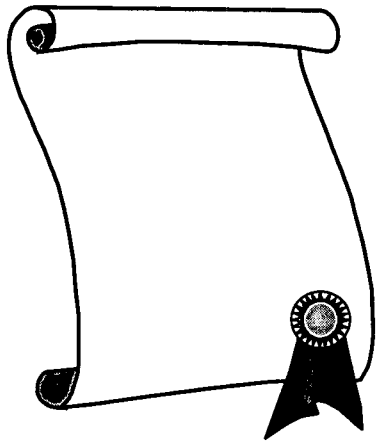
AGRICULTURE COMMITTEE BREAKFAST

BREAKFAST WILL BE SERVED
WEDNESDAY, AUGUST 5, 1998
7:00 A.M.

LAKE WHEELER FIELD LABORATORY

SPONSORED BY
NORTH CAROLINA STATE UNIVERSITY
COLLEGE OF AGRICULTURE AND LIFE SCIENCE

FIRST AGRICULTURE BREAKFAST WITH THE NEW
UNIVERSITY CHANCELLOR



UP DATE
ON AGRICULTURE BREAKFAST

THIS WILL BE A JOINT BREAKFAST WITH THE SENATE AGRICULTURE COMMITTEE

VANS WILL BE PROVIDED BY NCSU COLLEGE OF AGRICULTURE AND LIFE SCIENCE FOR TRANSPORTATION

THE VANS WILL LEAVE AT 6:45 A.M. UNDER THE BRIDGE BETWEEN OUR TWO BUILDINGS

EVERYONE WILL BE BACK BY 8:30 A.M.

PLEASE LET ME KNOW IF YOUR REPRESENTATIVE PLANS TO ATTEND.

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

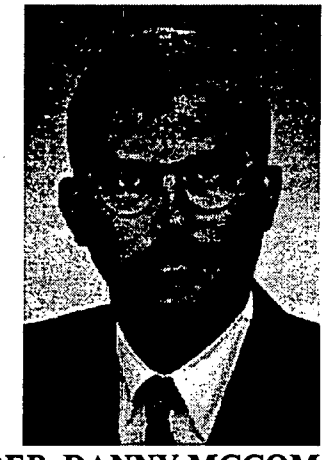
HOUSE COMMITTEE ON COMMERCE

1997-98 SESSION

SUB-COMMITTEE CHAIRS

REP. DON DAVIS
CHAIR, BUSINESS AND LABOR

REP. BOBBY HALL
CHAIR, FINANCIAL INSTITUTIONS



REP. DANNY MCCOMAS
CHAIR, PUBLIC UTLITIES

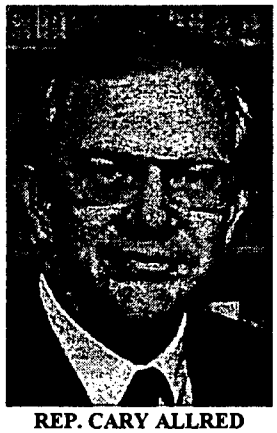
REP. EDGAR STARNES
CHAIR, TRAVEL AND TOURISM

HOUSE COMMITTEE ON COMMERCE

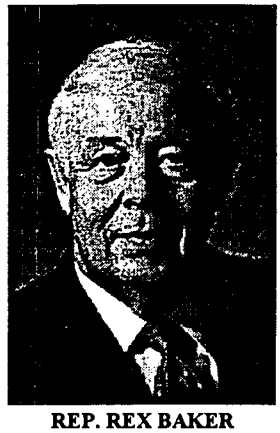
1997-98 SESSION

MEMBERS

REP. MARTHA



REP. CARY ALLRED



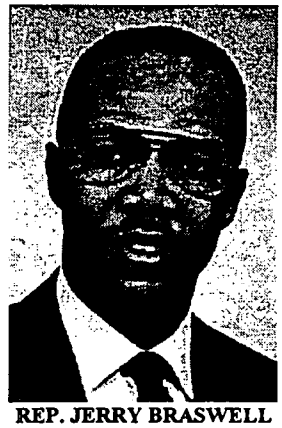
REP. REX BAKER

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

HOUSE COMMITTEE ON COMMERCE

1997-98 SESSION

MEMBERS

REP. BILL CULPEPPER

REP. ANDREW DEDMON

REP. DUB DICKSON

REP. JERRY DOCKHAM

REP. RUTH EASTERLING

REP. STAN FOX

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

REP. BOB HUNTER

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

REP. CYNTHIA WATSON

REP. NURHAM WARWICK

REP. MICHAEL WILKINS

REP. CONNIE WILSON

REP. GENE WILSON

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

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DAVID MINER (senior member)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
REP. CHERIE BERRY	✓	✓	✓	✓	✓	✓	✓	✓		✓					✓	
REP. WALTER CHURCH	✓	✓			✓	✓	✓	✓	✓	Ex.	✓	Ex	✓			
REP.WILLIAM HIATT	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
REP. TIMOTHY TALLENT	X*	✓					✓							✓		
REP. MARTHA ALEXANDER	✓	✓	✓	✓	✓	✓	✓	✓		Ex.	Ex.		✓	✓	✓	✓
REP. CARY ALLRED	✓	✓	✓	✓		✓	✓			✓	✓	✓				
REP. REX BAKER	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
REP. DANIEL BLUE	X	X				✓		✓				✓		✓	✓	
REP. DONALD BONNER	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
REP. JOANNE BOWIE	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		
REP. FLOSSIE BOYD-MCINTYRE	X	✓		✓	✓	✓	✓	✓				✓				
REP. JERRY BRASWELL	✓	✓	✓		✓	✓				✓	✓	✓				
REP. ROBERT BRAWLEY	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
REP. LANIER CANSLER	✓	X	✓	✓	✓	✓	✓	✓					✓	✓		
REP. JAMES CRAWFORD	✓	✓	✓			✓									✓	
REP. BILLY CREECH	X	X		✓	✓	Ex.		✓		✓	✓					
REP. BILL CULPEPPER	X	✓					✓	✓				✓	✓		✓	✓
REP. DONALD DAVIS	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
REP. ANDREW DEDMON	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		✓
REP. DUB DICKSON	✓	X	✓	✓	✓	✓	✓	✓		Ex.	✓	✓	✓	✓	✓	✓
REP. JERRY DOCKHAM	✓	✓		✓	✓	✓	✓	✓				✓		✓	✓	
REP. RUTH EASTERLING	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		

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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	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	✓		✓	✓	✓	✓	✓	✓	✓

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(Name of Committee)

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REP. DAVID REDWINE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
REP. DENNIS REYNOLDS	✓	✓		✓	✓	✓		✓		✓	✓			✓	✓	
REP. GENE ROGERS	✗	✓	✓	✓	✓	✓	✓	Ex		✓	✓	✓	✓		✓	
REP. DREW SAUNDERS	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	
REP. WILMA SHERRILL	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		
REP. RONALD SMITH	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
REP. EDGAR STARNES	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
REP. GREGG THOMPSON	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓			
REP. NURHAM WARWICK	✓	✓	✓	✓	✓			✓	✓	✓		✓	✓	✓	✓	
REP. CYNTHIA WATSON	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
REP. MICHAEL WILKINS	✓	✓	✓	✓	✓		✓	✓		✓			✓	✓	✓	✓
REP. CONNIE WILSON	✗	✗														
REP. GENE WILSON	✓	✗			✓		✓	✓		✓	✓	✓	✓	✓	✓	✓
REP. THOMAS WRIGHT	✓	✗	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
REP. LARRY WOMBLE	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓

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BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
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**

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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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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	

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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 COMMISION ON JOB TRAINING PROGRAMS TO REORGANIZE THE WORKFORCE DEVELOPMENT SYSTEM IN NORTH CAROLINA. Questions were taken from committee members ans 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 — Name of Committee

FEB. 12, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Patricia Yarnell	SCSL
Shaunese Johnson	DSS
Brenda Hemmens	AC Equality
Helen Lipina	Meck. County
Rob Schofield	NCJCDC
Soren Schmidt	"
Teresa Zahn	NCARF
Alan Miles	Bailey & Dixon LLP
Jane Upchurch	CPTL
Patricia Rawlings	NCACC
John Rustin	Hunton & Williams
Joyce Peters	Electric Cities
Jon Carr	Jordan Price Wall Gray Jones, LLP
McNeil Chestnut	AG's office
Norris Tolson	Commerce
Angie Harris	Commerce
Brad Woodhouse	Woodhouse Consulting
Lisa Quinn	Rep. McComas' office
Ron Aiken	Good Neighbor Assoc
John Burdeshaw	2nd Alley PA
Lynn Cooper	CSX Corp
Palmer Sugg	BWWS
Judith Marsh	360° Telecommunications
Gary Walker	ALLTEL
LYNN HOLMES	BLS

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.

__X__ With a favorable report and recommendation that the bill be re-referred to the Committee on
(X) 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)

1/15/97

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

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

(b) There is created a Legislative Study Commission on Job Training Programs. The purpose of the Commission 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.

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

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

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

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

(1) To review State and federal laws, rules, and regulations pertaining to job training programs to determine the purpose of each program, the population served, and each program's annual outcomes in terms of type of training received, work search efforts, and job placement;

(2) To ascertain as far as possible the intention of the United States Congress with respect to continued funding of federally mandated job training programs and any changes in funding formulae;

(3) To review the amount of State and federal dollars appropriated for each job training program conducted in this State and to review federal requirements for continuous federal funding of the programs;

(4) To review the number of different State agencies that administer State and federal job training programs, the number of persons employed to implement each job training program, and the amount of State dollars needed annually to implement the program;

(5) To determine whether federally funded job training programs in this State may lawfully be abolished or reduced in size by the General Assembly, and the impact of such reduction or elimination;

(6) To conduct public hearings to receive citizen, State agency, and local government comment and experience with the job training programs;

(7) To conduct other studies or activities to aid the Commission in carrying out its purpose and duties, including reviewing reorganization and consolidation efforts in other states; and

(8) To ensure program evaluation and accountability for all workforce development programs and to create a comprehensive statewide focus on workforce development.

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

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

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

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

North Carolina General Assembly
Legislative Services Office

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

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
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Donald W. Fulford, Director
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Raleigh, NC 276(
(919) 733-2578

February 11, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

Prime - issue Report Wants to make info from Commerce easier to obtain 2-19

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

FERRUARY 19, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bernard Allen	Secy. of State
Curtis Whitaker	"
Allen Miles	Ruden & Dixon
Laura Hartsell	MCIC
David Simmons	Zeb Alley, PA
John Bowdish	Zeb Alley PA
John Long	Marvin Musselwhite
John Rustin	Hunton & W. Main
Audrey Johnson	Rep. Dan Davis's Clerk
Paul Lawler	Lawler Consulting
Jim Lofton	NCDFT
Brad Woodhouse	
Leanne Wenner	EBHAS
FRAN PRESTON	NCRMA
DON McCORQUODALE	NCRMA
K Wyatt	BCBS NC
Alice Galena	Electra Cabs
Leckie Street	PPA-B
Lucius PULLEN	ATTORNEY
PS	NC FB
Marshall Hurley	Attorney
Michael Thompson	North Carolina Power
Peter Keber	NationsBank
Palmer Suggs	BWWS
SUSAN Perry Cole	Commerce
Linda Gunn	ROD
William T. King	COMMERCE
Lee Lilley	"
Angie Harris	"
Gary Carlton	"

Duke Wells

John McAlister

NC 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 — Name of Committee

MARCH 5, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Clyde Davis	PCS Phosphate Raleigh, NC
JACK Tilley, Chr	Ports Advisory Council Wilmington
Bill Goldston	Chm. NCSPA
Laura Hartsell	MCIC
James E. Lee	International Paper
Marvin Musselwhite	Poyner + Spruill
Bo Dempsey	Poyner & Spruill
Hal Mills	[redacted] - NC CWA Political Council
WYNAD COOPER	CSX CORP.
Leo Lilley	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	CPRL
R. Scott Satterfield	Wilmington Industrial Development
Lisa A. Quinn	Rep. Larry Womble, Staff
Lucius PULLEN	ATTORNEY
Alice Garland	Electricities
Amy Simpson	Hunton & Williams
John Austin	Hunton & 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

A BILL TO BE 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 IMPROVEMENTS BY THE BUILDER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-273 is amended by adding a new subdivision to read:

"(3a) 'Builder' means a taxpayer engaged in the business of buying real property, making improvements to it, and then reselling it."

Section 2. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.12. Certain real property held for sale by builders classified for taxation at reduced valuation.**

Real property held by a builder for sale as single family residential property is designated a special class of property under authority of Section 2(2) of Article V of the North Carolina Constitution. Any increase in value of this classified property attributable to subdivision of or other improvements made to the property by the builder is excluded from taxation under this Subchapter as long as the builder continues to hold the property for sale. The builder must apply for this exclusion as provided in G.S. 105-282.1. In appraising property classified under this section, the assessor shall specify what portion of the value is an increase attributable to subdivision or other improvement by the builder."

Section 3. G.S. 105-282.1(a)(3) reads as rewritten:

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

a. New or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property; or

b. There is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion."

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

North Carolina General Assembly
Legislative Services Office

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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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

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.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Handling correspondence for the Council.

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

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

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

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

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

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

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

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

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

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

North Carolina General Assembly
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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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. _____
(to be filled in by
Principal Clerk)

H95-ARU-001 Page 1 of __

Date March 12 ,1997

Comm. Sub. []
Amends Title []

Representative

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

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

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

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **House** Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

March 12, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Stewart Dickinson	Commerce Finance
Angie Harris	Commerce Dept.
[illegible]	"
Cooper Sawyer	NCDOI
Lee Hauser	Dept of Insurance
John Boyd	Com Elec. Contas. Assn.
Henry Jones	Attorney - NCAPHCC CECA
Patricia Peagants	Spectator
Billy David	DOR
Nancy Pomeranz	
Spence Hagan	State Court Office
Tim Kent	AIA North Carolina
Paul Lawler	Lawler Consulting
Liz Morris	Attorney
William D Ferrier	Visitor
George Farrior	Visitor
Wayne Grayson	Chapman Exxon Sanford NC
John Rustin	Hunton & Williams
Paul Stock	NC Bankers Assn.
Natalie Haskins	Charlotte Chamber
Kay Anderson	AT&T
Tim Minton	NC Assoc of Realtors
R T Schofield	NCJCDC
Gordon Allen	NC Bar
McNeil Chestnut	Assn. of NC Banking Comm.
Laura Hartsell	MCIC
R. Reid Wilson	NCAIA
AL Adams	Consulting Engineers Council/NC
Alice Garland	Electricities

Leslie Savage — NCCBI

Phil Kirk — NCCBI

Joyce Pitts — Electricities

Jim Blackburn — Friend of Phil Kirk

LYNN HOLMES — Boyce Scott

Rick Carlyle — 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

A BILL TO BE ENTITLED

AN ACT TO AMEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT.

The General Assembly of North Carolina enacts:

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

"ARTICLE 3A.

"Tax Incentives for New and Expanding Businesses.

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

The following definitions apply in this Article:

~~(1) Cost. -- Defined in section 179 of the Code.~~

(2) Data processing. -- Defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census.

(3) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(4) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(5) Machinery and equipment. -- Engines, machinery, tools, and implements that are capitalized by the taxpayer for tax purposes under the Code and are used or designed to be used in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

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

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

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

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

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

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

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

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

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

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

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

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

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

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

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

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

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

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

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

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

"ARTICLE 3B.

"Business Tax Credit.

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

The following definitions apply in this Article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SIGNED William L Hiatt

ADOPTED X FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 368

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

H368-ALCX-3/6

Date 3-12 ,1997

Comm. Sub. [ ]
Amends Title [ ]

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

SIGNED William D. Hurst
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 "capitaliged";

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 Charles Berry

ADOPTED X FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

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 [redacted] 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.	Lee Anne Coe	HSI
3.	Beverly Bauer	Alamance Reg Med Ctr
4.	Patricia Keesler	NCACC
5.	Eileen Hennessy	Greensboro Chamber of Commerce
6.	Mardi Haskins	Charlotte Chamber of Commerce
7.	Alice Garland	Electricities
8.	Don Harrow	Piedmont Natural Gas
9.	Joe Pennacchia	Piedmont Natural Gas Co, Inc
10.	Paul Lawler	Lawler Consulting
11.	Ken Wright	Bellsouth
22.	Chuck Bodson	NC Financial Svs 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 an 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

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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122A-8 reads as rewritten:

"**§ 122A-8. Bonds and notes.**

The Agency is hereby authorized to provide for the issuance, at one time or from time to time, ~~of not exceeding one billion five hundred million dollars ($1,500,000,000) bonds of the Agency to carry out and effectuate its corporate purposes; provided, however, that not more than fifty million dollars ($50,000,000) bonds shall be issued prior to June 30, 1971.~~ of bonds and notes of the Agency to carry out and effectuate its corporate purposes. The Agency also is hereby authorized to provide for the issuance, at one time or from time to time of (i) bond anticipation notes in anticipation of the issuance of such bonds and (ii) construction loan notes to finance the making or purchase of mortgage loans to sponsors of residential housing for the construction, rehabilitation or improvement of residential ~~housing; provided, however, that the~~ housing. The total amount of bonds, bond anticipation ~~notes~~ notes, and construction loan notes outstanding at any one time shall not exceed one billion five hundred million dollars ($1,500,000,000) excluding therefrom any bond anticipation notes for the payment of which bonds ~~shall~~ have been issued. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or

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

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

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

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

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

"**§ 122A-11. Trust funds.**

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

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

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

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

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

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

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

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

a. The repurchase agreement is entered into with an institution whose ability to pay its unsecured long-term obligations (including, if the institution is an insurance company, its claims paying ability) is rated in one of the two highest ratings categories by a nationally recognized securities rating agency. If the term of the repurchase agreement is for a period of one year or less, however, the repurchase agreement may be entered into with an institution that does not have such a long-term rating if its ability to pay its unsecured short-term obligations is rated in one of the two highest ratings categories by a nationally recognized securities rating agency. If the institution with which the agreement is to be entered does not meet the ratings requirement of this subparagraph, the repurchase agreement may nevertheless be entered into with the institution if the obligations of the institution under the repurchase agreement are fully guaranteed by another institution that does meet the ratings requirement of this subparagraph.

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

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

trustee for obligations issued by the Agency or as fiscal agent for the Agency or the State Treasurer or are supported by a safekeeping receipt issued by a depository satisfactory to the ~~Agency, provided that such~~ Agency. The repurchase agreement must provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase ~~price;~~ price. The financial institution serving either as trustee or as fiscal agent for the Agency holding the obligations subject to the repurchase agreement hereunder or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement.

~~b.~~ d. ~~a~~ A valid and perfected first security interest in the obligations which are the subject of ~~such~~ the repurchase agreement has been granted to the Agency or its assignee or book entry procedures, conforming, to the extent practicable, with federal regulations and satisfactory to the agency have been established for the benefit of the Agency or its ~~assignee;~~ assignee.

~~c.~~ e. ~~such~~ The securities are free and clear of any adverse ~~third party claims; and~~ third-party claims.

~~d.~~ f. ~~such~~ The repurchase agreement is in a form satisfactory to the Agency."

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

North Carolina General Assembly
Legislative Services Office

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

e W. Robinson, Director
inistrative Division
Room 5, Legislative Building
16 W. Jones Street
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919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
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Thomas L. Covington, Director
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Donald W. Fulford, Director
Information Systems Division
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(919) 733-6834

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

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 as 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.

NORTH CAROLINA
HOUSING
FINANCE
AGENCY

March 25, 1997

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

A self-supporting
public agency

A. Robert Kucab
Executive Director

PO Box 28066
Raleigh, NC
27611-8066

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

EL. 919-781-6115
AX. 919-781-5623

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.

A few facts for the committee meeting:

- 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

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. Robert Kucab
Executive Director

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF COMMERCE TO MAINTAIN A DATABASE OF DOWNTOWN PROPERTIES AVAILABLE FOR INDUSTRIAL RECRUITMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-431 is amended by adding a new subsection (c1) to read:

"(c1) The Department of Commerce shall maintain a computerized database of downtown properties available for industrial recruitment and shall make information contained in the database available to the public including industry, municipalities, and counties."

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

North Carolina General Assembly
Legislative Services Office

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Suite 545, LOB
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Raleigh, NC 2760
(919) 733-2578

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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE March 26, 1997

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

COMMITTEE SUBSTITUTE _____

Rep.)
Sen.) ~~Barry~~ Redwine

1 moves to amend the bill on page 1, line 9 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."
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18
19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 48

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H48-ARO-002

Date March 26 ,1997

Comm. Sub. [ ]
Amends Title [ ]

Representative Goodwin

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

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

SIGNED Wayne Goodwin
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

MARCH 26, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Faikhof	Downtown Durham Inc HB # 48
Ray Gibbs	Downtown Smithfield Dev. Corp.
Leo Libby	Commerce
Angie Harris	"
BOB KUCAB	NC HOUSING FINANCE
Travis Porter	Porter + Steel
Sandra Long	Porter + Steel
Dale Mull	SCENIC NC

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

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.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

North Carolina General Assembly
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March 26, 1997

MEMORANDUM

TO: Representative David Miner, Chairman, House Commerce Committee

FROM: Karen Cochrane 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

Year	*No. of Banks*	*Total Assets*
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 — Name of Committee

APRIL 2, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe Pennacchia	Piedmont Natural Gas - Charlotte
Stuart Dixon	N.C. Natural Gas Corp. - Fayetteville
Marilee Shoaleen	Charlotte Chamber
Dale Badgett	Greater Mount Airy Chamber
Deborah Lamm	Dept of Commerce / Energy
Ed Boyce	R W Boyce
Ray Starnes	SCEF Bailey NC 27807
Gisele Rankin	Public Staff - NCUC
Sam Kirby	NCUC
Doug Galbreath	N.C DOC
Jane Smith	NC OCOB
Otis Bl. Bracken	Deputy Commissioner of Banks
McNeil Chestnut	AG's OFFICE
Hal Lingerfelt	Comm. Bks.
Rob Schofield	NCJOBC
Paul Stock	NC Bankers Association
Lyman Cooper	CSX Corp
Carl Goglewski	Inform Inc. / CHA
Charles H. Babson	NC Financial Svs Assoc
Gordon Allen	NCBA
Joe McElroy	McElroy Consulting
Becky Brown	Labor
Bill McAulay	PSNC
Doug Hawes	NCPTMA
Jerry Addison	NC Retail Assn.
Charlie Jeffries	Labor Dept
Dave Brandon	Progress Energy
Bobby Jones	NCLITA

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

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 ~~10~~ 15 residential customers, except that any person or company which constructs a water system in a subdivision with plans for ~~10~~ 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 ~~10~~ 15 residential building lots shall be a public utility at the time of such planning or holding out to serve such ~~10~~ 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."

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

"(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

SESSION 1997

H 1

HOUSE BILL 990

Short Title: Exempt Certain Nonprofit Utilities. (Public)

Sponsors: Representatives Church and Buchanan.

Referred to: Commerce.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN NONPROFIT AND CONSUMER-OWNED 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 10 residential customers, except that any person or company which constructs a water system in a subdivision with plans for 10 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 10 residential building lots shall be a public utility at the time of such planning or holding out to serve such 10 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 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.)

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

( ) WHICH CHANGES THE TITLE

by deleting the number 10 each time it appears and inserting in lieu thereof the number 15

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

COMMITTEE CLERK

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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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

A BILL TO BE 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.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

a. The person is a real estate broker or real estate salesman within the meaning of G.S. 93A-2.

b. The person is an independent contractor within the meaning of section 3508 of the Internal Revenue Code, as defined in G.S. 105-228.90.

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

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

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Legislative Services Office

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

H.B. 751 **CHAPTER 127**

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.

"(II) 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)(ii)."

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 note more than 10 percent of the first $2,500 or 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 sellers 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 _____

GA-33-A

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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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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)j.

§ 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

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

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 TO EXEMPT COMPUTER PROFESSIONALS FROM MINIMUM WAGE AND OVERTIME PROVISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-25.3 reads as rewritten:

"**§ 95-25.3. Minimum wage.**

(a) Every employer shall pay to each employee who in any workweek performs any work, wages of at least ~~three dollars and eighty cents ($3.80) per hour effective January 1, 1992, and four dollars and twenty-five cents ($4.25) per hour effective January 1, 1993,~~ the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. 206(a)(1), as that wage may change from time to time, except as otherwise provided in this section.

(b) In order to prevent curtailment of opportunities for employment, the wage rate for full-time students, learners, apprentices, and messengers, as defined under the Fair Labor Standards Act, shall be ninety percent (90%) of the rate in effect under subsection (a) above, rounded to the lowest nickel.

(c) The Commissioner, in order to prevent curtailment of opportunities for employment, may, by regulation, establish a wage rate less than the wage rate in

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

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

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

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

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

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

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

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

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

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

(2) Any person employed in the catching, processing or first sale of seafood, as defined under the Fair Labor Standards Act;

(3) The spouse, child, or parent of the employer or any person qualifying as a dependent of the employer under the income tax laws of North Carolina;

(4) Any person employed in a bona fide executive, administrative, professional or outside sales capacity, as defined under the Fair Labor Standards Act;

(5) Repealed by Session Laws 1989, c. 687, s. 2.

(6) Any person while participating in a ridesharing arrangement as defined in ~~G.S. 136-44.21.~~ G.S. 136-44.21;

(7) Any person who is employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker, as defined in the Fair Labor Standards Act."

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)

REFERRAL FORM

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 — Name of Committee

APRIL 23, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ann Garland	Electricities
John Bowdish	Zeb Alley PA.
Jane Upchurch	CPL
Nancy Bradley	NCCBA
[illegible]	NCAB
Gene Causby	E - EBC
John May	NC - CWA
DORIS WEAVER	NC CWA Political Council
Christopher Scott	NC AFL-CIO
JIM TAYLOR	LABOR
Becky Brown	"
Daniel Cope	"
Ann Fulton	ABC Commission
Susan Coward	NC Restaurant Assn.
Jack Butler	NC DEHNR
JOHN HENDERSON	CAL. of NC
Nolan Newton	EHNA - DEH
BILL SCOGGIN	NCBA
Steve Reinhard	Johnson, Mercer, Hearn & Vinegar
Gary Walker	ALLTEL
[illegible]	NC Equity
[illegible]	Charlotte Chamber of Commerce
Chris Fitzsimon	Common Sense Foundation
Rob Schofield	NC Justice Ctr.
Parker Chesson	N.C. ESC
David Clegg	NC ESC
W.H. Mark	NC Ass'n of REALTORS

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

North Carolina General Assembly
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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 beverages 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§ 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 6-25-97

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".

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SIGNED _____

ADOPTED X FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

North Carolina General Assembly
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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 beverages 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§ 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

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

4 WORDS "AND EAST".

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SIGNED _____

ADOPTED X FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ROLL CALL VOTE

11 YES 2 NO = 13 (TOTAL)

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
✓	___	REP. CHURCH	✓	___	REP. HALL
___	___	REP. HIATT	___	___	REP. HARDAWAY
___	___	REP. TALLENT	___	___	REP. HARDY
___	___	REP. ALEXANDER	___	___	REP. HILL
___	___	REP. ALLRED	___	___	REP. HOLMES
✓	___	REP. BAKER	___	___	REP. HUNTER
___	___	REP. BLUE	___	___	REP. HURLEY
✓	___	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	✓	___	REP. McMAHAN
___	___	REP. CREECH	___	___	REP. MITCHELL
___	___	REP. CULPEPPER	___	___	REP. MORGAN
___	✓	REP. DAVIS	___	___	REP. MORRIS
___	___	REP. DEDMON	___	___	REP. NEELEY
___	___	REP. DICKSON	Ex officio Members		
___	___	REP. DOCKHAM	___	___	Speaker Pro Tem Wood
___	___	REP. EASTERLING	___	___	Majority Leader Dickson
✓	___	REP. FOX	___	___	Majority Whip

ROLL CALL VOTE

_____ ____ = _____(TOTAL) HB# _____
YES NO 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

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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-110(c) reads as rewritten:

"(c) The Commission shall be authorized, consistent with the public interest, to adopt procedures for the issuance of a special certificate to any person for the limited purpose of offering telephone service to the public by means of coin, coinless, or key-operated pay telephone instruments. This service may be in addition to or in competition with public telephone services offered by the certificated telephone company in the service area. ~~The certificated local exchange telephone company in the service area where any new pay telephone service is proposed shall be the only provider of the access line from the pay instrument to the network, and the rates approved by the Commission for this access line shall be fully compensatory, reflect the business nature of the service, and shall be set on a measured usage rate basis where facilities are available or on a message rate basis otherwise.~~ The access line from the pay instrument to the network may be obtained from the local exchange telephone company in the service area where the pay instrument is located, from any certificated competitive local provider, or any other provider authorized by the Commission. The Commission shall promulgate rules to implement the service authorized by this section, recognizing the competitive nature of the offerings and, notwithstanding any other provision of law, the Commission shall determine the

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

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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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)

4/24/97

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

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.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

a. The land is an historic place that is listed, or has been approved for listing by the North Carolina Historical Commission, in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966.

b. The land is an historical, archaeological, and other site owned, managed or assisted by the State of North Carolina pursuant to Chapter 121 of the General Statutes.

c. The land has a central business district zoning classification, or any other classification that may be designated as acceptable by the Commission.

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

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

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

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

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

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

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

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

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

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

other federal and State laws, regulations, and rules for the protection of the environment."

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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§ 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.

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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

fav. report re referred to JI

HOUSE BILL 1091

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

A BILL TO BE ENTITLED

AN ACT TO ALLOW CERTAIN CRIMINAL RECORD CHECKS TO BE CONDUCTED BY PRIVATE BUSINESS.

The General Assembly of North Carolina enacts:

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

"(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. Within five business days of making the conditional offer of employment, an ~~An~~ adult care home shall submit a request to the Department of Justice under ~~G.S. 114-19.3~~ G.S. 114-19.3, or shall request a private business entity, to conduct a criminal history record ~~check~~ 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."

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

"(a) Requirement. -- An offer of employment by a nursing home or a home care agency 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. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the

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

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

North Carolina General Assembly
Legislative Services Office

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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 be come effective when it becomes law.

H1091-SMRU-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§ 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

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 be come effective when it becomes law.

H1091-SMRU-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§ 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)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

HOUSE BILL 795*

fav. 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

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.

The General Assembly of North Carolina enacts:

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

"Chapter 99E.

"Roller Skating Rink Safety and Liability.

"**§ 99E-1. Findings.**

The General Assembly finds:

(1) Roller skating is a sport that is enjoyed on a regular basis by thousands of North Carolina families. It is an affordable sport and a form of exercise for young and old alike.

(2) The stable and efficient operation of roller skating rinks is essential in order to provide a safe and supervised area for roller skaters to practice their sport.

(3) Liability insurance for roller skating rink operators is difficult to find and expensive to maintain.

(4) The number of insurance providers who are willing to issue liability insurance is shrinking, causing a rise in premiums on the insurance that is available.

(5) Roller skating rinks in North Carolina primarily are operated by small, independent businessmen who simply do not have the financial means to pay increasing liability premiums.

(6) Lack of insurance coverage adversely affects the roller skating rink owners as well as patrons who may suffer personal injury due to accidents on the premises of the roller skating rink.

(7) The wholesome and healthy family activity of roller skating should be encouraged.

"**§ 99E-2. Definitions.**

As used in this Chapter:

(1) 'Operator' means a person or entity who owns, manages, controls, or directs, or who has operational responsibility for a roller skating rink.

(2) 'Roller skater' means an individual wearing roller skates while in a roller skating rink for the purpose of recreational or competitive roller skating. 'Roller skater' includes any individual in the roller skating rink who is an invitee, whether or not this individual pays consideration.

(3) 'Roller skating rink' means a building, facility, or premises that provides an area specifically designed to be used by the public for recreational or competitive roller skating.

(4) 'Spectator' means an individual who is present in a roller skating rink only for the purpose of observing recreational or competitive roller skating.

"**§ 99E-3. Duties of an operator.**

The operator, to the extent practicable, shall:

(1) Post the duties of roller skaters and spectators and the duties, obligations, and liabilities of the operator as prescribed in this Chapter in conspicuous places in at least three locations in the roller skating rink.

(2) Maintain the stability and legibility of all signs, symbols, and posted notices required under subdivision (1) of this section.

(3) Comply with all roller skating rink safety standards published by the Roller Skating Rink Operators Association, including, but not limited to, the proper maintenance of roller skating equipment and roller skating surfaces.

(4) When the rink is open for sessions, have at least one floor guard on duty for approximately every 200 skaters.

(5) Maintain the skating surface in reasonably safe condition and clean and inspect the skating surface before each session.

(6) Maintain in good condition the railings, kickboards, and wall surrounding the skating surface.

(7) In rinks with step-up or step-down skating surfaces, ensure that the covering on the riser is securely fastened.

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

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

Each roller skater shall:

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

"**§ 99E-5. Assumption of risk.**

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

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

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

"**§ 99E-6. Defense to suit.**

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

Section 2. This act becomes effective October 1, 1997, and applies to 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

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

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT SCHOOL BUSES AND SCHOOL ACTIVITY BUSES MAY NOT COMPETE WITH THE PRIVATE SECTOR.

Whereas, public school buses are purchased with tax revenue, are insured under the State's program of self-insurance, use motor fuel that is exempt from the per gallon motor fuel excise tax, are exempt from local property taxes, and are driven by individuals who are trained at State expense; and

Whereas, public school activity buses enjoy many of these same advantages; and

Whereas, private sector businesses that provide transportation services do not enjoy any of these tax, insurance, and driver training advantages; and

Whereas, because of these differences in private sector transportation businesses and public school transportation services, it would be unfair to allow school buses and school activity buses to compete against private sector businesses in providing transportation services; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58 reads as rewritten:

"**§ 66-58. Sale of merchandise <u>or services</u> by governmental units.**

(a) Except as may be provided in this section, it shall be unlawful for any unit, department or agency of the State government, or any division or subdivision of any such unit, department or agency, or any individual employee or employees of any such unit, department or agency in his, or her, or their capacity as employee or employees thereof, to engage directly or indirectly in the sale of goods, wares or

merchandise in competition with citizens of the State, or to engage in the operation of restaurants, cafeterias or other eating places in any building owned by or leased in the name of the State, or to maintain service establishments for the rendering of services to the public ordinarily and customarily rendered by private enterprises, or to provide transportation services, or to contract with any person, firm or corporation for the operation or rendering of any such businesses or services on behalf of any such unit, department or agency, or to purchase for or sell to any person, firm or corporation any article of merchandise in competition with private enterprise. The leasing or subleasing of space in any building owned, leased or operated by any unit, department or agency or division or subdivision thereof of the State for the purpose of operating or rendering of any of the businesses or services herein referred to is hereby prohibited.

(b) The provisions of subsection (a) of this section shall not apply to:

(1) Counties and municipalities.

(2) The Department of Human Resources, the Department of Environment, Health, and Natural Resources, or the Department of Agriculture for the sale of serums, vaccines, and other like products.

(3) The Department of Administration, except that said agency shall not exceed the authority granted in the act creating the agency.

(4) The State hospitals for the insane.

(5) The Department of Human Resources.

(6) The North Carolina School for the Blind at Raleigh.

(7) The North Carolina Schools for the Deaf.

(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State College, and the other schools and colleges for higher education maintained or supported by the State, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.

(9) The Department of Environment, Health, and Natural Resources, except that said Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.

(10) Child-caring institutions or orphanages receiving State aid.

(11) Highlands School in Macon County.

(12) The North Carolina State Fair.

(13) Rural electric memberships corporations.

(13a) State Farm Operations Commission.

(13b) The Department of Agriculture with regard to its lessees at farmers' markets operated by the Department.

(13c) The Western North Carolina Agricultural Center.

(14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided such leases shall be awarded by the Department of Administration to the highest bidder, as provided by law in the case of State contracts and which lease shall be for a term of not less than one year and not more than five years.

(15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for such tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase such supplies.

(16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In

addition to the prior sentence, laundry services performed by the Department of Correction may be provided for the Governor Morehead School and the North Carolina School for the Deaf.

Such services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by such institutions and further limited to only flat goods or apparel owned, distributed or controlled entirely by such institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Department of Correction, be processed by a dry-cleaning method.

(17) The North Carolina Global TransPark Authority or a lessee of the Authority.

(18) The activities and products of private enterprise carried on or manufactured within a State prison facility pursuant to G.S. 148-70.

(c) The provisions of subsection (a) shall not prohibit:

(1) The sale of products of experiment stations or test farms.

(2) The sale of learned journals, works of art, books or publications of the Department of Cultural Resources or other agencies, or the Supreme Court Reports or Session Laws of the General Assembly.

(3) The business operation of endowment funds established for the purpose of producing income for educational purposes; for purposes of this section, the phrase 'operation of endowment funds' shall include the operation by public postsecondary educational institutions of campus stores, the profits from which are used exclusively for awarding scholarships to defray the expenses of students attending the institution; provided, that the operation of such stores must be approved by the board of trustees of the institution, and the merchandise sold shall be limited to educational materials and supplies, gift items and miscellaneous personal-use articles. Provided further that sales at campus stores are limited to employees of the institution and members of their immediate families, to duly enrolled students of the campus at which a campus store is located and their immediate families, to duly enrolled students of other campuses of the University of North Carolina other than the campus at which the campus store is located, to other campus stores and to other persons who are on campus other than for the purpose of purchasing merchandise from campus stores. It is the intent of this subdivision that campus stores be established and operated for the purpose of assuring the availability of merchandise described in this Article for sale to persons enumerated herein and not for the purpose of competing

with stores operated in the communities surrounding the campuses of the University of North Carolina.

(4) The operation of lunch counters by the Department of Human Resources as blind enterprises of the type operated on January 1, 1951, in State buildings in the City of Raleigh.

(5) The operation of a snack bar and cafeteria in the State Legislative Building.

(6) The maintenance by the prison system authorities of eating and sleeping facilities at units of the State prison system for prisoners and for members of the prison staff while on duty, or the maintenance by the highway system authorities of eating and sleeping facilities for working crews on highway construction or maintenance when actually engaged in such work on parts of the highway system.

(7) The operation by penal, correctional or facilities operated by the Department of Human Resources or by the State Department of Agriculture, of dining rooms for the inmates or clients or members of the staff while on duty and for the accommodation of persons visiting such inmates or clients, and other bona fide visitors.

(8) The sale by the Department of Agriculture of livestock, poultry and publications in keeping with its present livestock and farm program.

(9) The operation by the public schools of school cafeterias.

(9a) The use of a public school bus or public school activity bus for a purpose allowed under G.S. 115C-242 or the use of a public school activity bus for a purpose authorized by G.S. 115C-247.

(10) Sale by any State correctional or other institution of farm, dairy, livestock or poultry products raised or produced by it in its normal operations as authorized by the act creating it.

(11) The sale of textbooks, library books, forms, bulletins, and instructional supplies by the State Board of Education, State Department of Public Instruction, and local school authorities.

(12) The sale of North Carolina flags by or through the auspices of the Department of Administration, to the citizens of North Carolina.

(13) The operation by the Department of Correction of forestry management programs on State-owned lands, including the sale on the open market of timber cut as a part of such management program.

(14) The operation by the Department of Correction of facilities to manufacture and produce traffic and street name signs for use on the public streets and highways of the State.

(15) The operation by the Department of Correction of facilities to manufacture and produce paint for use on the public streets and highways of the State.

(16) The performance by the Department of Transportation of dredging services for a unit of local government.

(17) The sale by the State Board of Elections to political committees and candidate committees of computer software designed by or for the State Board of Elections to provide a uniform system of electronic filing of the campaign finance reports required by Article 22A of Chapter 163 of the General Statutes and to facilitate the State Board's monitoring of compliance with that Article. This computer software for electronic filing of campaign finance reports shall not exceed a cost of one hundred dollars ($100.00) to any political committee or candidate committee without the State Board of Elections first notifying in writing the Joint Legislative Commission on Governmental Operations.

(d) A department, agency or educational unit named in subsection (b) shall not perform any of the prohibited acts for or on behalf of any other department, agency or educational unit.

(e) Any person, whether employee of the State of North Carolina or not, who shall violate, or participate in the violation of this section, shall be guilty of a Class 1 misdemeanor.

(f) Notwithstanding the provisions of G.S. 66-58(a), the operation by the Department of Correction of facilities for the manufacture of any product or the providing of any service pursuant to G.S. 148-70 not regulated by the provisions of subsection (c) hereof, shall be subject to the prior approval of the Governor, with biennial review by the General Assembly, at the beginning of each fiscal year commencing after October 1, 1975. The Department of Correction shall file with the Director of the Budget quarterly reports detailing prison enterprise operations in such a format as shall be required by the Director of the Budget.

(g) The North Carolina School of Science and Mathematics may engage in any of the activities permitted by G.S. 66-58(b)(8) and (c)(3)."

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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 672

law. report

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

A BILL TO BE ENTITLED

AN ACT TO EXEMPT COUNTIES AND CITIES FROM THE STATUTORY REQUIREMENTS REGARDING PUBLIC CONTRACTS WHEN CONSTRUCTING CERTAIN METAL BUILDINGS.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-135.1A. Contracts for the construction of metal buildings.**

This Article does not apply to building contracts in the amount of five hundred thousand dollars ($500,000) or less let by counties, cities, towns, or other subdivisions of the State for metal buildings that are designated by the North Carolina State Building Code as Type IV construction. The Secretary of Administration and other State officers, employees, or agencies shall have no duties or responsibilities concerning these contracts, but the services of the Department of Administration shall be made available to any county, city, town, or other subdivision of the State with regard to these contracts, upon request of the governmental entity."

Section 2. This act becomes effective October 1, 1997, and applies to 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE Bill 1074

fav. report to JI

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

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.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

"**§ 75-36. Representation of providing or obtaining debt consolidation.**

(a) No person, firm, or corporation engaged in commerce shall, in connection with the sale or solicitation for sale of any service, represent that the person, firm, or corporation obtains or provides debt consolidation when the service that person primarily obtains or provides is related to bankruptcy proceedings without clearly disclosing that the person primarily obtains or provides services related to bankruptcy proceedings.

(b) To the extent that representations of the type governed by this section are broadcast by radio or television or carried by cable-television, the required disclosure shall be clearly and prominently disclosed.

(c) Nothing in this section shall create any liability for acts by the publisher, owner, agent, or employee of a newspaper, periodical, radio station, television station, cable-television system or other advertising medium arising out of the publication or

dissemination of any advertisement or promotion governed by this section, when the publisher, owner, agent, or employee did not know that the advertisement or promotion violated the requirements of this section."

Section 2. This act becomes effective October 1, 1997, and applies to 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 varous 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

A BILL TO BE ENTITLED

AN ACT TO PERMIT LENDERS TO CONTRACT FOR AND RECEIVE SHARED APPRECIATION IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-270 reads as rewritten:

"**§ 53-270. Prohibited acts.**

Reverse mortgage lenders are prohibited from engaging in any of the following acts in connection with the making, servicing, or collecting of a reverse mortgage loan:

(1) Misrepresenting material facts, making false promises, or engaging in a course of misrepresentation through agents or otherwise.

(2) Failing to disburse funds in accordance with the terms of the reverse mortgage loan contract or other written commitment.

(3) Improperly refusing to issue a satisfaction of a mortgage.

(4) Engaging in any action or practice that is unfair or deceptive, or that operates a fraud on any person.

(5) Contracting for or receiving shared ~~appreciation.~~ appreciation or shared equity, other than in an amount:

a. Not to exceed ten percent (10%) of the value of the property at the time of the loan repayment; and

b. Permitted in conjunction with a loan that:

1. Is outstanding for 24 months or longer; and

2. Either (i) is guaranteed or insured by an agency of the federal government, or (ii) has originated under a reverse mortgage program approved by the Federal National Mortgage Corporation, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation.

(6) Closing a reverse mortgage loan without receiving certification from a ~~counselor~~ person who is certified as a reverse mortgage counselor by the State that the borrower has received counseling on the advisability of a reverse mortgage loan and the appropriate reverse mortgage loan for the borrower.

(7) Failing to comply with this Article."

Section 2. This act becomes effective October 1, 1997, and applies to 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

A BILL TO BE 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 OR A ONE HUNDRED-YEAR POOL ELEVATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 104G-9(e) reads as rewritten:

"(e) No later than 1 August 1989, the Authority shall select a minimum of two sites that are suitable for the location of a low-level radioactive disposal facility, for characterization. No site ~~may~~ shall be selected for the location of a low-level radioactive waste disposal facility without first having been characterized. No site shall be selected for the location of a low-level radioactive waste disposal facility that would result in the facility or the facility's buffer zone being located within 3,000 feet of:

(1) A 100-year floodplain; even if the site can be altered to protect it from flooding during a 100-year flood; or

(2) A maximum 100-year pool elevation."

Section 2. This act is effective when it becomes law and applies to final site selections made on or after that date.

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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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

A BILL TO BE 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 OR A ONE HUNDRED-YEAR POOL ELEVATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 104G-9(e) reads as rewritten:

"(e) No later than 1 August 1989, the Authority shall select a minimum of two sites that are suitable for the location of a low-level radioactive disposal facility, for characterization. No site ~~may~~ shall be selected for the location of a low-level radioactive waste disposal facility without first having been characterized. No site shall be selected for the location of a low-level radioactive waste disposal facility that would result in the facility or the facility's buffer zone being located within 3,000 feet of:

(1) A 100-year floodplain; even if the site can be altered to protect it from flooding during a 100-year flood; or

(2) A maximum 100-year pool elevation."

Section 2. This act is effective when it becomes law and applies to final 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

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 OR A ONE HUNDRED-YEAR POOL ELEVATION.

The General Assembly of North Carolina enacts:

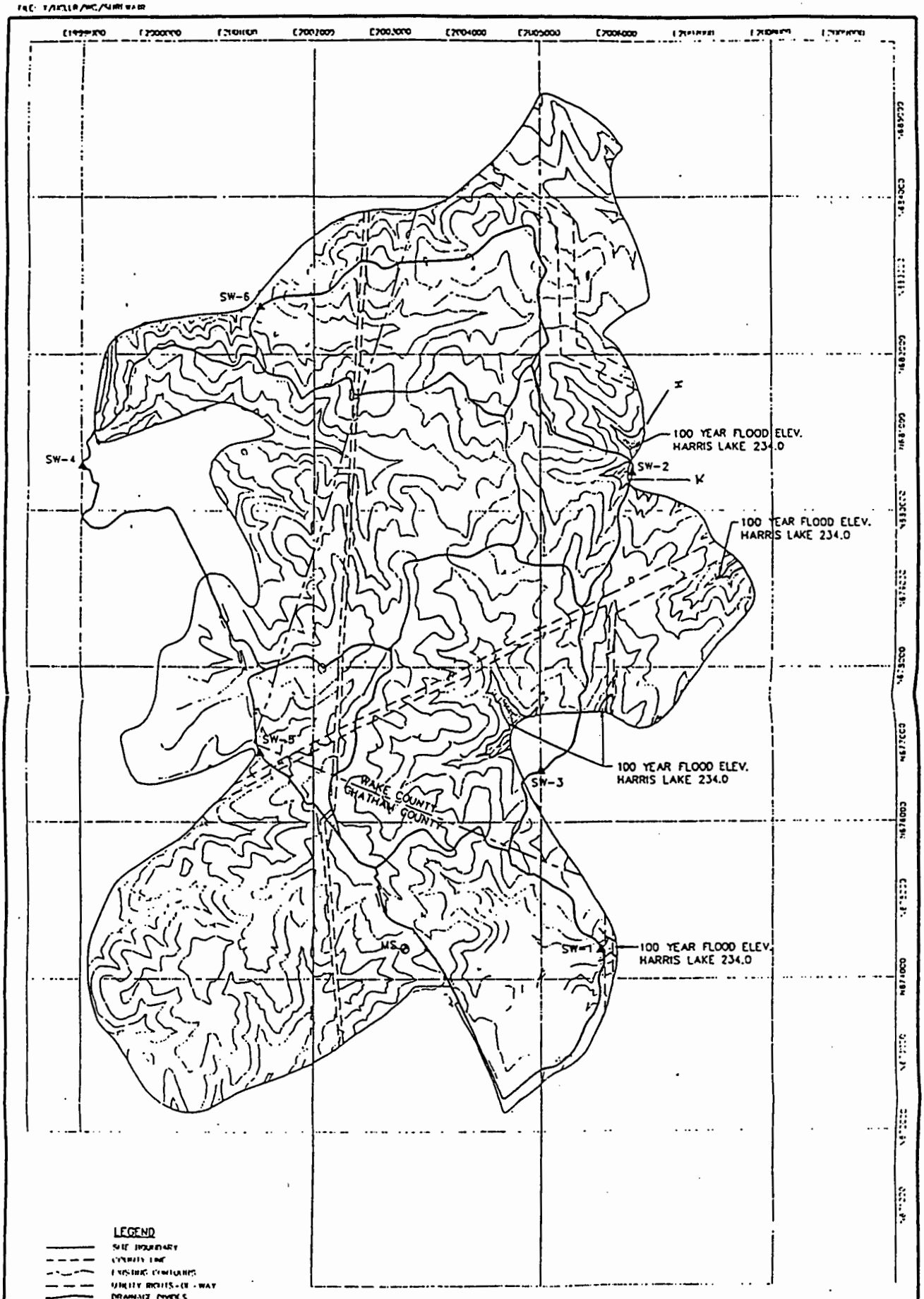
Section 1. G.S. 104G-9(e) reads as rewritten:

"(e) No later than 1 August 1989, the Authority shall select a minimum of two sites that are suitable for the location of a low-level radioactive disposal facility, for characterization. No site ~~may~~ shall be selected for the location of a low-level radioactive waste disposal facility without first having been characterized. No site shall be selected for the location of a low-level radioactive waste disposal facility that would result in the facility or the facility's buffer zone being located within 3,000 feet of:

(1) A 100-year floodplain; even if the site can be altered to protect it from flooding during a 100-year flood; or

(2) A maximum 100-year pool elevation."

Section 2. This act is effective when it becomes law and applies to final site selections made on or after that date.



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 interrogatory[59] 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]

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[58] See Figure 9-1, Chem-Nuclear's Environmental Impact Report, "Conceptual Site Plan With Jurisdictional Waters/Wetlands," Wake/Chatham County Site.
[59] Interrogatory 11-A-019.
[60] CNSI (1993), *SAR*, Fig.2.4-1.
[61] *Ibid.*, p.2.4-229.
[62] *Ibid.*, p.2.4-229 and Fig.2.1-2.
[63] Interrogatory 02-A-081.

Source: Wake/Chatham Report

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/FIS[1] 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 msl[2]. 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.

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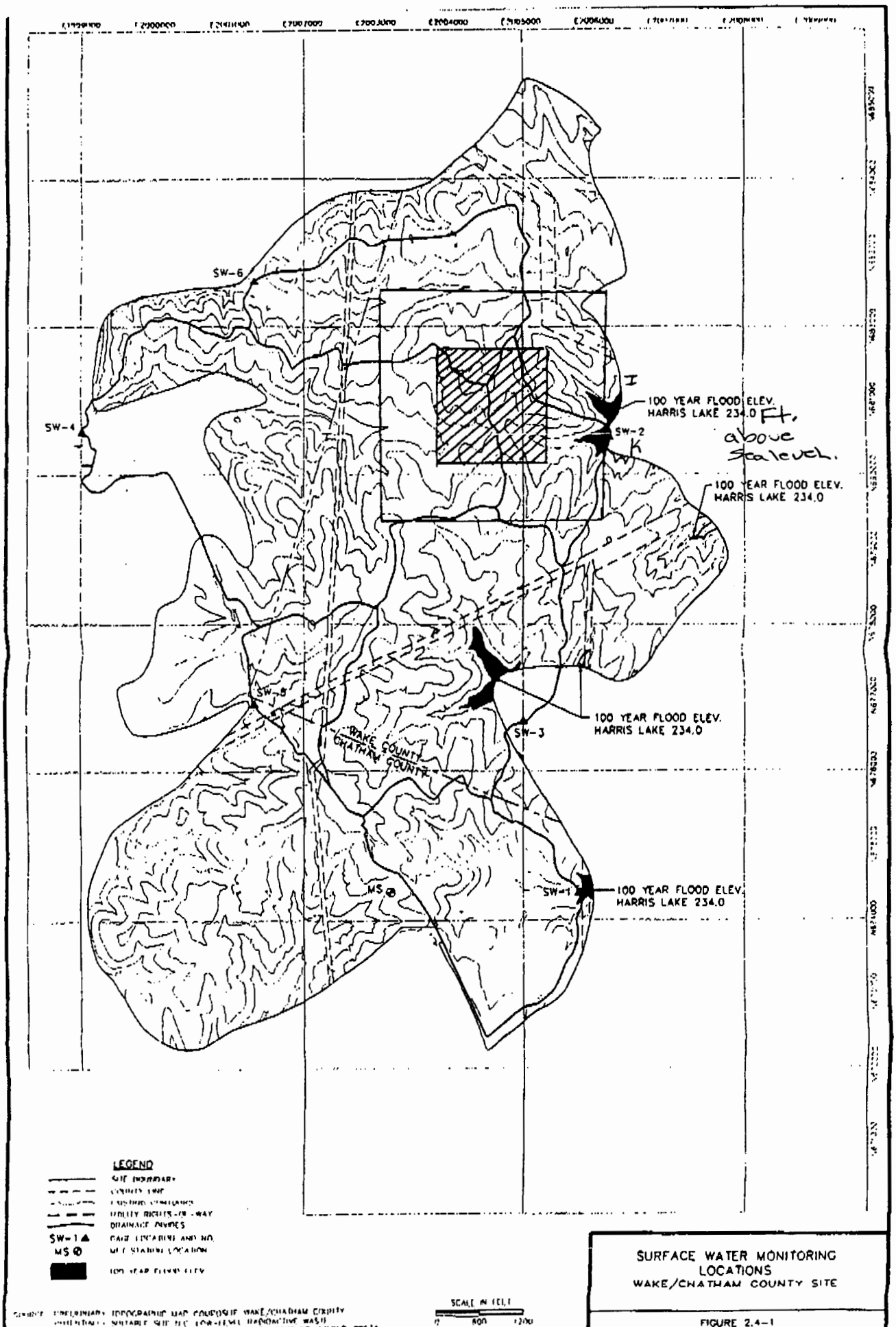
[1] Federal Emergency Management Agency/Flood Insurance Study

[2] mean sea level



SURFACE WATER MONITORING LOCATIONS
WAKE/CHATHAM COUNTY SITE

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

COMMITTEE SUBSTITUTE _____ this failed

Rep.)
) _____
Sen.)

moves to amend the bill on page 1, line 19

( ) WHICH CHANGES THE TITLE

by deleting the word "final" and

on page 1 line 20 by rewriting

that line to read:

"~~Void~~

" sites that have not been

licensed on ~~after~~ that date. "

SIGNED Bobby E. Hall

ADOPTED _____ FAILED X TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

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)

4/24/97

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

A BILL TO BE 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 STAMP OVERISSUANCES, AND TO REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-14(1D) reads as rewritten:

"(1D) For the purposes of this Chapter, any claimant leaving work to accompany the claimant's legally recognized spouse to a new place of residence where that spouse has secured work in a location that is too far removed for the claimant reasonably to continue his or her work shall ~~serve a time certain disqualification for benefits for a period of five weeks beginning the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits.~~ constitute good cause for leaving work. Benefits paid on the basis of this section shall be noncharged."

Section 2. G.S. 96-14 is amended by adding a new subdivision to read:

"(1F) For the purposes of this Chapter, any claimant's leaving work, or discharge, if the claimant has been adjudged an aggrieved party as set forth by Chapter 50B of the General Statutes as the result of domestic violence committed upon the claimant or upon a minor

child with or in the custody of the claimant by a person who has or who has had a familial relationship with the claimant or minor child, shall not disqualify the claimant for benefits. Benefits paid on the basis of this section shall be noncharged."

Section 3. G.S. 96-9(c) reads as rewritten:

"(c) (1) Except as provided in subsection (d) of this section, the Commission shall maintain a separate account for each employer and shall credit ~~his~~ the employer's account with all voluntary contributions made by ~~him~~ the employer and all other contributions which ~~he~~ the employer has paid or is paid on ~~his~~ the employer's behalf, provided the Commission shall credit the account of each employer in an amount equal to eighty percent (80%) of all voluntary contributions paid with respect to periods prior to January 1, 1984, and of all other contributions paid with respect to periods between July 1, 1965, and December 31, 1983. On the computation date, beginning first with August 1, 1948, the ratio of the credit balance in each individual account to the total of all the credit balances in all employer accounts shall be computed as of such computation date, and an amount equal to the interest credited to this State's account in the unemployment trust fund in the treasury of the United States for the four most recently completed calendar quarters shall be credited prior to the next computation date on a pro rata basis to all employers' accounts having a credit balance on the computation date. Such amount shall be prorated to the individual accounts in the same ratio that the credit balance in each individual account bears to the total of the credit balances in all such accounts. In computing the amount to be credited to the account of an employer as a result of interest earned by funds on deposit in the unemployment trust fund in the treasury of the United States to the account of this State, any voluntary contributions made by an employer after July 31 of any year shall not be considered a part of the account balance of the employer until the next computation date occurring after such voluntary contribution was made. No provision in this section shall in any way be subject to or affected by any provisions of the Executive Budget Act, as amended. Nothing in this Act shall be construed to grant any employer or individual in ~~his~~ the employer's service prior claims or rights to the amount paid by ~~him~~ the employer into the fund either on ~~his~~ the employer's own behalf or on behalf of such individuals.

(2) Charging of benefit payments. --

a. Benefits paid shall be allocated to the account of each base period employer in the proportion that the base period wages paid to an eligible individual in any calendar quarter

by each such employer bears to the total wages paid by all base period employers during the base period, except as hereinafter provided in paragraphs b, c, and d of this subdivision, G.S. 96-9(d)(2)c, and 96-12(e)G. The amount so allocated shall be multiplied by one hundred twenty percent (120%) and charged to that employer's account. Benefits paid shall be charged to employers' accounts upon the basis of benefits paid to claimants whose benefit years have expired.

b. Any benefits paid to any claimant under a claim filed for a period occurring after the date of such separations as are set forth in this paragraph and based on wages paid prior to the date of (i) the leaving of work by the claimant without good cause attributable to the employer; (ii) the discharge of claimant for misconduct in connection with ~~his~~ the claimant's work; (iii) the discharge of the claimant for substantial fault as that term may be defined in G.S. 96-14; (iv) the discharge of the claimant solely for a bona fide inability to do the work for which ~~he~~ the claimant was hired but only where the claimant was hired pursuant to a job order placed with a local office of the Commission for referrals to probationary employment (with a probationary period no longer than 100 days), which job order was placed in such circumstances and which satisfies such conditions as the Commission may by regulation prescribe and only to the extent of the wages paid during such probationary employment; (v) separations made disqualifying under G.S. 96-14(2B) and (6A); ~~or~~ (vi) separation due to leaving for disability or health ~~condition~~ condition; or (vii) separation due to spousal relocation or domestic abuse as provided by G.S. 96-14(1D) and (1F) shall not be charged to the account of the employer by whom the claimant was employed at the time of such separation; provided, however, said employer promptly furnishes the Commission with such notices regarding any separation of the individual from work as are or may be required by the regulations of the Commission.

No benefit charges shall be made to the account of any employer who has furnished work to an individual who, because of the loss of employment with one or more other employers, becomes eligible for partial benefits while still being furnished work by such employer on substantially the same basis and substantially the same amount as had been made available to such individual during ~~his~~ the individual's base period whether the employments were simultaneous or

successive; provided, that such employer makes a written request for noncharging of benefits in accordance with Commission regulations and procedures.

No benefit charges shall be made to the account of any employer for benefit years ending on or before June 30, 1992, where benefits were paid as a result of a discharge due directly to the reemployment of a veteran mandated by the Veteran's Reemployment Rights Law, 38 USCA § 2021, et seq.

No benefit charges shall be made to the account of any employer where benefits are paid as a result of a decision by an Adjudicator, Appeals Referee or the Commission if such decision to pay benefits is ultimately reversed; nor shall any such benefits paid be deemed to constitute an overpayment under G.S. 96-18(g)(2), the provisions thereof notwithstanding. Provided, an overpayment of benefits paid shall be established in order to provide for the waiting period required by G.S. 96-13(c).

c. Any benefits paid to any claimant who is attending a vocational school or training program as provided in G.S. 96-13(a)(3) shall not be charged to the account of the base period employer(s).

d. Any benefits paid to any claimant under the following conditions shall not be charged to the account of the base period employer(s):

1. The benefits are paid for unemployment due directly to a major natural disaster, and
2. The President has declared the disaster pursuant to the Disaster Relief Act of 1970, 42 USCA 4401, et seq., and
3. The benefits are paid to claimants who would have been eligible for disaster unemployment assistance under this Act, if they had not received unemployment insurance benefits with respect to that unemployment.

e. 1. Any benefits paid to any claimant which are based on previously uncovered employment which are reimbursable by the federal government shall not be charged to the experience rating account of any employer.

2. For purposes of this paragraph previously uncovered employment for which benefits are reimbursable by the federal government means services performed before July 1, 1978, in the case of a week of

unemployment beginning before July 1, 1978, or before January 1, 1978, in the case of a week of unemployment beginning after July 1, 1978, and to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (SUA) was not paid to such individuals on the basis of such service.

(3) As of July 31 of each year, and prior to January 1 of the succeeding year, the Commission shall determine the balance of each employer's account and shall furnish ~~him~~ the employer with a statement of all charges and credits thereto. At the same time the Commission shall notify each employer of ~~his~~ the employer's rate of contributions as determined for the succeeding calendar year pursuant to this section. Such determination shall become final unless the employer files an application for review or redetermination prior to May 1 following the effective date of such rates. The Commission may redetermine on its own motion within the same period of time.

(4) Transfer of account. --

a. Whenever any individual, group of individuals, or employing unit, who or which, in any manner succeeds to or acquires substantially all or a distinct and severable portion of the organization, trade, or business of another employing unit as provided in G.S. 96-8, subdivision (5), paragraph b, the account or that part of the account of the predecessor which relates to the acquired portion of the business shall, upon the mutual consent of the parties concerned and approval of the Commission in conformity with the regulations as prescribed therefor, be transferred as of the date of acquisition of the business to the successor employer for use in the determination of ~~his~~ the successor's rate of contributions, provided application for transfer is made within 60 days after the Commission notifies the successor of ~~his~~ the successor's right to request such transfer, otherwise the effective date of the transfer shall be the first day of the calendar quarter in which such application is filed, and that after the transfer the successor employing unit continues to operate the transferred portion of such organization, trade or business. Provided, however, that the transfer of an account for the purpose of computation of rates shall be deemed to have been made prior to the computation date falling within the calendar year within which the effective date of such transfer occurs and the account shall thereafter be used in the computation of the rate of the successor

employer for succeeding years, subject, however, to the provisions of paragraph b of this subdivision.

On or after August 1, 1988, whenever any individual, group of individuals, or employing unit, who or which, in any manner succeeds to or acquires all of the organization, trade, or business of another employing unit as provided in G.S. 96-8, subdivision (5), paragraph b, the account of the predecessor shall be transferred as of the date of the acquisition of the business to the successor employer for use in the determination of ~~his~~ the successor's rate of contributions. Whenever any individual, group of individuals, or employing unit, who or which, in any manner succeeds to or acquires a distinct and severable portion of the organization, trade, or business of another employing unit as provided in G.S. 96-8, subdivision (5), paragraph b, that part of the account of the predecessor which relates to the acquired portion of the business shall, upon the mutual consent of the parties concerned and approval of the Commission in conformity with the regulations as prescribed therefor, be transferred as of the date of acquisition of the business to the successor employer for use in the determination of ~~his~~ the successor's rate of contributions, provided application for transfer is made within 60 days after the Commission notifies the successor of ~~his~~ the successor's right to request such transfer, otherwise the effective date of the transfer shall be the first day of the calendar quarter in which such application is filed, and that after the transfer the successor employing unit continues to operate the transferred portion of such organization, trade or business. Provided, however, that the transfer of an account for the purpose of computation of rates shall be deemed to have been made prior to the computation date falling within the calendar year within which the effective date of such transfer occurs and the account shall thereafter be used in the computation of the rate of the successor employer for succeeding years, subject, however, to the provisions of paragraph b of this subdivision. No request for a transfer of the account will be accepted and no transfer of the account will be made if the request for the transfer of the account is not received within two years of the date of acquisition or notification by the Commission of the right to request such transfer, whichever occurs later. However, in no event will a request for a transfer be allowed if an account has been terminated because an employer ceases to

be an employer pursuant to G.S. 96-9(c)(5) and G.S. 96-11(d) regardless of the date of notification.

b. Notwithstanding any other provisions of this section, if the successor employer was an employer subject to this Chapter prior to the date of acquisition of the business, ~~his~~ the successor employer's rate of contribution for the period from such date to the end of the then current contribution year shall be the same as ~~his~~ the successor employer's rate in effect on the date of such acquisition. If the successor was not an employer prior to the date of the acquisition of the business ~~he~~ the successor shall be assigned a standard rate of contribution set forth in G.S. 96-9(b)(1) for the remainder of the year in which ~~he~~ the successor acquired the business of the predecessor; however, if such successor makes application for the transfer of the account within 60 days after notification by the Commission of his right to do so and the account is transferred, or meets the requirements for mandatory transfer, ~~he~~ the successor shall be assigned for the remainder of such year the rate applicable to the predecessor employer or employers on the date of acquisition of the business, provided there was only one predecessor or if more than one and the predecessors had identical rates. In the event the rates of the predecessor were not identical, the rate of the successor shall be the highest rate applicable to any of the predecessor employers on the date of acquisition of the business.

Irrespective of any other provisions of this Chapter, when an account is transferred in its entirety by an employer to a successor, the transferring employer shall thereafter pay the standard rate of contributions of two and seven-tenths percent (2.7%) and shall continue to pay at such rate until ~~he~~ the transferring employer qualifies for a reduction, reacquires the account ~~he~~ that the transferring employer transferred or acquires the experience rating account of another employer, or is subject to an increase in rate under the conditions prescribed in G.S. 96-9(b)(2) and (3). However, when an account is transferred in its entirety by an employer to a successor on or after January 1, 1987, the transferring employer shall thereafter pay the standard beginning rate of contributions of two and twenty-five hundredths percent (2.25%) and shall continue to pay at such rate until ~~he~~ the transferring employer qualifies for a reduction, reacquires the account ~~he~~ that the transferring employer transferred or acquires the experience rating

account of another employer, or is subject to an increase in rate under the conditions prescribed in G.S. 96-9(b)(2) and (3).

c. In those cases where the organization, trade, or business of a deceased person, or insolvent debtor is taken over and operated by an administrator, administratrix, executor, executrix, receiver, or trustee in bankruptcy, such employing units shall automatically succeed to the account and rate of contribution of such deceased person, or insolvent debtor without the necessity of the filing of a formal application for the transfer of such account.

(5) In the event any employer subject to this Chapter ceases to be such an employer, ~~his~~ the employer's account shall be closed and the same shall not be used in any future computation of such employer's rate nor shall any period prior to the effective date of the termination of such employer during which benefits were chargeable be considered in the application of G.S. 96-9(b)(2) of this Chapter.

(6) If the Commission finds that an employer's business is closed solely because of the entrance of one or more of the owners, officers, partners, or the majority stockholder into the Armed Forces of the United States, or of any of its allies, or of the United Nations, such employer's experience rating account shall not be terminated; and, if the business is resumed within two years after the discharge or release from active duty in the Armed Forces of such person or persons, the employer's account shall be deemed to have been chargeable with benefits throughout more than 13 consecutive calendar months ending July 31 immediately preceding the computation date. This subdivision shall apply only to employers who are liable for contributions under the experience rating system of financing unemployment benefits. This subdivision shall not be construed to apply to employers who are liable for payments in lieu of contributions or to employers using the reimbursable method of financing benefit payments."

Section 4. G.S. 96-8(6) reads as rewritten:

"(6) a. 'Employment' means service performed including service in interstate commerce, except employment as defined in the Railroad Retirement Act and the Railroad Unemployment Insurance Act, performed for wage or under any contract of hire, written or oral, express or implied, in which the relationship of the individual performing such service and the employing unit for which such service is rendered is, as to such service, the legal relationship of employer and employee. Provided, however, the term 'employee' includes

an officer of a corporation, but such term does not include (i) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (ii) any individual (except an officer of a corporation) who is not an employee under such common-law rules. An employee who is on paid vacation or is on paid leave of absence due to illness or other reason shall be deemed to be in employment irrespective of the failure of such individual to perform services for the employing unit during such period.

b. The term 'employment' shall include an individual's entire service, performed within or both within and without this State if:

1. The service is localized in this State; or
2. The service is not localized in any state but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.
3. The service, wherever performed, is within the United States, or Canada; such service is not covered under the unemployment compensation law of any other state or Canada; and the place from which the service is directed or controlled is in this State.

c. Services performed within this State but not covered under paragraph b of this subdivision shall be deemed to be employment subject to this Chapter, if contributions are not required and paid with respect to such services under an employment security law of any other state or of the federal government.

d. Services not covered under paragraph b of this subdivision, and performed entirely without this State, with respect to no part of which contributions are required and paid under an employment security law of any other state or of the federal government, shall be deemed to be employment subject to this Chapter if the individual performing such service is a resident of this State and the Commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be

deemed to be employment subject to this Chapter, and services covered by an election duly approved by the Commission in accordance with an arrangement pursuant to subsection (l) of G.S. 96-4 shall be deemed to be employment during the effective period of such election.

e. Service shall be deemed to be localized within a state if:
   1. The service is performed entirely within such state; or
   2. The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

f. The term 'employment' shall include:
   1. Services covered by an election pursuant to G.S. 96-11, subsection (c), of this Chapter; and
   2. Services covered by an election duly approved by the Commission in accordance with an arrangement pursuant to G.S. 96-4, subsection (l), of this Chapter during the effective period of such election.
   3. Any service of whatever nature performed by an individual for an employing unit on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if such individual is employed on and in connection with such vessel when outside the United States: Provided, such service is performed on or in connection with the operations of an American vessel operating on navigable waters within or within and without the United States and such operations are ordinarily and regularly supervised, managed, directed, and controlled from an operating office maintained by the employing unit in this State: Provided further, that this subparagraph shall not be applicable to those services excluded in subdivision (6), paragraph k, subparagraph 6 of this section.
   4. Any service of whatever nature performed by an individual for an employing unit on or in connection with an American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the aircraft it touches at a port in the United States, if such individual is

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

(other than service which is deemed "employment" under the provisions of paragraph b or e of this subsection or the parallel provisions of another state's law), if:

(i) The employer's principal place of business in the United States is located in this State; or

(ii) The employer has no place of business in the United States, but

(I) The employer is an individual who is a resident of this State; or

(II) The employer is a corporation which is organized under the laws of this State; or

(III) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any other state; or

(iii) None of the criteria of divisions (i) and (ii) of this subparagraph is met but the employer has elected coverage in this State, or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this State.

(iv) An 'American employer,' for the purposes of this paragraph, means a person who is:

(I) An individual who is a resident of the United States; or

(II) A partnership if two thirds or more of the partners are residents of the United States; or

(III) A trust, if all of the trustees are residents of the United States; or

(IV) A corporation organized under the laws of the United States or of any state;

(V) For the purposes of this subparagraph, United States includes all the states, the District of Columbia, and the Commonwealth of Puerto Rico.

7. Services with respect to which a tax is required to be paid under any federal law imposing a tax against

which credit may be taken for contributions required to be paid into a State unemployment insurance fund, or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this Chapter.

g. On and after January 1, 1978, the term 'employment' includes services performed in agricultural labor when a person or employing unit (a) during any calendar quarter in the current calendar year or the preceding calendar year pays wages of twenty thousand dollars ($20,000) or more for agricultural labor, or (b) on each of some 20 days during the preceding calendar year, each day being in a different calendar week, employs at least 10 individuals in employment in agricultural labor for some portion of the day. For purposes of this Chapter, the term 'agricultural labor' includes all services performed: (1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife; (2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm; (3) in connection with the production or harvesting of crude gum (oleoresin) from a living tree, and the following products if processed by the original producer of crude gum from which derived; gum spirits of turpentine and gum resin, or in connection with the ginning of cotton or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes; or (4)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one half of the commodity with respect to which such service is performed; (B) in the employ of a group of operators of farms (or a cooperative

organization of which such operators are members) in performance of service described in subparagraph (A), but only if such operators produced more than one half of the commodity with respect to which such service is performed. (C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; (D) on a farm operated for profit if such service is not in the course of the employer's trade or business. As used in this subsection, the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. Provided, such labor is not agricultural labor performed ~~before January 1, 1995,~~ by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act.

h. On and after January 1, 1978, the term 'employment' includes domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who pays cash remuneration of one thousand dollars ($1,000) or more on or after January 1, 1978, in any calendar quarter in the current calendar year or the preceding calendar year to individuals employed in such domestic service.

i. On and after January 1, 1978, the term 'employment' includes service performed for any State and local governmental employing unit. Provided, however, that employment shall not include service performed (a) as an elected official; (b) as a member of a legislative body or a member of the judiciary, of a State or political subdivision thereof; (c) as a member of the State National Guard or Air National Guard; (d) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or (e) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week. The services to which clause (d) of the preceding sentence applies include but are not limited to temporary emergency services compensated solely by a fixed payment for each

emergency call answered whether or not provided for by prior agreement and training in preparation for such temporary emergency service whether or not compensated.

j. On and after January 1, 1978, the term 'employment' includes services performed in any calendar year by employees of nonprofit elementary and secondary schools.

k. The term 'employment' shall not include:

1, 2. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 680, s. 7.

3. Service with respect to which unemployment insurance is payable under an employment security system established by an act of Congress: Provided, that the Commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective 10 days after publication thereof in the manner provided in G.S. 96-4(b) for general rules, to provide potential rights to benefits under this Chapter, acquired rights to unemployment insurance under act of Congress, or who have, after acquiring potential rights to unemployment insurance, under such act of Congress, acquired rights to benefits under this Chapter.

4, 5. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 680, s. 7.

6. Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft by an individual if the individual is performing services on and in connection with such vessel or aircraft when outside the United States; or, service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by such individual as an ordinary incident to any such activity), except (i) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (ii) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the registered tonnage of merchant vessels under the laws of the United States).

7. Services performed by an individual in the employ of a son, daughter, or spouse; services performed by a child under the age of 21 in the employ of his father or mother or of a partnership consisting only of parents of the child.
8. Service performed by an individual during any calendar quarter for any employing unit or an employer as an insurance agent or as an insurance solicitor, or as a securities salesman if all such service performed during such calendar quarter by such individual for such employing unit or employer is performed for remuneration solely by way of commission; service performed by an individual for an employing unit as a real estate agent or a real estate salesman as defined in G.S. 93A-2, provided, that such real estate agent or salesman is compensated solely by way of commission and is authorized to exercise independent judgment and control over the performance of his work.
9. Services performed in employment as a newsboy or newsgirl selling or distributing newspapers or magazines on the street or from house to house.
10. Except as provided in G.S. 96-8(6)f5(a), service covered by an election duly approved by the agency charged with the administration of any other state or federal employment security law in accordance with an arrangement pursuant to subdivision (l) of G.S. 96-4 during the effective period of such election.
11. Casual labor not in the course of the employing unit's trade or business.
12. Service in any calendar quarter in the employ of any organization exempt from income tax under the provisions of section 501(a) of the Internal Revenue Code of 1954 (other than an organization described in section 401(a) of said Internal Revenue Code of 1954) or under section 521 of the Internal Revenue Code of 1954, if the remuneration for such service is less than fifty dollars ($50.00).
13. Service in the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to

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

coverage to individuals in a particular work-relief or work-training program; (v) after December 31, 1971, by an inmate for a hospital in a State prison or other State correctional institution or by a patient in any other State-operated hospital, and services performed by patients in a hospital operated by a nonprofit organization shall be exempt; (vi) after December 31, 1971, in the employ of a hospital, if such service is performed by a patient of such hospital; (vii) after December 31, 1971, by an inmate of a custodial or penal institution.

16. Notwithstanding the provisions of G.S. 96-8(6)f3 and 96-8(6)k6, service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under the arrangement with the owner or operator of such boat pursuant to which:
    (A) Such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),
    (B) Such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and
    (C) The amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals. In order to preserve the State's right to collect State unemployment taxes for which a credit against federal unemployment taxes may be taken for contributions paid into a State unemployment insurance fund, this paragraph 16 shall not apply, with respect to any individual, to service during any period for which an assessment for federal unemployment taxes is made by the Internal Revenue Service pursuant to the Federal Unemployment Tax Act which assessment becomes a final determination (as defined by section 1313 of the Internal Revenue Code of 1954 as amended).

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."

Section 5. Any refunds of contributions, interest, or penalties made to employers because of the amendment in Section 3 of this act shall be made from the Special Employment Security Administration Fund provided for in G.S. 96-5(c).

Section 6. Article 2 of Chapter 96 of the General Statutes is amended by adding a new section to read:

"**§ 96-16.1. Food stamp overissuances.**

(a) An individual filing a new claim for unemployment compensation shall, at the time of the filing of the claim, disclose whether or not the individual owes an uncollected overissuance (as defined in section 13(c)(1) of the Food Stamp Act of

1977) of food stamp coupons. The Commission shall notify the State food stamp agency enforcing such obligation of any individual who discloses that the individual owes child support obligations and who is determined to be eligible for unemployment compensation.

(b) The Commission shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance:

(1) The amount specified by the individual to the Commission to be deducted and withheld under this subdivision;

(2) The amount (if any) determined pursuant to an agreement submitted to the State food stamp agency under section 13(c)(3)(A) of the Food Stamp Act of 1977; or

(3) Any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to section 13(c)(3)(B) of the Food Stamp Act of 1977.

(c) Any amount deducted and withheld under this section shall be paid by the Commission to the appropriate food stamp agency.

(d) Any amount deducted and withheld under subsection (b) of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State food stamp agency as repayment of the individual's uncollected overissuance.

(e) For the purposes of this section, the term 'unemployment compensation' means any compensation payable under this Chapter including amounts payable by the Commission pursuant to an agreement under any federal law providing for compensation, assistance, or allowance with respect to unemployment.

(f) This section applies only if arrangements have been made for reimbursement by the State food stamp agency for the administrative costs incurred by the Commission under this section which are attributable to the repayment of uncollected overissuances to the State food stamp agency."

Section 7. G.S. 96-13(a) reads as rewritten:

"(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 as directed by the Commission at regular intervals ~~no more than four~~ of not less than three weeks and not more than six 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."

Section 8. This act is effective when it becomes law, and Sections 1, 2, 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)

H451-ARR-001

Date April 25, 1997

Comm. Sub. [Y]
Amends Title [Y]

Representative

moves to amend the bill on page 1, line 3,
by deleting the term "SPOUSAL ABUSE" and substituting the term
"DOMESTIC ABUSE"; and

on page 2, line 2,
by deleting the term "shall constitute good cause for leaving work"
and substituting the term "shall not disqualify the claimant for
benefits"; and

on page 3, line 29,
by deleting the term "spousal abuse" and substituting the term
"domestic abuse".

SIGNED _____
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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 453

Short Title: Redefine UE Base Period/AB. (Public)

Sponsors: Representatives Redwine; Miller, Baddour, and Luebke.

Referred to: Commerce.

March 10, 1997

A BILL TO BE ENTITLED

AN ACT RELATING TO THE BASE PERIOD FOR ELIGIBILITY FOR UNEMPLOYMENT BENEFITS AND ELIMINATING THE ONE AND ONE-HALF TIMES TEST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-8(17) reads as rewritten:

"(17) a. Repealed by Session Laws 1977, c. 727, s. 33.

b. Repealed by Session Laws 1977, c. 727, s. 33.

c. As to claims filed on or after October 1, 1974, for claimants who do not have a benefit year in progress, 'benefit year' shall mean the one-year period beginning with the first day of a week with respect to which an individual first registers for work and files a valid claim for benefits. A valid claim shall be deemed to have been filed only if such individual, at the time the claim is filed, is unemployed, and has been paid wages in his base period totaling at least five hundred sixty-five dollars and fifty cents ($565.50), and equal to at least one and one-half times his high-quarter wages, which high-quarter wages must equal at least one hundred and fifty dollars ($150.00). As to claims filed on or after August 1, 1981, for claimants who do not have a benefit year in progress, 'benefit year' shall mean the 52 week period beginning with the first day of a week with respect to which an individual first registers for work and files a valid claim

for benefits. Provided, however, if the first day of a week with respect to which an individual first registers for work and files a valid claim for benefits is either (i) the first day of a calendar quarter, or (ii) the second day of a calendar quarter followed by a February 29 within one year thereof, 'benefit year' shall mean the one-year period beginning with that first day of the week with respect to which the individual first registers for work and files a valid claim for benefits. A valid claim shall be deemed to have been filed only if such individual, at the time the claim is filed, is unemployed, and has been paid wages in his base period totaling at least six times the average weekly insured wage, obtained in accordance with ~~G.S. 96-8(22) and equal to at least one and one-half times his high-quarter wages, which high-quarter wages must equal at least one and one-half times the average weekly insured wage, obtained in accordance with G.S. 96-8(22).~~ G.S. 96-8(22), and has been paid wages in at least two quarters of the individual's base period.

d. Repealed by Session Laws, 1981, c. 160, s. 11."

Section 2. G.S. 96-8(18) reads as rewritten:

"(18) 'Base period' means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year as defined in subdivision (17) of this section. If an individual lacks sufficient base period wages in order to establish a benefit year in the manner set forth above, the claimant shall have an alternative base period substituted for the current base period so as not to prevent establishment of a valid claim. For the purposes of this subdivision, 'alternative base period' means the last four completed calendar quarters."

Section 3. This act is effective when it becomes law and applies to new 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.)

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

Visitor Registration

04-25-97 Commerce Committee

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Brenda Dougherty	Sprint
Lynn Holmes	BellSouth
Suzanne Williams	Boddie Noell Assoc
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Gene Upchurch	CP&L

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

APRIL 25, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Marie Cervetto	NCCSA
Rob Schofield	NCCCDC
Roz Sawitt	NC Coalition Against Domestic Violence
Ruth Sappie	NCDOT
ANNA TEFFT	OSBM
David Clegg	ESC
Tom Whitaker	ESC
Tonya Hargrove	CAE of NC.
A W Turner Jr	Public Staff - Utilities Commission
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Herbert Neily	State Const. Office
David McCoy	DOA - Secretary's Office
Judy Ellen	NC Farm Bureau
Steve Leavenworth	News + Observer
Andy James	NC Low-Level Rad. Waste Mgt. Authority
Walton Sturgeon	" " " " " " "
Linda Walters	Southeast Compact Commission
Jim Lyon	DEAFI
Paul Stock	NC Bankers Assn
Ken Stephens	Wachovia Bank of NC
Edward R. Bunt III	Dir. of Radiation Protection DEHNR
R. Rogers	EHNR
Roger Schecter	NC Coastal Management
Kathryn Haynes	Southeast Compact Commission
Henry Jones	Attorney Raleigh
Kellon Davis	wife of Rep Don Davis

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

fav report to comm. sub. unfav. to orig. bill

Short Title: State Treasurer Venture Capital. (Public)

Sponsors:

Referred to: Commerce, if favorable, Finance.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO STIMULATE SUBSTANTIAL GROWTH OF VENTURE CAPITAL INVESTMENTS IN NORTH CAROLINA THROUGH INVESTMENTS BY THE STATE TREASURER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-69.1(c) is amended by adding a new subdivision to read:

"(7) Any of the investments authorized by G.S. 147-69.2(b)(2) through (6) and (b)(9) and (10)."

Section 2. G.S. 147-69.2(b) reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

(1) Any of the investments authorized by G.S. ~~147-69.1(c);~~ 147-69.1(c), except that assets of retirement and pension systems may not be invested in the investments authorized by subdivision (9) or (10) of this subsection pursuant to G.S. 147-69.1(c)(7).

(2) General obligations of other states of the United ~~States;~~ States.

(3) General obligations of cities, counties and special districts in North ~~Carolina;~~ Carolina.
(4) Obligations of any company, other organization or legal entity incorporated or otherwise created or located within or ~~without~~ outside of the United States if ~~such~~ the obligations bear one of the three highest ratings of at least one nationally recognized rating service and do not bear a rating below the three highest by any nationally recognized rating service which rates the particular ~~security;~~ security.
(5) Notes secured by mortgages insured by the Federal Housing Administration or guaranteed by the Veterans Administration on real estate located within the State of North ~~Carolina;~~ Carolina.
(6) Asset-backed securities (whether considered debt or equity) provided they bear ratings by nationally recognized rating services as provided in G.S. 147-69.2(b)(4) and that they do not bear a rating below the three highest by any nationally recognized rating service ~~which~~ that rates the particular ~~securities;~~ securities.
(7) With respect to Retirement Systems' assets referred to in G.S. 147-69.2(b)(8), (i) insurance contracts ~~which~~ that provide for participation in individual or pooled separate accounts of insurance companies, (ii) group trusts, (iii) individual, ~~common~~ common, or collective trust funds of banks and trust companies and (iv) real estate investment trusts; provided the investment manager has assets under management of at least one hundred million dollars ($100,000,000); provided such investment assets are managed primarily for the purpose of investing in or owning real estate or related debt financing located in the United States; and provided that the investment authorized by this subsection shall not exceed ten percent (10%) of the book value of all invested assets of the Retirement ~~Systems;~~ Systems.
(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firemen's and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, and the Legislative Retirement System (hereinafter referred

to collectively as the Retirement Systems), preferred or common stocks issued by any company incorporated or otherwise created or located within or ~~without~~ outside of the United States, ~~provided:~~ if all of the following conditions are met:

a. ~~That~~ The common stock or preferred stock of ~~such~~ the corporation is registered on a national securities exchange as provided in the Federal Securities Exchange Act or quoted through the National Association of Securities Dealers' Automated Quotations (NASDAQ) ~~system;~~ system.

b. ~~That such~~ The corporation ~~shall have~~ has paid a cash dividend on its common stock in each year of the 5-year period next preceding the date of investment and the aggregate net earnings available for dividends on the common stock of ~~such~~ the corporation for the whole of ~~such~~ that period ~~shall~~ have been at least equal to the amount of ~~such~~ the dividends ~~paid;~~ paid.

c. ~~That in~~ In applying the dividend and earnings test under this section to any issuing, assuming, or guaranteeing corporation, ~~where such corporation shall have~~ if the corporation acquired its property or any substantial part thereof within a five-year period immediately preceding the date of investment by consolidation, merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, or ~~shall have~~ acquired the assets of any unincorporated business enterprise by purchase or otherwise, the dividends and net earnings of the several predecessor or constituent corporations or enterprises shall be consolidated and adjusted so as to ascertain whether or not the applicable requirements of this ~~section~~ subdivision have been complied ~~with;~~ with.

d. ~~That the~~ The book value of common and preferred stocks including securities convertible into common stocks shall not exceed fifty ~~per centum~~ percent (50%) of the

book value of all invested assets of the Retirement ~~Systems; provided, further:~~ Systems and the following conditions must also be met:

1. Not more than one and one-half ~~per centum~~ percent (1 1/2%) of the book value of ~~such~~ the assets shall be invested in the stock of a single ~~corporation, and provided further;~~ corporation.
2. The total number of shares in a single corporation shall not exceed eight ~~per centum~~ percent (8%) of the issued and outstanding stock of ~~such corporation, and provided further;~~ the corporation.
3. ~~As used in this subdivision d. and elsewhere in this section, book value shall mean adjusted cost basis as shown on the records of the State Treasurer.~~

e. Up to five ~~per cent~~ percent (5%) of the limits authorized in subdivision d. may be invested in the stocks or shares of a diversified investment company registered under the "Investment Company Act of 1940" ~~which~~ that has total assets of at least fifty million dollars ($50,000,000).

~~f. Individual, common~~

As used in this subsection, the term 'book value' means adjusted cost basis as shown on the records of the State Treasurer.

Notwithstanding the provisions of subdivisions a. through e., the investments authorized in this subdivision (8) may be made in individual, common, or collective trust funds of banks or trust companies ~~provided that~~ if the investment manager has assets under management of at least one hundred million dollars ($100,000,000).

~~g. That investments~~

Notwithstanding the provisions of subdivisions a. through e., the investments authorized in this subdivision (8) may be made in securities convertible into common stocks issued by ~~any such~~ such a company, if ~~such~~ the securities bear one of the four highest ratings of at least one nationally recognized rating service and do not bear a rating below the four highest by any nationally recognized

rating service which may then rate the particular security.

(9) ~~Obligations~~ With respect to assets other than assets of retirement or pension systems, obligations and securities of the North Carolina Enterprise Corporation, or of a limited partnership in which the North Carolina Enterprise Corporation is the only general partner, not to exceed twenty million dollars ($20,000,000) from all funds.

(10) ~~A~~ With respect to assets other than assets of retirement or pension systems, a limited partnership interest in a partnership whose primary purpose is to invest in venture capital or corporate buyout ~~transactions, not to exceed thirty million dollars ($30,000,000)~~ transactions within or outside of the United States, not to exceed one hundred thirty million dollars ($130,000,000) from all funds. This maximum dollar amount does not apply to or restrict the reinvestment in accordance with this subdivision of any income from these investments.

(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars ($25,000,000), that have a final maturity not later than September 1, 1999. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from any such loss by appropriating to such Escheat Fund funds equivalent to such loss."

Section 3. As soon as practicable, the State Treasurer shall assure that all assets of retirement and pension systems described in G.S. 147-69.2(a) are no longer invested in investments authorized by G.S. 147-69.2(b)(9) or (10).

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

HB 1027

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%

North Carolina General Assembly
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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 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

MAY 14, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Richard Williams	NCMBA
Bernard Allen	SOS
Dennis Ducker	Dept of State Treasurer
Charles Heatherly	" " "
Keith Leonard	" " "
Will Cherry	Intern Rep. Neely
Billy Pittman	—
John Kirchman	
Mark Meadows	—
John S Hamm	
Jerry L. Dale	
Lynn Hargrove	CAE of NC
[illegible]	[illegible]
Dennis Harrell	Hyde park Baptist Church
Wentworth Fields	East Lumberton Baptist Church
Maurice Britt	East Lumberton Baptist Ch.
Norman Prevatte	Antioch Baptist Church
Robert Bryant	Antioch Baptist Church
Ted Leonard	First Baptist Church, Fairmont
Mark E. Jenkins	First Baptist Church, Fairmont
H. LeRoy Burke	East Lumberton Bapt., Lumberton N.C.
[illegible]	JDA
Becky Brown	Labor
Dana Cope	"
R.C. Dawson	N.C. Red Sch Personnel
Tony Presnell	" " " "
A. Adams	NC Ret Gov. Employees
Pam Carpenter	PCS

REFERRAL FORM

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):

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:

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

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX CREDITS FOR CONSTRUCTION EMPLOYERS WHO PROVIDE CRAFTWORKER TRAINING TO EMPLOYEES AND WHO HIRE WELFARE RECIPIENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.2 reads as rewritten:

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

The following definitions apply in this Article:

(1) Construction. -- Any of the following businesses as defined in Major Groups 15, 16, and 17 of the Standard Industrial Classification Manual issued by the United States Bureau of the Census:

a. Construction.

b. Heavy construction.

c. Building-related special trades.

(1a) Cost. -- Defined in section 179 of the Code.

(2) Data processing. -- Defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census.

(3) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(4) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during

the entire year. A full-time employee is an employee who holds a full-time job.

(5) Machinery and equipment. -- Engines, machinery, tools, and implements that are capitalized by the taxpayer for tax purposes under the Code and are used or designed to be used in manufacturing or processing, warehousing and distribution, or data processing. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

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

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

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

(9) Welfare recipient. -- A person who was a recipient of aid to families with dependent children within the 12-month period before being hired by the taxpayer."

Section 2. G.S. 105-129.4 reads as rewritten:

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

(a) Type of Business. -- A taxpayer is eligible for the credit for creating a construction job for a welfare recipient under G.S. 105-129.8(a1) or the credit for construction craftworker training under G.S. 105-129.11(b) if the taxpayer is engaged in the business of construction. A taxpayer is eligible for ~~a credit~~ the remaining credits allowed by this Article if the taxpayer engages in manufacturing or processing, warehousing or distributing, or data processing, and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business.

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment or the credit for research and development if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least ten percent (10%) above the average weekly wage paid in the county in which the jobs will be located. In calculating the average weekly wage of jobs, positions that pay a wage or salary at a rate that exceeds one hundred thousand dollars ($100,000) a year shall be excluded. For the purpose of this subsection, the average wage in a county is the average wage for all insured industries in the county as computed by the Employment Security Commission for the most recent period for which data are available.

(c) Worker Training. -- A taxpayer is eligible for the tax credit for worker training only for training workers who occupy jobs for which the taxpayer is eligible to claim

an installment of the credit for creating jobs or which are full-time positions at a location with respect to which the taxpayer is eligible to claim an installment of the credit for investing in machinery and equipment for the taxable year.

The credit for worker training is allowed only with respect to employees in positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and for expenditures for training that would be eligible for expenditure or reimbursement under the Department of Community Colleges' New and Expanding Industry Program, as determined by guidelines adopted by the State Board of Community Colleges. To establish eligibility, the taxpayer must obtain as part of the application process under G.S. 105-129.6 the certification of the Department of Community Colleges that the taxpayer's planned worker training would satisfy the requirements of this paragraph. A taxpayer shall apply to the Department of Community Colleges for this certification. The application must be on a form provided by the Department of Community Colleges, must provide a detailed plan of the worker training to be provided, and must contain any information required by the Department of Community Colleges to determine whether the requirements of this paragraph will be satisfied. If the Department of Community Colleges determines that the planned worker training meets the requirements of this paragraph, the Department of Community Colleges shall issue a certificate describing the location with respect to which the credit is claimed and stating that the planned worker training meets the requirements of this paragraph. The State Board of Community Colleges may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out its responsibilities under this paragraph.

(c1) Construction Craftworker Training. -- A taxpayer is eligible for the tax credit for construction craftworker training only for training construction craftworkers in positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1), and only for training provided pursuant to a program that satisfies the following conditions:

(1) It combines jobsite training and related instruction in construction craftwork.

(2) It includes competency testing to verify completion of each stage of training.

(3) It is approved by the Department of Labor, the Department of Community Colleges, or a statewide trade association that represents employers engaged in the construction business.

To establish eligibility, the taxpayer must obtain as part of the application process under G.S. 105-129.6 certification that the taxpayer's planned construction craftworker training would satisfy the requirements of this subsection. A taxpayer must apply to the Department of Labor for certification of registered apprenticeships and certified on-the-job training and to the Department of Community Colleges for certification of all other training. The application must be on a form provided by the certifying Department, must provide a detailed plan of the construction craftworker training to be provided, and must contain any information required by the certifying Department to determine whether the requirements of this subsection will be

satisfied. If the certifying Department determines that the planned construction craftworker training meets the requirements of this subsection, it shall issue a certificate describing the taxpayer, identifying the entity that approved the training program, and stating that the planned construction craftworker training meets the requirements of this subsection. The State Board of Community Colleges and the Department of Labor may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out their responsibilities under this subsection.

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

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

Section 3. G.S. 105-129.8 reads as rewritten:

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

(a) ~~Credit.~~ Creating Jobs. -- A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located:

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(a1) Creating Construction Jobs for Welfare Recipients. -- A taxpayer that is engaged in the construction business, has five or more employees for at least 40

weeks during the taxable year, and hires a welfare recipient as an additional full-time employee during the year is allowed a credit of five hundred dollars ($500.00) for the job.

(a2) The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

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

If, in one of the four years in which the installment of a credit accrues, a job for which the welfare recipient credit was allowed is no longer filled by a welfare recipient, the credit expires and the taxpayer may not take any remaining installment of the welfare recipient credit with respect to that job.

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

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

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

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

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

Section 4. G.S. 105-129.11 reads as rewritten:

"**§ 105-129.11. (Repealed effective January 1, 2002)** ~~**Credit for worker training.**~~ **Credits for worker training and construction craftworker training.**

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

(b) ~~Eligibility. -- The eligibility of a taxpayer's expenditures and employees is determined as provided in G.S. 105-129.4.~~ Construction Craftworker Training. -- A taxpayer that is engaged in the construction business and provides construction craftworker training to its eligible employees is allowed a credit equal to five hundred dollars ($500.00) for each employee who completes his or her 1,000th hour of the provided training during the taxable year.

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

Section 5. This act is effective for taxable years beginning on or after January 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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

AN ACT TO PROVIDE TAX CREDITS FOR CONSTRUCTION EMPLOYERS WHO PROVIDE CRAFTWORKER TRAINING TO EMPLOYEES AND WHO HIRE WELFARE RECIPIENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.2 reads as rewritten:

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

The following definitions apply in this Article:

(1) Construction. -- Any of the following businesses as defined in Major Groups 15, 16, and 17 of the Standard Industrial Classification Manual issued by the United States Bureau of the Census:

a. Construction.

b. Heavy construction.

c. Building-related special trades.

(1a) Cost. -- Defined in section 179 of the Code.

(2) Data processing. -- Defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census.

(3) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(4) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(5) Machinery and equipment. -- Engines, machinery, tools, and implements that are capitalized by the taxpayer for tax purposes under the Code and are used or designed to be used in manufacturing or processing, warehousing and distribution, or data processing. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

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

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

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

(9) Welfare recipient. -- A person who was a recipient of aid to families with dependent children within the 12-month period before being hired by the taxpayer."

Section 2. G.S. 105-129.4 reads as rewritten:

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

(a) Type of Business. -- A taxpayer is eligible for the credit for creating a construction job for a welfare recipient under G.S. 105-129.8(a1) or the credit for construction craftworker training under G.S. 105-129.11(b) if the taxpayer is engaged in the business of construction. A taxpayer is eligible for ~~a credit~~ the remaining credits allowed by this Article if the taxpayer engages in manufacturing or processing, warehousing or distributing, or data processing, and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business.

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment or the credit for research and development if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least ten percent (10%) above the average weekly wage paid in the county in which the jobs will be located. In calculating the average weekly wage of jobs, positions that pay a wage or salary at a rate that exceeds one hundred thousand dollars ($100,000) a year shall be excluded. For the purpose of this subsection, the average wage in a county is the average wage for all insured industries in the county as computed by the Employment Security Commission for the most recent period for which data are available.

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

The credit for worker training is allowed only with respect to employees in positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and for expenditures for training that would be eligible for expenditure or reimbursement under the Department of Community Colleges' New and Expanding Industry Program, as determined by guidelines adopted by the State Board of Community Colleges. To establish eligibility, the taxpayer must obtain as part of the application process under G.S. 105-129.6 the certification of the Department of Community Colleges that the taxpayer's planned worker training would satisfy the requirements of this paragraph. A taxpayer shall apply to the Department of Community Colleges for this certification. The application must be on a form provided by the Department of Community Colleges, must provide a detailed plan of the worker training to be provided, and must contain any information required by the Department of Community Colleges to determine whether the requirements of this paragraph will be satisfied. If the Department of Community Colleges determines that the planned worker training meets the requirements of this paragraph, the Department of Community Colleges shall issue a certificate describing the location with respect to which the credit is claimed and stating that the planned worker training meets the requirements of this paragraph. The State Board of Community Colleges may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out its responsibilities under this paragraph.

(c1) Construction Craftworker Training. -- A taxpayer is eligible for the tax credit for construction craftworker training only for training construction craftworkers in positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1), and only for training provided pursuant to a program that satisfies the following conditions:

(1) It combines classroom instruction and jobsite training in construction craftwork.

(2) It includes competency testing to verify completion of each stage of training.

(3) It is approved by the Department of Labor, the Department of Community Colleges, or a statewide trade association that represents employers engaged in the construction business.

To establish eligibility, the taxpayer must obtain as part of the application process under G.S. 105-129.6 the certification of the Department of Community Colleges that the taxpayer's planned construction craftworker training would satisfy the requirements of this subsection. A taxpayer shall apply to the Department of Community Colleges for this certification. The application must be on a form provided by the Department of Community Colleges, must provide a detailed plan of the construction craftworker training to be provided, and must contain any

information required by the Department of Community Colleges to determine whether the requirements of this subsection will be satisfied. If the Department of Community Colleges determines that the planned construction craftworker training meets the requirements of this subsection, the Department of Community Colleges shall issue a certificate describing the taxpayer, identifying the entity that approved the training program, and stating that the planned construction craftworker training meets the requirements of this subsection. The State Board of Community Colleges may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out its responsibilities under this subsection.

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

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

Section 3. G.S. 105-129.8 reads as rewritten:

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

(a) ~~Credit.~~ Creating Jobs. -- A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located:

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(a1) Creating Construction Jobs for Welfare Recipients. -- A taxpayer that is engaged in the construction business, has five or more employees for at least 40 weeks during the taxable year, and hires a welfare recipient as an additional full-time employee during the year is allowed a credit of five hundred dollars ($500.00) for the job.

(a2) The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

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

If, in one of the four years in which the installment of a credit accrues, a job for which the welfare recipient credit was allowed is no longer filled by a welfare recipient, the credit expires and the taxpayer may not take any remaining installment of the welfare recipient credit with respect to that job.

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

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

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

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

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

Section 4. G.S. 105-129.11 reads as rewritten:

"**§ 105-129.11. (Repealed effective January 1, 2002)** ~~Credit for worker training.~~ **Credits for worker training and construction craftworker training.**

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

(b) ~~Eligibility. -- The eligibility of a taxpayer's expenditures and employees is determined as provided in G.S. 105-129.4.~~ Construction Craftworker Training. -- A taxpayer that is engaged in the construction business and provides construction craftworker training to its eligible employees is allowed a credit equal to five hundred dollars ($500.00) for each employee who completes his or her 1,000th hour of the provided training during the taxable year.

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

Section 5. This act is effective for taxable years beginning on or after 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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 1

favorable report

SENATE BILL 447

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

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.

The General Assembly of North Carolina enacts:

Section 1. District Created. -- The Lumberton Economic Development and Tourist District is created. The District consists of the area described in Section 2 of this act. The District is a body politic and corporate and a political subdivision of the State. The District is subject to the Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes.

The Lumberton City Council shall serve, ex officio, as the governing body of the District, and the officers of the City Council shall likewise serve as the officers of the governing body of the District. The governing body of the District shall promote economic development and tourism in the District and do all acts reasonably necessary to fulfill this purpose.

A simple majority of the governing body of the District constitutes a quorum. Approval by a majority of a quorum is sufficient to determine any matter before the governing body of the District.

Section 2. Description of District. -- The Lumberton Economic Development and Tourist District consists of the following area:

BEGINNING at a point where the western right-of-way line of Interstate 95 intersects Lumber River and runs thence from said beginning point in a western direction with Lumber River to the run of Saddletree Swamp; thence in a northern direction with

the run of Saddletree Swamp to the southern right-of-way line of North Carolina Highway 211 (also known as Roberts Avenue); thence with southern right-of-way line of North Carolina Highway 211 in an eastern direction to a point where the southern right-of-way line of said highway intersects the run of Five Mile Branch; thence in a northern direction with the run of Five Mile Branch to a point in the run of said branch being located 500 feet west of (perpendicular distance) the western right-of-way line of Interstate 95; thence leaving said Five Mile Branch in a northern direction with a line being 500 feet west of and parallel to the western right-of-way line of Interstate 95 to a point in the eastern property line of Mayfair Subdivision; thence in a general northern direction with the various eastern property lines of Mayfair Subdivision to the eastern property line of Mayfair North Subdivision; thence in a general northern direction with the various eastern property lines of Mayfair North Subdivision and beyond to a point in a ditch just south of the AA building; thence in a western direction with said ditch to the run of Saddletree Swamp; thence with the run of Saddletree Swamp in a northern direction approximately 1900 feet to a point; thence leaving said swamp in an eastern direction to and with the southern line of property owned by Lumberton Motors (Deed Book 920, Page 557) to a point in said southern line being 500 feet (perpendicular distance) west of the western right-of-way line of Interstate 95; thence in a northern direction 500 feet west of and parallel to the western right-of-way line of Interstate 95 to a point 500 feet south of and perpendicular to U.S. Highway 301 (also known as Fayetteville Road); thence in a northwestern direction 500 feet south of and parallel to U.S. Highway 301 to a point where this line intersects the northwestern line of Lawrence H. Oliver's property (Deed Book 628, Pages 673 and 674) if it were extended; thence in a northeastern direction to, with, and beyond Lawrence H. Oliver's northwestern property line to a point in the northeastern right-of-way line of U.S. Highway 301; thence with the northeastern right-of-way line of U.S. Highway 301 in a southeastern direction to the most southern corner of Robeson Community College property; thence with the southeastern property line of Robeson Community College property to the western right-of-way line of Interstate 95; thence crossing Interstate 95 to a point in the eastern right-of-way line of said Interstate 95, said point being Thomas Carr Gibson's southwest corner (Deed Book 775, Page 665); thence with and beyond Gibson's southern line (Deed Book 775, Page 665, Deed Book 490, Pages 84 and 85, and Deed Book 485, Page 335) to a point in the center line of Secondary Road 1005 (also known as Barker Ten Mile Road); thence with the center line of Secondary Road 1005 in a southern direction to a point at the intersection of the center line of said Secondary Road 1005 with the northeastern right-of-way line of U.S. Highway 301 (also known as Secondary Road 1997 and Fayetteville Road); thence with the eastern right-of-way line of U.S. Highway 301, in a southeastern direction to a point in the run of Five Mile Branch; thence in a northeastern direction with the run of Five Mile Branch approximately 352.63 feet to a point in the run of said branch; thence leaving said branch 300 feet east of and parallel to U.S. Highway 301 approximately 488.4 feet to a point in the northern right-of-way line of a private drive (54 feet in width); thence with the northern right-of-way line of said private drive in a

western direction to a point in the western right-of-way line of said U.S. Highway 301; thence with said western right-of-way line to a point 300 feet (perpendicular distance) south of the southern right-of-way line of Liberty Hill Road; thence in a western direction 300 feet south of and parallel to the southern right-of-way line of Liberty Hill Road to a point in the eastern right-of-way line of Independence Drive; thence with the eastern right-of-way line of Independence Drive in a northern direction to a point in the southern right-of-way line of Liberty Hill Road; thence with the southern right-of-way line of Liberty Hill Road in a western direction crossing Independence Drive to the northwestern property corner of property owned by the Church of Jesus Christ of Latter Day Saints; thence in a southern direction with the western property line of said church property to a point 300 feet (perpendicular distance) south of Liberty Hill Road; thence in a western direction 300 feet south of and parallel to the southern right-of-way line of Liberty Hill Road to a point 500 feet east of (perpendicular distance) the eastern right-of-way of Interstate 95; thence in a southern direction 500 feet east of and parallel to the eastern right-of-way line of Interstate 95 to a point 500 feet north (perpendicular distance) of North Carolina Highway 211 (also known as Roberts Avenue); thence in a southeastern direction 500 feet north of and parallel to North Carolina Highway 211 to a point where if extended the western right-of-way line of McMillian Avenue would intersect this line; thence in a southern direction to and with the western right-of-way line of McMillian Avenue to a point being 135 feet south (perpendicular distance) of North Carolina Highway 211; thence in a western direction 135 feet southeast of and parallel to North Carolina Highway 211, crossing Rowland Avenue to a point in the western right-of-way line of Rowland Avenue; thence in a southern direction with the western right-of-way line of Rowland Avenue to a point in the northern right-of-way line of a now abandoned V & C S Railroad right-of-way; thence with said railroad right-of-way line in a southwestern and then southern direction to a point on the northern line of Jennings Cotton Mills Subdivision (Map Book 7, Page 48) approximately 80 feet north of West Twenty-fourth Street; thence in a western direction, with the northern line of said Jennings Cotton Mills Subdivision line to a point approximately 218.39 feet east of Interstate 95; thence in a southern direction approximately 79.72 feet to a point in the northern right-of-way line of West Twenty-fourth Street at its intersection with Delmar Street; thence in a western direction with the northern right-of-way line of Twenty-fourth Street to a point 200 feet east (perpendicular distance) of the eastern right-of-way line of Interstate 95; thence in a southern direction 200 feet east of and parallel to Interstate 95 to a point in the center line of Carthage Road; thence in a western direction with the center line of Carthage Road to the intersection of the center line of said Carthage Road with the western right-of-way line of Interstate 95; and thence in a southern direction to and with the western right-of-way line of Interstate 95 to the point of beginning.

Section 3. G.S. 18B-1006 is amended by adding a new subsection to read:

"(l) Economic and Tourist Development District. -- Notwithstanding the provisions of Article 6 of this Chapter, the Commission may issue permits for the sale

of mixed beverages to qualified businesses in an economic and tourist development district. An 'economic and tourist development district' is a district that is a political subdivision of the State, is within the corporate limits of a city, was established by an act of the General Assembly enacted before July 1, 1997, and was established for the purpose of promoting economic development and tourism in the district. The mixed beverages purchase-transportation permit authorized by G.S. 18B-404(b) shall be issued by a local board operating a store located in the city in which the district is located. The governing body of a district that is eligible for mixed beverages permits under this subsection must file with the Commission a certified copy of a map setting out the boundaries of the district."

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

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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.

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 — Name of Committee

MAY 14, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry Clegg Jr	Carolina AGC
Dave Simpson	" "
JOHN BOYD	CAR. Elect. Contrs. Assn.
William A. Downey	L.A. Downey & Son, Inc.
Henry Jones	Attorney - CECA
John M May	NC CWA Pol. Coun.
Rick Carlisle	DOC
Angie Harris	Commerce
Brenda Lemmons	NC Equity
Helen Locklear McNeill	The Real Estate Exchange 220A Wintergreen Dr. Lumberton NC 28358
B. G. French	Lumber River Rural Electric 4310 Ludgate St. Lumberton, NC 28358
Linda Metzger	Century 21 The Real Estate Center 4850 Fayetteville Rd. Lumberton, N.C.
Myra J. Morton	Greenstate Ent. 2643 Carthage Rd. Lumberton, NC 28358 28358
David A Biggs	METLIFE P.O.BOX 722, LUMBERTON NC 28359 CHAIRMAN CHAMBER OF COMMERCE + U.S. BUREAU
Mary J. Taylor	Sunshine House 3021 Roberts Ave. Lumberton NC 28358
Brenda B. Martin	Kelly Second Cafe 3027 Roberts Ave Lumberton NC 28358
Mike Hall	Lumberton Chamber of Commerce
Troy Green	SEANC
LYNN WILSON	SEANC
Chris Hagedorn	NC Electric Co-op's
Leon M Kittrell	Moore - Van Allen
NANCY POMERANZ	DOR
John Nicholson	Belk Stores Lumberton, N.C.
Ron Fulton	ABC Commission
Linda Hall	NC BA
Alice Garland	Electricities
Sherri Schmidt	NCJCDC

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

MAY 14, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Cyrus	N.C. State Grange
R V Smith	FBM Corp.
Tim Kent	American Institute of Architects
L. W. LOCKE	EASTERN PETROLEUM CORP.
Larry Jordan	L. G. Jordan Oil Co.

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

MAY 14, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NC Beer & Wine
George Howe	NCVC
Don McConnaughey	NCRMA
John Rust	NCFPC
Pam Seamans	United Way of NC
Mike Cement	NCCSA

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

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE PERMITS FOR "BREW ON PREMISES" BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-307 reads as rewritten:

"**§ 18B-307. Manufacturing offenses.**

(a) Offenses. -- It shall be unlawful for any person, except as authorized by this Chapter, to:

(1) Sell or possess equipment or ingredients intended for use in the manufacture of any alcoholic ~~beverage;~~ beverage, except equipment and ingredients provided under a Brew on Premises permit; or

(2) Knowingly allow real or personal property owned or possessed by him to be used by another person for the manufacture of any alcoholic ~~beverage.~~ beverage, except pursuant to a Brew on Premises permit.

(b) Unlawful Manufacturing. -- Except as provided in G.S. 18B- 306, it shall be unlawful for any person to manufacture any alcoholic ~~beverage~~ beverage, except at an establishment with a Brew on Premises permit, without first obtaining the applicable ABC permit and revenue licenses.

(c) Second Offense of Manufacturing. -- A second offense of unlawful manufacturing of alcoholic beverage shall be a Class I felony."

Section 2. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. -- An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit -- $200.00.
(2) Off-premises malt beverage permit -- $200.00.
(3) On-premises unfortified wine permit -- $200.00.
(4) Off-premises unfortified wine permit -- $200.00.
(5) On-premises fortified wine permit -- $200.00.
(6) Off-premises fortified wine permit -- $200.00.
(7) Brown-bagging permit -- $200.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $100.00.
(8) Special occasion permit -- $200.00.
(9) Limited special occasion permit -- $25.00.
(10) Mixed beverages permit -- $750.00.
(11) Culinary permit -- $100.00.
(12) Unfortified winery permit -- $150.00.
(13) Fortified winery permit -- $150.00.
(14) Limited winery permit -- $150.00.
(15) Brewery permit -- $150.00.
(16) Distillery permit -- $150.00.
(17) Fuel alcohol permit -- $50.00.
(18) Wine importer permit -- $150.00.
(19) Wine wholesaler permit -- $150.00.
(20) Malt beverage importer permit -- $150.00.
(21) Malt beverage wholesaler permit -- $150.00.
(22) Bottler permit -- $150.00.
(23) Salesman permit -- $25.00.
(24) Vendor representative permit -- $25.00.
(25) Nonresident malt beverage vendor permit -- $50.00.
(26) Nonresident wine vendor permit -- $50.00.
(27) Any special one-time permit under G.S. 18B-1002 -- $25.00.
(28) Winery special event permit -- $100.00.
(29) Mixed beverages catering permit -- $100.00.
(30) Guest room cabinet permit -- $750.00.
(31) Liquor importer/bottler permit -- $250.00.
(32) Brew on Premises permit -- $200.00."

Section 3. G.S. 18B-1001 is amended by adding a new subdivision to read:

"(14) Brew on Premises Permit. -- A permit may be issued to a business, in any county with a population of 500,000 or more, according to the most recent estimate of population made by the Office of State Budget and Management, where individual customers who are 21 years old or older may purchase ingredients and rent the

equipment, time, and space to brew malt beverages for personal use in amounts set forth in 27 C.F.R § 25.205.

The customer shall:

a. Select a recipe and kettle;

b. Weigh out the proper ingredients and add them to the kettle;

c. Transfer the wort to the fermenter;

d. Add the yeast;

e. Place the ingredients in a fermentation room; and

f. Filter, carbonate, and bottle the malt beverage.

The permittee may:

a. Assist the customer in all steps except adding the yeast; and

b. Transfer the ingredients from the fermentation room to the cold room."

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

North Carolina General Assembly
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Raleigh, NC 2760
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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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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.)

moves to amend the bill on page 3, lines 4 THROUGH 7

( ) WHICH CHANGES THE TITLE

by REWRITING THE LINES TO READ:

" A BUSINESS, IN ANY COUNTY WHERE THE COUNTY COMMISSIONERS HAVE AUTHORIZED THIS TYPE OF BUSINESS, WHERE INDIVIDUAL CUSTOMERS

SIGNED John M. Nichols

ADOPTED _____ FAILED X TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

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

A BILL TO BE ENTITLED

AN ACT ACT TO PROVIDE FOR IN-STAND SALES OF ALCOHOLIC BEVERAGES IN CERTAIN STADIUMS, BALLPARKS, AND SIMILAR PUBLIC PLACES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1009. In-stand sales.**

Nothing in this Chapter shall be construed to prohibit a retail permittee from selling for consumption, malt beverages in the seating areas of stadiums, ballparks, and other similar public places with a seating capacity of 60,000 or more during professional sporting events, in municipalities with a population greater than 450,000, according to the most recent estimate of population made by the Office of State Budget and Management, provided that:

(1) The seating areas are designated as part of the retail permittee's licensed premises;

(2) The retail permittee has notified the Commission, in writing, of its intent to sell malt beverages in the seating areas at sporting events;

(3) Service of food and nonalcoholic beverages is available in the seating areas;
(4) The retail permittee has certified to the Commission that it has trained its employees:
a. To identify underage persons and intoxicated persons; and
b. To refuse to sell malt beverages to those persons as required by G.S. 18B-305; and
(5) The employees do not verbally shout or hawk the sale of malt beverages."

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

North Carolina General Assembly
Legislative Services Office

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

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(919) 733-2578

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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

North Carolina General Assembly
Legislative Services Office

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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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR IN-STAND SALES OF ALCOHOLIC BEVERAGES IN CERTAIN STADIUMS, BALLPARKS, AND SIMILAR PUBLIC PLACES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1009. In-stand sales.**

Nothing in this Chapter shall be construed to prohibit a retail permittee from selling for consumption, malt beverages in the seating areas of stadiums, ballparks, and other similar public places with a seating capacity of 60,000 or more during professional sporting events, in municipalities with a population greater than 450,000, provided that:

(1) The seating areas are designated as part of the retail permittee's licensed premises;

(2) The retail permittee has notified the Commission, in writing, of its intent to sell malt beverages in the seating areas at sporting events;

(3) Service of food and nonalcoholic beverages is available in the seating areas; and

(4) The retail permittee has trained its employees:

a. To identify underage persons and intoxicated persons; and

b. To refuse to sell malt beverages to those persons as required by G.S. 18B-305."

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)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 811

Short Title: Southeastern Regional Commission Staff. (Public)

Sponsors: Senator Soles.

Referred to: State Government, Local Government, and Personnel.

April 10, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE SOUTHEASTERN NORTH CAROLINA REGIONAL ECONOMIC DEVELOPMENT COMMISSION TO HIRE AND CONTRACT FOR PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-8.3 is amended by adding a new subsection to read:

"(f) 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. With the approval of any unit of local government, the Commission may contract to use officers, employees, agents, and facilities of the unit of local government. 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."

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

North Carolina General Assembly
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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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§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 — Name of Committee

MAY 21, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCRA
[illegible]	Electric Co-op's
[illegible] Garland	Electricities
Hawk Johnson	Miller Brewing
Jim Blackburn	N.C. Assoc. County Commrs
Patrice Roesler	" " " "
John McMillan	Manning Fulton & Skinner PA
Nancy Bradley	NCCBI
Katherine Jacobs	Electricities of NC
Andy Romanet	N.C.L.M.
Brooks Skinner	AG's Office
[illegible]	CPTL
Natalie Haskins	Charlotte Chamber
Scott Saffer	BOP owner
[illegible]	Moore-Van Allen
STEVE MATTHEWS	DISTILLED SPIRITS COUNCIL OF THE U.S.
William Potter	DISCUS
Leighton Poper	EDA, PA
[illegible]	
Mickie Chestnut	AG's Office
Phil Lehman	" "
Morris G. Worley	LEGION OF VALOR 919933-0989
Jack Kimbrell	Sr. Tarheel Legislature - Wake County
Marion Michalove	Gov's Adv. Council on Aging & 5th Rutherford Co.
S. Bason	ABC Commission
Ann Fulton	ABC Commission
MICHAEL CROWELL	NC BEER & WINE WHOLESALERS

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

MAY 21, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John May	NC Chld
LYNN HOLMES	BELLSOUTH

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 142
Proposed Committee Substitute S142-PCS1822

Short Title: Port User on Ports Board. (Public)

Sponsors:

Referred to:

February 17, 1997

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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-452 reads as rewritten:

"**§ 143B-452. Creation of Authority -- membership; appointment, terms and vacancies; officers; meetings and quorum; compensation.**

The North Carolina State Ports Authority is hereby created. It shall be governed by a board composed of nine members and hereby designated as the Authority. Effective July 1, 1983, it shall be governed by a board composed of 11 members and hereby designated as the Authority. The General Assembly suggests and recommends that no person be appointed to the Authority who is domiciled in the district of the North Carolina House of Representatives or the North Carolina Senate in which a State port is located. The Governor shall appoint seven members to the Authority, and the General Assembly shall appoint two members of the Authority. Effective July 1, 1983, the Authority shall consist of seven persons appointed by the Governor, and four persons appointed by the General Assembly. Effective July 1, 1989, the Governor shall appoint six members to the Authority, in addition to the Secretary of Commerce, who shall serve as a voting member of the Authority by virtue of his

office. The Secretary of Commerce shall fill the first vacancy occurring after July 1, 1989, in a position on the Authority over which the Governor has appointive power.

The initial appointments by the Governor shall be made on or after March 8, 1977, two terms to expire July 1, 1979; two terms to expire July 1, 1981; and three terms to expire July 1, 1983. Thereafter, at the expiration of each stipulated term of office all appointments made by the Governor shall be for a term of six years.

To stagger further the terms of members:

(1) Of the members appointed by the Governor to replace the members whose terms expire on July 1, 1991, one member shall be appointed to a term of five years, to expire on June 30, 1996; the other member shall be appointed for a term of six years, to expire on June 30, 1997;

(2) Of the members appointed by the Governor to replace the members whose terms expire on July 1, 1993, one member shall be appointed to a term of five years, to expire on June 30, 1998; the other member shall be appointed to a term of six years, to expire on June 30, 1999;

(3) Of those members appointed by the Governor to replace the members whose terms expire on July 1, 1995, one member shall be appointed to a term of five years, to expire on June 30, 2000; the other member shall be appointed to a term of six years, to expire on June 30, 2001.

Thereafter, at the expiration of each stipulated term of office all appointments made by the governor shall be for a term of six years.

The members of the Authority appointed by the Governor shall be selected from the State-at-large and insofar as practicable shall represent each section of the State in all of the business, agriculture, and industrial interests of the State. <u>At least one member appointed by the Governor shall be affiliated with a major exporter or importer currently using the State Ports.</u> Any vacancy occurring in the membership of the Authority appointed by the Governor shall be filled by the Governor for the unexpired term. The Governor may remove a member appointed by the Governor only for reasons provided by G.S. 143B-13.

The General Assembly shall appoint two persons to serve terms expiring June 30, 1983. The General Assembly shall appoint four persons to serve terms beginning July 1, 1983, to serve until June 30, 1985, and successors shall serve for two-year terms. Of the two appointments to be made in 1982, one shall be made upon the recommendation of the Speaker, and one shall be made upon the recommendation of the President of the Senate. Of the four appointments made in 1983 and biennially thereafter, two shall be made upon the recommendation of the President of the Senate, and two shall be made upon the recommendation of the Speaker. To stagger further the terms of members:

(1) Of the members appointed upon the recommendation of the Speaker to replace the members whose terms expire on June 30, 1991, one member shall be appointed to a term of one year, to

expire on June 30, 1992; the other member shall be appointed to a term of two years, to expire on June 30, 1993;

(2) Of the members appointed upon the recommendation of the President of the Senate to replace the members whose terms expire on June 30, 1991, one member shall be appointed to a term of one year, to expire on June 30, 1992; the other member shall be appointed to a term of two years, to expire on June 30, 1993. Successors to these persons for terms beginning on or after January 1, 1997, shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

Thereafter, at the expiration of each stipulated term of office all appointments made by the General Assembly shall be for terms of two years.

Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Members appointed by the General Assembly may be removed only for reasons provided by G.S. 143B-13.

The Governor shall appoint from the members of the Authority the chairman and vice-chairman of the Authority. The members of the Authority shall appoint a treasurer and secretary of the Authority.

The Authority shall meet once in each 60 days at such regular meeting time as the Authority by rule may provide and at any place within the State as the Authority may provide, and shall also meet upon the call of its chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. The members of the Authority shall not be entitled to compensation for their services, but they shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5. 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."

Section 2. The member of the Authority representative of businesses using the State Ports, to be appointed by the Governor pursuant to Section 1 of this act, shall be appointed to replace the member of the Authority whose term expires June 30, 1998.

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)

S142-ARU-001

Date_____,1997

Comm. Sub. [ ]
Amends Title [ ]

Representative

moves to amend the bill on page 3, line 24,
by rewriting the line to read:
"expense in accordance with G.S. 138-5. 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.'"

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if House Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

North Carolina General Assembly
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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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

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

A BILL TO BE ENTITLED

AN ACT TO LIMIT TRANSFERS FROM ELECTRIC UTILITY REVENUES TO THE GENERAL FUND, TO LIMIT ELECTRIC UTILITY RESERVES, AND TO PROVIDE FOR REBATES OF EXCESSIVE ELECTRIC UTILITY REVENUES IN THE TOWNS OF WASHINGTON AND BELHAVEN.

The General Assembly of North Carolina enacts:

Section 1. The Town of Washington in Beaufort County is prohibited from transferring to its general fund more than two and one-half percent (2.5%) each fiscal year of revenues received from the operation of its municipally owned electric utility.

Section 2. The municipally owned electric utility of the Town of Washington in Beaufort County is prohibited from maintaining a reserve fund in excess of twenty-five percent (25.0%) of the gross revenues received from supplying electricity during the previous fiscal year. The term "reserve fund" means the amount in excess of the amount necessary to operate the electric utility system during the current fiscal year plus the amount necessary to allow the maximum transfer of funds from electric utility revenues to the town's general fund pursuant to Section 1 of this act.

Section 3. Not later than 30 days after the close of each fiscal year, the municipally owned electric utility of the

Town of Washington in Beaufort County shall calculate the amount that may be held in reserve during the current fiscal year and shall refund any excess amount to the residential rate payers of the electric utility. Only those residential rate payers who had been supplied electricity for the 12 months preceding the end of the previous fiscal year shall be entitled to the refund. The refund shall be calculated by dividing the total amount of money to be refunded by the total amount of residential kilowatt hours sold during the previous fiscal year. The quotient of this calculation will be multiplied by the number of kilowatt hours consumed during the previous fiscal year by each rate payer and the product of this calculation will equal the refund to each rate payer.

Section 4. From the revenue received from the operation of its municipally owned electric utility, the Town of Belhaven in Washington County, may transfer no more than the following amounts to its general fund:

(1) For fiscal year 1996-97, ten percent (10.0%).
(2) For fiscal year 1997-98, seven and one-half percent (7.5%).
(3) For fiscal year 1998-99, five percent (5.0%).
(4) For fiscal year 1999-2000 and all fiscal years thereafter, two and one-half percent (2.5%).

Section 5. The municipally owned electric utility of the Town of Belhaven in Beaufort County is prohibited from maintaining a reserve fund in excess of twenty-five percent (25.0%) of the gross revenues received from supplying electricity during the previous fiscal year. The term "reserve fund" means the amount in excess of the amount necessary to operate the electric utility system during the current fiscal year plus the amount necessary to allow the maximum transfer of funds from electric utility revenues to the town's general fund pursuant to Section 1 of this act.

Section 6. Not later than 30 days after the close of each fiscal year, the municipally owned electric utility of the Town of Belhaven in Beaufort County shall calculate the amount that may be held in reserve during the current fiscal year and shall refund any excess amount to the residential rate payers of the electric utility. Only those residential rate payers who had been supplied electricity for the 12 months preceding the end of the previous fiscal year shall be entitled to the refund. The refund shall be calculated by dividing the total amount of money to be refunded by the total amount of residential kilowatt hours sold during the previous fiscal year. The quotient of this

calculation will be multiplied by the number of kilowatt hours consumed during the previous fiscal year by each rate payer and the product of this calculation will equal the refund to each rate payer.

Section 7. This act applies only to the Towns of Washington and Belhaven.

Section 8. This act becomes effective July 1, 1997 and shall remain in effect until June 30, 2000.

North Carolina General Assembly
Legislative Services Office

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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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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)

4/24/97

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

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 TWO MILLION DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 977 of the 1991 Session Laws, as amended by Section 3 of Chapter 495 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after March 1, ~~1992, and ending on or before February 28, 1998.~~ 1992."

Section 2. Section 4 of Chapter 681 of the 1993 Session Laws, as amended by Section 17 of Chapter 17 of the 1995 Session Laws and by Section 4 of Chapter 495 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after January 1, ~~1994, and ending on or before February 28, 1998.~~ 1994."

Section 3. G.S. 105-151.22(b) reads as rewritten:

"(b) Limitations. -- This credit may not exceed fifty percent (50%) of the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years. The maximum cumulative credit that may be claimed by a taxpayer under this section is ~~one~~ two million dollars ~~($1,000,000).~~ ($2,000,000)."

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

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.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 977 of the 1991 Session Laws, as amended by Section 3 of Chapter 495 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after March 1, ~~1992, and ending on or before February 28, 1998.~~ 1992."

Section 2. Section 4 of Chapter 681 of the 1993 Session Laws, as amended by Section 17 of Chapter 17 of the 1995 Session Laws and by Section 4 of Chapter 495 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after January 1, ~~1994, and ending on or before February 28, 1998.~~ 1994."

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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, 199

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

Rep.)
) _____
Sen.)

moves to amend the bill on page 1, line 22

( ) WHICH CHANGES THE TITLE

by REWRITING THE LINE TO READ:

" ~~ONE~~ TWO MILLION DOLLARS ~~($1,000,000).~~ ($2,000,000). ".

AND ON PAGE 1, LINE 5

BY DELETING THE WORD "FIVE" AND SUBSTITUTING THE WORD "TWO".

SIGNED _____

ADOPTED X FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

MAY 28, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sam Kirby	NCUC
Drew Cole	Legislative Intern
Shiela Fletcher	Town of Beech Mt
Jerry Roberts	C.U.C.A.
Tommy Watts	Carolina Medical Care Systems
Jim Brown	N.C. State Ports.
John Cyrus	N.C. State Grange
Rob Schofield	NCSCDC
D Cox	NCPOL
C Haywood	Electric Co-ops
[illegible] Long	NC DOR
Leyland Hicks	Town of Spring Lake
Billy H Mason	Mayor Town - Spring Lake
Robin Swartz	Lobbyist
Mary Munchbach	Poyner + Spruill
William Jennings Bryan	Chicago
Charles L. Turner	Mayor pro Tem. Siler City NC
Robert A Siler	Town commn Siler City NC
Earl B. [illegible]	Mayor - Siler City
Satyal Pairys	NCACC
Jerry Upchurch	CP&L
John McAlister	Duke Power
Conley Call	Town of North Wilkesboro
James Bentley	Town of N. Wilkesboro
Tara Humphreys	NCLM
Eleanore Najjar	"
VL McBride	NCTA

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

MAY 28, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ERAN PRESTON	NCRMA
ZANE HUDSON	MAIDEN
DAVID Anders	PTFNC
Richard O'Brien	"
John May	NC CWA
Don McCorquodale	NCRMA
Kim Smith	NCLM
[illegible]	DMV
Com [illegible]	Atlantic Beach NC
Bill Donnelly Mayor	Atlantic Beach NC
Charlotte Faust Bacon	Atlantic Beach NC
Joe Shearon	Louisburg Town Council
Martin Eches	Self Help
Janis Ramquist	NCANA

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)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 263
Judiciary Committee Substitute Adopted 4/28/97

fav. report

Short Title: Workers' Comp./Nonresident Aliens. (Public)

Sponsors:

Referred to:

February 27, 1997

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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-38 reads as rewritten:

"**§ 97-38. Where death results proximately from compensable injury or occupational disease; dependents; burial expenses; compensation to aliens; election by partial dependents.**

If death results proximately from a compensable injury or occupational disease and within six years thereafter, or within two years of the final determination of disability, whichever is later, the employer shall pay or cause to be paid, subject to the provisions of other sections of this Article, weekly payments of compensation equal to sixty-six and two-thirds percent (66 2/3%) of the average weekly wages of the deceased employee at the time of the accident, but not more than the amount established annually to be effective October 1 as provided in G.S. 97-29, nor less than thirty dollars ($30.00), per week, and burial expenses not exceeding two thousand dollars ($2,000), to the person or persons entitled thereto as follows:

(1) Persons wholly dependent for support upon the earnings of the deceased employee at the time of the accident shall be entitled to receive the entire compensation payable share and share alike to the exclusion of all other persons. If there be only one person

wholly dependent, then that person shall receive the entire compensation payable.

(2) If there is no person wholly dependent, then any person partially dependent for support upon the earnings of the deceased employee at the time of the accident shall be entitled to receive a weekly payment of compensation computed as hereinabove provided, but such weekly payment shall be the same proportion of the weekly compensation provided for a whole dependent as the amount annually contributed by the deceased employee to the support of such partial dependent bears to the annual earnings of the deceased at the time of the accident.

(3) If there is no person wholly dependent, and the person or all persons partially dependent is or are within the classes of persons defined as 'next of kin' in G.S. 97-40, whether or not such persons or such classes of persons are of kin to the deceased employee in equal degree, and all so elect, he or they may take, share and share alike, the commuted value of the amount provided for whole dependents in (1) above instead of the proportional payment provided for partial dependents in (2) above; provided, that the election herein provided may be exercised on behalf of any infant partial dependent by a duly qualified guardian; provided, further, that the Industrial Commission may, in its discretion, permit a parent or person standing in loco parentis to such infant to exercise such option in its behalf, the award to be payable only to a duly qualified guardian except as in this Article otherwise provided; and provided, further, that if such election is exercised by or on behalf of more than one person, then they shall take the commuted amount in equal shares.

When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments. Compensation payments due on account of death shall be paid for a period of 400 weeks from the date of the death of the employee; provided, however, after said 400-week period in case of a widow or widower who is unable to support herself or himself because of physical or mental disability as of the date of death of the employee, compensation payments shall continue during her or his lifetime or until remarriage and compensation payments due a dependent child shall be continued until such child reaches the age of 18.

Compensation payable under this Article to aliens not residents (or about to become nonresidents) of the United States or Canada, shall be the same in amounts as provided for residents, except that dependents in any foreign country except Canada shall be limited to surviving ~~wife~~ spouse and child or children, or if there be no surviving ~~wife~~ spouse or child or children, to the surviving father or ~~mother whom the employee has supported, either in whole or in part, for a period of one year prior to the date of the injury; provided, that the Commission may, in its discretion, or,~~

~~upon application of the employer or insurance carrier shall commute all future installments of compensation to be paid to such aliens to their present value and payment of one half of such commuted amount to such aliens shall fully acquit the employer and the insurance carrier.~~ mother."

Section 2. This act is effective when it becomes law and applies to all awards for compensation under Chapter 97 of the General Statutes entered on or after that date.

North Carolina General Assembly
Legislative Services Office

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(919) 733-7044

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Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
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: **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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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 Commmission

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 their 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)

4/24/97

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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: **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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

A BILL TO BE 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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-318.10(e) reads as rewritten:

"(e) Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such accounts may be a written narrative, or video or audio recordings. Such minutes and accounts shall be public records within the meaning of the Public Records Law, G.S. 132-1 et seq.; provided, however, that minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session."

Section 2. G.S. 143-318.11(a) reads as rewritten:

"(a) Permitted Purposes. -- It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

(1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.

(2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.

(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.

(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public ~~body.~~ body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.

(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a

complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

(7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct."

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

A BILL TO BE 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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-318.10(e) reads as rewritten:

"(e) Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such accounts may be a written narrative, or video or audio recordings. Such minutes and accounts shall be public records within the meaning of the Public Records Law, G.S. 132-1 et seq.; provided, however, that minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session."

Section 2. G.S. 143-318.11(a) reads as rewritten:

"(a) Permitted Purposes. -- It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

(1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.

(2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.

(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.

(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public ~~body.~~ body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.

(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a

complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

(7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct."

Section 3. This act becomes effective October 1, 1997.

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

JUNE 11, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NC [illegible] Assn
[illegible]	[illegible] Consulting
[illegible]	
[illegible]	Check Cashing Headquarters
Jim Blair	NC Check Cashing Assoc.
William Jennings Bryan	Nashville, NC
Tony Tarasco	interested citizen
George Everett	MCIC
Karen Carpenter	PCS
Kathie Austin Pedgett	OSPL
[illegible]	BTOKB
John Henderson	CAL of N.C.
Paul Stock	NC BANKERS ASSN.
[illegible]	" " "
McNeil Chestnutt	AG's Office
Phil Lehman	" "
Jane P. Gray	Dept. of Justice
Angela D. Murphy	Speaker's Office
Irene Smith	NCCOB
[illegible]	Deputy Commissioner of Banks
[illegible]	NC Bean & Wine
[illegible]	Citizen
Trudi Waland	Brevard, NC
Jerry Givens	NCLCES
Ann Fulton	ABC Commission
Larry Heckner	Household Financial Group
Rob Schofield	NCCDC

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

JUNE 11, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sam Poole	Sanford Holshouser
John Calaf	Advantage Capital
Dan Hudson	NCRA
Jim Hobbs	N.C. Hotel/Motel Assn
Cam Cover	BPMHL
Erskine Bowles	Wash, DC USG
Ron Clarke	Wachovia Bank
Catherine Davis	ElectriCities
Allen Garland	"
Susan Bizzaro	Greenville Utilities Commission
Malcolm Jones	Greenville Utilities Commission
Ed [illegible]	NCBC
Jeb Alley	1st Union
Ellie MacFadyen	First Citizens Bank
Jim Long	NCAFP
Sandra Long	Porter + Steel
Tari Sayler	NC Press Association
Natalie Haskins	Charlotte Chamber of Commerce
Michael Jordan	Windy City
John Poliwoda	Lawrence Bailey & Assoc.
Nancy Bradley	NCCBS

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
Commerce Committee Substitute Adopted 4/28/97

fav. report

Short Title: No Direct ABC Shipments-Consumers. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE DIRECT SHIPMENT OF ALCOHOLIC BEVERAGES TO CONSUMERS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-102.1. Direct shipments from out-of-state prohibited.**

(a) It is unlawful for any person who is an out-of-state retail or wholesale dealer in the business of selling alcoholic beverages to ship or cause to be shipped any alcoholic beverage directly to any North Carolina resident who does not hold a valid wholesaler's permit under Article 11 of this Chapter.

(b) The Commission shall mail a notice by certified mail ordering a person who violates the provisions of subsection (a) of this section to cease and desist any shipments of alcoholic beverages to North Carolina residents. If the offender cannot produce a receipt or otherwise show that applicable State taxes have been paid on the shipped alcohol within 30 days after this notice has been deposited by certified mail addressed to the out-of-state retail or wholesale dealer either at the address shown on the shipment or the last known address of that dealer in any legal registry, such as a registry with the Secretary of State for incorporation of a business, or within 30 days after personal service of the notice on the out-of-state retail or wholesale dealer, it shall be presumptive evidence of his intent to ship alcoholic beverages directly to a North Carolina resident who does not hold a valid wholesaler's permit issued by the Commission.

(c) This section shall not apply to producers of beverage alcohol holding a basic permit from the Bureau of Alcohol, Tobacco and Firearms.

(d) Upon determination by the Commission that a holder of a basic permit from the Bureau of Alcohol, Tobacco and Firearms has made an illegal shipment to consumers in North Carolina, the Commission shall notify the Bureau of Alcohol, Tobacco and Firearms in writing and by certified mail and request the Bureau to take appropriate action.

(e) Whoever violates the provisions of this section shall be guilty of a Class I felony and shall pay a fine of not more than ten thousand dollars ($10,000)."

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

Short Title: Safe-Deposit Boxes. (Public)

Sponsors:

Referred to:

March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING SAFE-DEPOSIT BOXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-43.7 reads as rewritten:

"**§ 53-43.7. Safe-deposit boxes; unpaid rentals; procedure; escheats.**

(a) If the rental due on a safe-deposit box has not been paid for ~~one year,~~ 90 days, the lessor may send a notice by registered mail or certified mail, return receipt requested, to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box may be opened in the presence of an officer of the lessor and of a notary public who is not a director, officer, employee or stockholder of the lessor. The contents shall be sealed in a package by the notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box and a list of its contents. The certificate shall be included in the package and a copy of the certificate shall be sent by registered mail or certified mail, return receipt requested, to the last known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box.

(b) Any property, including documents or writings of a private nature, which has little or no apparent value, need not be sold but may be destroyed by the Treasurer

or by the lessor, if retained by the lessor pursuant to a determination by the Treasurer under G.S. 116B-31(c).

(c) If the contents of the safe-deposit box have not been claimed within two years of the mailing of the certificate, the lessor may send a further notice to the last known address of the lessee stating that, unless the accumulated charges are paid within 30 days, the contents of the box will be delivered to the State Treasurer as abandoned property under the provisions of Chapter 116B.

(d) The lessor shall submit to the Treasurer a verified inventory of all of the contents of the safe-deposit box upon delivery of the contents of the box or such part thereof as shall be required by the Treasurer under G.S. 116B-31(c); but the lessor may deduct from any cash of the lessee in the safe-deposit box an amount equal to accumulated charges for rental and shall submit to the Treasurer a verified statement of such charges and deduction. If there is no cash, or insufficient cash to pay accumulated charges, in the safe-deposit box, the lessor may submit to the Treasurer a verified statement of accumulated charges or balance of accumulated charges due, and the Treasurer shall remit to the lessor the charges or balance due, up to the value of the property in the safe-deposit box delivered to him, less any costs or expenses of sale; but if the charges or balance due exceeds the value of such property, the Treasurer shall remit only the value of the property, less costs or expenses of sale. Any accumulated charges for safe-deposit box rental paid by the Treasurer to the lessor shall be deducted from the value of the property of the lessee delivered to the Treasurer.

(e) Repealed by Session Laws 1979, 2nd Session, c. 1311, s. 5.

(f) ~~A copy of~~ An explanation of the contractual provisions pertaining to default, together with reference to this section shall be printed on every contract for rental of a safe-deposit box."

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

North Carolina General Assembly
Legislative Services Office

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

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Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
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(919) 733-6834

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

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

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN SECONDARY SUPPLIERS OF ELECTRIC SERVICE MAY FURNISH SERVICE WITHIN THE CORPORATE LIMITS OF A CITY WITH WRITTEN CONSENT FROM THE CITY, TO ALLOW THE BOARD OF AN ELECTRIC MEMBERSHIP CORPORATION TO VOTE BY PROXY ON DECISIONS TO ENCUMBER CORPORATE PROPERTY OR TO DISSOLVE THE CORPORATION, AND TO MAKE TECHNICAL CHANGES TO THE LAW REGARDING MUNICIPAL ELECTRIC SERVICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-331 reads as rewritten:

"**§ 160A-331. Definitions.**

Unless the context otherwise requires, the following words and phrases shall have the meanings indicated when used in this Part:

(1) 'Assigned area' means any portion of an area annexed to or incorporated into a city which, on or before the effective date of annexation or incorporation, had been assigned by the North Carolina Utilities Commission to a specific electric supplier pursuant to G.S. 62-110.2.

(1a) 'Assigned supplier' means a person, firm, or corporation to which the North Carolina Utilities Commission had assigned a specific area for service as an electric supplier pursuant to G.S. 62-110.2,

which area, in whole or in part, is subsequently annexed to or incorporated into a city.

~~(1)~~ (1b) The 'determination date' is

a. April 20, 1965, with respect to areas within the corporate limits of any city as of April 20, 1965;

b. The effective date of annexation with respect to areas annexed to any city after April 20, 1965;

c. The date a primary supplier comes into being with respect to any city first incorporated after April 20, 1965.

(2) 'Line' means any conductor located inside the city for distributing or transmitting electricity, other than

a. For overhead construction, a conductor from the pole nearest the premises of a consumer to such premises, or a conductor from a line tap to such premises, and

b. For underground construction, a conductor from the transformer (or the junction point, if there be one) nearest the premises of a consumer to such premises.

(3) 'Premises' means the building, structure, or facility to which electricity is being or is to be furnished. Two or more buildings, structures, or facilities that are located on one tract or contiguous tracts of land and are used by one electric consumer for commercial, industrial, institutional, or governmental purposes, shall together constitute one 'premises,' except that any such building, structure, or facility shall not, together with any other building, structure, or facility, constitute one 'premises' if the electric service to it is separately metered and the charges for such service are calculated independently of charges for service to any other building, structure, or facility.

(4) 'Primary supplier' means a city that owns and maintains its own electric system, or a person, firm, or corporation that furnishes electric service within a city pursuant to a franchise granted by, or contract with, a city, or that, having furnished service pursuant to a franchise or contract, is continuing to furnish service within a city after the expiration of the franchise or contract.

(5) 'Secondary supplier' means a person, firm, or corporation that furnishes electricity at retail to one or more consumers other than itself within the limits of a city but is not a primary supplier. A primary supplier that furnishes electric service within a city pursuant to a franchise or contract that limits or restricts the classes of consumers or types of electric service permitted to such supplier shall, in and with respect to any area annexed by the city after April 20, 1965, be a primary supplier for such classes of consumers or types of service, and if it furnishes other electric service in the annexed area on the effective date of annexation,

shall be a secondary supplier, in and with respect to such annexed area, for all other electric service. A primary supplier that continues to furnish electric service after the expiration of a franchise or contract that limited or restricted such primary supplier with respect to classes of consumers or types of electric service shall, in and with respect to any area annexed by the city after April 20, 1965, be a secondary supplier for all electric service if it is furnishing electric service in the annexed area on the effective date of annexation."

Section 2. G.S. 160A-332(a) reads as rewritten:

"(a) The suppliers of electric service inside the corporate limits of any city in which a secondary supplier was furnishing electric service on the determination date (as defined in G.S. 160A-331(1)) shall have rights and be subject to restrictions as follows:

(1) The secondary supplier shall have the right to serve all premises being served by it, or to which any of its facilities are attached, on the determination date.

(2) The secondary supplier shall have the right, subject to subdivision (3) of this section, to serve all premises initially requiring electric service after the determination date which are located wholly within 300 feet of its lines and located wholly more than 300 feet from the lines of the primary supplier, as such suppliers' lines existed on the determination date.

(3) Any premises initially requiring electric service after the determination date which are located wholly within 300 feet of a secondary supplier's lines and wholly within 300 feet of another secondary supplier's lines, but wholly more than 300 feet from the primary supplier's lines, as the lines of all suppliers existed on the determination date, may be served by the secondary supplier which the consumer chooses, and no other supplier shall thereafter furnish electric service to such premises, except with the written consent of the supplier then serving the premises.

(4) A primary supplier shall not furnish electric service to any premises which a secondary supplier has the right to serve as set forth in subdivisions (1), (2), ~~and (3)~~ (3), and (6a) of this section, except with the written consent of the secondary supplier.

(5) Any premises initially requiring electric service after the determination date which are located wholly or partially within 300 feet of the primary supplier's lines and are located wholly or partially within 300 feet of the secondary supplier's lines, as such suppliers' lines existed on the determination date, may be served by either the secondary supplier or the primary supplier, whichever the consumer chooses, and no other supplier shall

thereafter furnish service to such premises, except with the written consent of the supplier then serving the premises.

(6) Any premises initially requiring electric service after the determination date, which are located only partially within 300 feet of the secondary supplier's lines and are located wholly more than 300 feet from the primary supplier's lines, as such supplier's lines existed on the determination date, may be served either by the secondary supplier or the primary supplier, whichever the consumer chooses, and no other supplier shall thereafter furnish service to such premises, except with the written consent of the supplier then serving the premises.

(6a) Notwithstanding any other provision of law, a secondary supplier, upon obtaining the prior written consent of the city, shall be the exclusive provider of electric service within (i) any assigned area for which that secondary supplier had been assigned supplier prior to the determination date; or (ii) any area previously unassigned by the North Carolina Utilities Commission pursuant to G.S. 62-110.2. However, any rights of other electric suppliers existing under G.S. 62-110.2 prior to the determination date to provide service shall continue to exist without impairment in the areas described in (i) and (ii) above.

(7) Except as provided in subdivisions (1), (2), (3), (5), ~~and (6)~~ (6), and (6a) of this section, a secondary supplier shall not furnish electric service within the corporate limits of any city unless it first obtains the written consent of the city and the primary supplier."

Section 3. G.S. 117-10.2 reads as rewritten:

"**§ 117-10.2. Restriction on municipal service.**

~~No~~ Except as otherwise provided in this section, no electric membership corporation shall furnish electric service to, or within the limits of, any incorporated city or town, except pursuant to a franchise that may be granted under the provisions of G.S. 117-10.1, or as permitted under ~~G.S. 160-511, 160-512, and 160-513; provided, that an~~ G.S. 160A-331, 160A-332, and 160A-333. An electric membership corporation may furnish electric service to, or within the limits of, any incorporated city or town if the city or town and all electric suppliers, including public utilities, other electric membership corporations and other cities or towns, then furnishing electric service to or within such city or town consent thereto in writing."

Section 4. G.S. 117-20 reads as rewritten:

"**§ 117-20. Encumbrance, sale, etc., of property.**

No corporation may sell, mortgage, lease or otherwise encumber or dispose of any of its property (other than merchandise and property which lie within the limits of an incorporated city or town, or which shall represent not in excess of ten percent (10%) of the total value of the corporation's assets, or which in the judgment of the board are not necessary or useful in operating the corporation) unless

(1) Authorized so to do by the votes cast in person or by proxy by at least two-thirds of its total membership, ~~without proxies,~~ and

(2) The consent of the holders of seventy-five per centum (75%) in amount of the bonds of such corporation then outstanding is obtained.

Notwithstanding the foregoing provisions of this section, the members of such a corporation may, by the affirmative majority of the votes cast in person or by proxy at any meeting of the members, delegate to the board of directors the power and authority (i) to borrow moneys from any source and in such amounts as the board may from time to time determine, (ii) to mortgage or otherwise pledge or encumber any or all of the corporation's property or assets as security therefor, and (iii) with respect to Electric Membership Corporations only, to sell and lease back any of the corporation's property or assets."

Section 5. G.S. 117-24 reads as rewritten:

"**§ 117-24. Dissolution.**

Any corporation created hereunder may be dissolved by filing, as hereinafter provided, a certificate which shall be entitled and endorsed 'Certificate of Dissolution of .....' (the blank space being filled in with the name of the corporation) and shall state:

(1) Name of the corporation, and if such corporation is a corporation resulting from a consolidation as herein provided, the names of the original corporations.

(2) The date of filing of the certificate of incorporation, and if such corporation is a corporation resulting from a consolidation as herein provided, the dates on which the certificates of incorporation of the original corporations were filed.

(3) That the corporation elects to dissolve.

(4) The name and post-office address of each of its directors, and the name, title and post-office address of each of its officers.

Such certificate shall be subscribed and acknowledged in the same manner as an original certificate of incorporation by the president or a vice-president, and the secretary or an assistant secretary, who shall make and annex an affidavit, stating that they have been authorized to execute and file such certificate by the votes cast in person or by proxy by at least two-thirds of its total ~~membership, without proxies.~~ membership.

A certificate of dissolution and a certified copy or copies thereof shall be filed in the same place as an original certificate of incorporation and thereupon the corporation shall be deemed to be dissolved.

Such corporation shall continue for the purpose of paying, satisfying and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued in its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged shall be distributed among the members in such manner as is provided for in the

corporation's charter or bylaws, and the charter or bylaws may provide for distributions to persons who were members in one or more prior years."

Section 6. This act is effective when it becomes law and shall expire on 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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)

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. 312 A BILL TO BE ENTITLED AN ACT TO REGULATE CHECK-CASHING BUSINESSES.

☐ With a favorable report.

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☐ 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

Short Title: Regulate Check Cashing/AB. (Public)

Sponsors:

Referred to: Finance.

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO REGULATE CHECK-CASHING BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 53 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 22.

"Check-Cashing Businesses.

"§ 53-275. Definitions.

As used in this Article, unless the context clearly requires otherwise, the term:

(1) 'Cashing' means providing currency for payment instruments, but does not include the bona fide sale or exchange of travelers checks and foreign denomination payment instruments.

(2) 'Check-cashing service' means any person or entity engaged in the business of cashing checks, drafts, or money orders for a fee, service charge, or other consideration.

(3) 'Commission' means the State Banking Commission.

(4) 'Commissioner' means the Commissioner of Banks.

(5) 'Licensee' means a person or entity licensed to engage in a check-cashing business under this Article.

(6) 'Person' means an individual, partnership, association, or corporation.

"§ 53-276. License required.

No person or other entity may engage in the business of cashing checks, drafts, or money orders for consideration without first obtaining a license under this Article. No person or other entity providing a check-cashing service may avoid the requirements of this Article by providing a check or other currency equivalent instead of currency when cashing payment instruments.

"**§ 53-277. Exemptions.**

(a) This Article shall not apply to:

(1) A bank, savings institution, credit union, or farm credit system organized under the laws of the United States or any state; and

(2) Any person or entity principally engaged in the bona fide retail sale of goods or services, who either as an incident to or independently of a retail sale or service and not holding itself out to be a check-cashing service, from time to time cashes checks, drafts, or money orders for a fee or other consideration, where not more than two dollars ($2.00) is charged for the service.

(b) A person licensed under Article 16 of this Chapter (Money Transmitters Act) is exempt from G.S. 53-276, 53-278, 53-279, and 53-284, but is deemed a licensee for purposes of the remaining provisions of this Article. This exemption does not apply to an agent of a person licensed under Article 16 of this Chapter.

"**§ 53-278. Application for license; investigation; application fee.**

(a) An application for licensure under this Article shall be in writing, under oath, and on a form prescribed by the Commissioner. The application shall set forth all of the following:

(1) The name and address of the applicant.

(2) If the applicant is a firm or partnership, the name and address of each member of the firm or partnership.

(3) If the applicant is a corporation, the name and address of each officer, director, registered agent, and principal.

(4) The addresses of the locations of the business to be licensed.

(5) Other information concerning the financial responsibility, background experience, and activities of the applicant and its members, officers, directors, and principals as the Commissioner requires.

(b) The Commissioner may make such investigations as the Commissioner deems necessary to determine if the applicant has complied with all applicable provisions of this Article and State and federal law.

(c) The application shall be accompanied by payment of a two hundred fifty dollar ($250.00) application fee and a five hundred dollar ($500.00) investigation fee. These fees are not refundable or abatable, but, if the license is granted, payment of the application fee shall satisfy the fee requirement for the first license year or remaining part thereof.

(d) Licenses shall expire annually and may be renewed upon payment of a license fee of two hundred fifty dollars ($250.00) plus a fifty dollar ($50.00) fee for each branch location certificate issued under a license.

"**§ 53-279. Liquid assets required; other qualifications; denial of license; hearing.**

(a) Every licensee and applicant shall have and maintain liquid assets of at least fifty thousand dollars ($50,000) per licensee.

(b) Upon the filing and investigation of an application, and compliance by the applicant with G.S. 53-278, and this section, the Commissioner shall issue and deliver to the applicant the license applied for to engage in business under this Article at the locations specified in the application, provided that the Commissioner finds that the financial responsibility, character, reputation, experience, and general fitness of the applicant and its members, officers, directors, and principals are such as to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with law. If the Commissioner fails to make such findings, no license shall be issued, and the Commissioner shall notify the applicant of the denial and the reasons therefor. The applicant shall be entitled to an informal hearing on the denial provided the applicant requests the hearing in writing within 30 days after the Commissioner has mailed the notice required under this subsection to the applicant. In the event of a hearing, which shall be held in the offices of the Commissioner of Banks in Raleigh, the Commissioner shall reconsider the application and, after hearing, issue a written order granting or denying the application.

"**§ 53-280. Maximum fees for service; fees posted; endorsement of checks cashed.**

(a) Notwithstanding any other provision of law, no check-cashing business licensed under this Article shall directly or indirectly charge or collect fees or other consideration for check-cashing services in excess of the following:

(1) Three percent (3%) of the face amount of the check or five dollars ($5.00), whichever is greater, for checks issued by the federal government, State government, or any agency of the State or federal government, or any county or municipality of this State.

(2) Ten percent (10%) of the face amount of the check or five dollars ($5.00), whichever is greater, for personal checks.

(3) Five percent (5%) of the face amount of the check or five dollars ($5.00), whichever is greater, for all other checks, or for money orders.

(b) A licensee may not advance monies on the security of any check unless the account from which the check being presented is drawn is legitimate, open, and active. Except as provided by G.S. 53-281(a), any licensee who cashes a check for a fee shall deposit the check not later than three business days from the date the check is cashed.

(c) A licensee shall ensure that in every location conducting business under a license issued under this Article, there is conspicuously posted and at all times displayed a notice stating the fees charged for cashing checks, drafts, and money orders. A licensee shall further ensure that notice of the fees currently charged at every location shall be filed with the Commissioner.

(d) A licensee shall endorse every check, draft, or money order presented by the licensee for payment in the name of the licensee.

"**§ 53-281. Postdated or delayed deposit checks.**

(a) A licensee may defer the deposit of a personal check cashed for a customer for up to 31 days pursuant to the provisions of this section.

(b) The face amount of any postdated or delayed deposit check cashed pursuant to this section shall not exceed three hundred dollars ($300.00).

(c) Each postdated or delayed deposit check cashed by a licensee shall be documented by a written agreement that has been signed by the customer and the licensee. The written agreement shall contain a statement of the total amount of any fees charged, expressed both as a dollar amount and as an effective annual percentage rate (APR). The written agreement shall authorize the licensee to defer deposit of the personal check until a specific date not later than 31 days from the date the check is cashed.

(d) A licensee shall not directly or indirectly charge any fee or other consideration for cashing a postdated or delayed deposit check in excess of fifteen per cent (15%) of the face amount of the check.

(e) No check cashed under the provisions of this section shall be repaid by the proceeds of another check cashed by the same licensee or any affiliate of the licensee. A licensee shall not, for any consideration, renew or otherwise extend any postdated or delayed check or withhold such check from deposit for any period beyond the time set forth in the written agreement with the customer.

"**§ 53-282. Record keeping; receipt requirements.**

(a) Every person required to be licensed under this Article shall maintain in its offices such books, accounts, and records as the Commissioner may reasonably require. The books, accounts, and records shall be maintained separate from any other business in which the person is engaged, and shall be retained for a period prescribed by the Commissioner.

(b) The licensee shall ensure that each customer cashing a check shall be provided a receipt showing the name or trade name of the licensee, the transaction date, amount of the check, and the fee charged.

(c) The Commissioner may examine the books, accounts, and records in order to determine whether the person is complying with this Article and rules adopted pursuant thereto. The cost of the examination shall be paid by the licensee and shall be determined by applying the hourly rate for special examinations adopted by the State Banking Commission by regulation.

"**§ 53-283. Prohibited practices.**

No person required to be licensed under this Article shall do any of the following:

(1) Charge fees in excess of those authorized under this Article.

(2) Engage in the business of making loans of money, or extensions of credit, or discounting notes, bills of exchange, items, or other evidences of debt; or accepting deposits or bailments of money or items, except as expressly provided by G.S. 53-281.

(3) Use or cause to be published or disseminated any advertising communication which contains any false, misleading, or deceptive statement or representation.

(4) Conduct business at premises or locations other than locations licensed by the Commissioner.
(5) Engage in unfair, deceptive, or fraudulent practices.
(6) Cash a check, draft, or money order made payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the executive entity of the payee clearly indicating the authority of the natural person or persons cashing the check, draft, or money order on behalf of the payee.

"**§ 53-284. Suspension and revocation of license; grounds; procedure.**

(a) The Commissioner may suspend or revoke any license or licenses issued pursuant to this Article if, after notice and opportunity for hearing, the Commissioner issues written findings that the licensee has engaged in any of the following conduct:
(1) Violated this Article or applicable State or federal law or rules.
(2) Made a false statement on the application for a license under this Article.
(3) Refused to permit investigation by the Commissioner authorized under this Article.
(4) Failed to comply with an order of the Commissioner.
(5) Demonstrated incompetency or untrustworthiness to engage in the business of check cashing.
(6) Been convicted of a felony or misdemeanor involving fraud, misrepresentation, or deceit.

(b) The Commissioner may not suspend or revoke any license issued under this Article unless the licensee has been given notice and opportunity for hearing in accordance with Article 3A of Chapter 150B of the General Statutes.

"**§ 53-285. Cease and desist orders.**

If the Commissioner determines that a person required to be licensed under this Article has violated this Article or rules adopted pursuant to it, then the Commissioner may, upon notice and opportunity for hearing in accordance with Article 3A of Chapter 150B of the General Statutes, order the person to cease and desist from the violations and to comply with this Article. The Commissioner may enforce compliance with an order issued pursuant to this section by the imposition and collection of civil penalties authorized under this Article.

"**§ 53-286. Civil penalties and restitution.**

The Commissioner may order and impose civil penalties upon any person required to be licensed under this Article for violations of this Article or rules adopted thereunder. Civil penalties shall not exceed one thousand dollars ($1,000) per violation. All civil money penalties collected under this Article shall be paid to the county school fund. The Commissioner may also order repayment of unlawful or excessive fees charged to customers.

"**§ 53-287. Criminal penalties.**

A violation of G.S. 53-276 by a person required to obtain a license under this Article is a Class I felony. Each transaction involving the unlawful cashing of a check, draft, or money order constitutes a separate offense.

"**§ 53-288. Commissioner to adopt rules.**

The Commissioner may adopt rules necessary to carry out the purposes of this Article, to provide for the protection of the public, and to assist licensees in interpreting and complying with this Article.

"**§ 53-289. Commission may review rules, orders, or acts by Commissioner.**

The Commission shall have full authority to review any rule, regulation, order, or act of the Commissioner done pursuant to or with respect to the provisions of this Article, and any person aggrieved by any such rule, regulation, order, or act may appeal to the Commission for review upon giving notice in writing within 20 days after such rule, regulation, order, or act complained of is adopted, issued, or done."

Section 2. The Commissioner of Banks shall report to the 2001 General Assembly on the practices of licensees with regard to checks cashed pursuant to the provisions of G.S. 53-281, including any evidence as to consumer complaints, unfair or deceptive trade practices, and the frequency of repeat use by individuals of postdated or delayed deposit checks. It is the intent of the General Assembly that the sunset contained in Section 3 of this act be repealed if there is no evidence of excessive complaints or unfair and deceptive trade practices.

Section 3. This act becomes effective October 1, 1997, and the provisions of G.S. 53-281 shall expire on July 31, 2001.

North Carolina General Assembly
Legislative Services Office

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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.)

moves to amend the bill on page 3, line 26

( ) WHICH CHANGES THE TITLE

by deleting the word "State." at the end of the line and substituting the phrase, "State, or a ~~postal~~ money order issued by the United States Postal Service.";

and on page 3, line 30, by rewriting the line to read:

"($5.00), whichever is greater, for all other checks, or for all other money orders."

SIGNED Gary Shubert

ADOPTED _____ FAILED X TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

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)

4/24/97

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

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM SALES AND USE TAX REUSABLE INDUSTRIAL CONTAINERS USED AS PACKAGING FOR TANGIBLE PERSONAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13(23) reads as rewritten:

"(23) Sales of the following packaging items:

a. ~~wrapping~~ Wrapping paper, labels, wrapping twine, paper, cloth, plastic bags, cartons, packages and containers, cores, cones or spools, wooden boxes, baskets, coops and barrels, including paper cups, napkins and drinking straws and like articles sold to manufacturers, producers and retailers, when such materials are used for packaging, shipment or delivery of tangible personal property which is sold either at wholesale or retail and when such articles constitute a part of the sale of such tangible personal

property and are delivered with it to the customer.

b. A container that is used as packaging by the owner of the container or another person to enclose tangible personal property for delivery to a purchaser of the property and is required to be returned to its owner for reuse."

Section 2. This act becomes effective October 1, 1997, and applies to sales made on or after that date.

North Carolina General Assembly
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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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

JUNE 25, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	Electric Co-op's
Oscar Smith	AARP
Richard C Hatch	AARP
Gene Ogles	AARP
Polly Williams	AARP/Older Women's League
Laura MacFadden	Rex Healthcare
Ken Eudy	Capital Strategies
Joe McCleas	Good Neighbors
Sandra Kane	Porter & Steel
[illegible]	WCSR
Travis Porter	Porter & Steel
John McMay	NC CWA
David Anders	DFPNC
David Kirkman	AGO
Scott Mouw	DEHNR
George Long	NCDOR
Sam Taylor	Womble Carlyle
[illegible]	C.U.C.A.
SMITH D. LINGERFELT	ELECTRICITIES OF NC
Jane Feather	N.C. Atty General's Office
[illegible]	" " "
Mona Clayton	Atty Gen's Office
Rob Schofield	NAACDC
Chris Fitzsimon	Common Sense Foundation
[illegible]	NCALU
[illegible]	E.S.C.
[illegible]	DEH - DEHNR

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

JUNE 25, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ann Lasse	DEHNR
John Poliakoff	Lawrence Bailey & Associates, Inc.
Ron Ellis	CNANC
Lynn Holmes	Bell South
[illegible]	Moore & Van Allen
Jane P. Gray	DOJ
[illegible]	
[illegible]	Clerk Cashwell's Office
Perri Morgan	NFIB
D. Mills	NCRMA
[illegible]	NCRMA
Cam Cover	BPOM HL
Doug Howey	NCPMA
David Simmons	ZOA PA
Sarah Kieler	DEHNR

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. (Public)

Sponsors:

Referred to:

February 20, 1997

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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-248(a3) reads as rewritten:

"(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;~~ surfaces. A requirement imposed under this subdivision to sanitize multiuse eating and drinking utensils and other food-contact surfaces does not apply to utensils and surfaces provided in the guest room of the lodging unit for guests to prepare food while staying in the guest room.

(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."

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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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 sanitatization 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

fav. report

Short Title: ESC Waive Interest. (Public)

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

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE EMPLOYMENT SECURITY COMMISSION TO WAIVE INTEREST ON LATE CONTRIBUTIONS.

The General Assembly of North Carolina enacts:

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

"(j) Waiver of Interest and Penalties. -- The Commission may, for good cause shown, reduce or waive any interest assessed on unpaid contributions under this section. The Commission ~~shall have the power to~~ may reduce or waive any penalty provided in G.S. 96-10(a) or G.S. 96-10(g). The late filing penalty under G.S. 96-10(g) shall be waived when the mailed report bears a postmark that discloses that it was mailed by midnight of the due date but was addressed or delivered to the wrong State or federal agency. The late payment penalty and the late filing penalty imposed by G.S. 96-10(a) and G.S. 96-10(g) shall be waived where the delay was caused by any of the following:

(1) The death or serious illness of the employer or a member of his immediate family, or by the death or serious illness of the person in the employer's organization responsible for the preparation and filing of the report;

(2) Destruction of the employer's place of business or business records by fire or other casualty;

(3) Failure of the Commission to furnish proper forms upon timely application by the employer, by reason of which failure the employer was unable to execute and file the report on or before the due date;

(4) The inability of the employer or the person in the employer's organization responsible for the preparation and filing of reports to obtain an interview with a representative of the Commission upon a personal visit to the central office or any local office for the purpose of securing information or aid in the proper preparation of the report, which personal interview was attempted to be had within the time during which the report could have been executed and filed as required by law had the information at the time been obtained;

(5) The entrance of one or more of the owners, officers, partners, or the majority stockholder into the Armed Forces of the United States, or any of its allies, or the United Nations, provided that the entrance was unexpected and is not the annual two weeks training for reserves; and

(6) Other circumstances where, in the opinion of the Chairman, the Assistant Administrator, or their designees, the imposition of penalties would be inequitable.

In the waiver of any penalty, the burden shall be upon the employer to establish to the satisfaction of the Chairman, the Assistant Administrator, or their designees, that the delinquency for which the penalty was imposed was due to any of the foregoing facts or circumstances.

~~Such waiver~~ The waiver or reduction of interest or a penalty under this subsection shall be valid and binding upon the Commission. The reason for any ~~such~~ reduction or waiver shall be made a part of the permanent records of the employing unit to which it applies."

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

North Carolina General Assembly
Legislative Services Office

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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 ½ 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.)

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§ 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 D

adopted sent to Rules

HOUSE BILL 1125
Proposed Committee Substitute
H1125-CSRO-001
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Study Mortgage Lenders. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE LEGISLTIVE RESEARCH COMMISSION TO STUDY THE ISSUE OF ALLOWING CERTAIN MORTGAGE BANKERS TO MAKE HOME LOANS AND TO CHARGE FEES RELATED TO THOSE LOANS.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission is authorized to study the issue of allowing certain mortgage bankers to make home loans and to charge fees related to those loans.

Section 2. The Commission may make an interim report to the 1998 Regular Session of the 1997 General Assembly and a final report, including any legislative proposals, to the 1999 General Assembly.

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)

4/24/97

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

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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.1(c) reads as rewritten:

"(c) On the fifteenth day of each month, the Commissioner of Banks shall announce and publish the maximum rate of interest permitted by subdivision (1) of subsection (a) of this section on that date. Such rate shall be the latest published noncompetitive rate for U.S. Treasury bills with a six-month maturity as of the fifteenth day of the month plus six percent (6%), rounded upward or downward, as the case may be, to the nearest one-half of one percent (1/2 of 1%) or sixteen percent (16%), whichever is greater. If there is no nearest one-half of one percent (1/2 of 1%), the Commissioner shall round downward to the lower one-half of one percent (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the term of loans made under this section during the following calendar month when the parties to such loans have agreed that the rate of interest to be charged by the lender and paid by the borrower shall not vary or be adjusted during the term of the loan. The parties to a loan made under this section may agree to a rate of interest which shall vary or be adjusted during the term of the loan in which case the maximum rate of interest permitted on such loans during a month during the term of the loan shall

be the greater of the rate announced by the Commissioner in (i) the preceding calendar ~~month.~~ month or (ii) the calendar month preceding that in which the rate is varied or adjusted."

Section 2. G.S. 24-1.1C and G.S. 24-1.2 are repealed.

Section 2.1. G.S. 24-1.2A reads as rewritten:

"**§ 24-1.2A. Equity lines of credit.**

(a) Notwithstanding any other provision of this Chapter, the parties to an equity line of credit, as defined in G.S. 45-81, may contract in writing for interest at rates which shall not exceed the maximum rates permitted under ~~G.S. 24-1.2(2a);~~ G.S. 24-1.1(c); provided, however, that the parties may contract for interest rates which shall be adjustable or variable, so long as for adjustable or variable rate contracts the rate in effect for a given period does not exceed the maximum rate permitted under ~~G.S. 24-1.2(2a)~~ G.S. 24-1.1(c) for the same period.

(b) Fees may be charged on equity lines of credit which in the aggregate, over the life of the contract based on the maximum limit of the line of credit, do not exceed those permitted under G.S. 24-10. Any lender may charge a party to a loan or extension of credit governed by this section a fee for the modification, renewal, extension, or amendment of any terms of the loan or extension of credit, such fee not to exceed the greater of one-quarter of one percent (1/4 of 1%) of the balance outstanding at the time of the modification, renewal, extension, or amendment of terms, or fifty dollars ($50.00)."

Section 3. This act becomes effective October 1, 1997, and applies to loans made on or after that date, and Section 1 of this act applies to variations or adjustments in rates occurring on or after that date regardless of the date on which the loan was made.

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 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

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.

The General Assembly of North Carolina enacts:

Section 1. Part 6 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-443A. Heat source required.**

(a) A city shall, by ordinance, require that by January 1, 1998, every dwelling unit leased as rental property within the city shall have, at a minimum, a central heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of 68 degrees Fahrenheit measured three feet above the floor with an outside temperature of 20 degrees Fahrenheit.

(b) All heating systems and heating appliances shall be installed and maintained in a good and safe working condition by the owner of the dwelling unit.

(c) Portable kerosene heaters are not acceptable as a permanent source of heat as required by subsection (a) of this section, but may be used as a supplementary source in single family dwellings and duplex units. An owner who has complied with subsection (a) shall not be held in violation of this section where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.

(d) This section applies only to cities with a population of 200,000 or over, according to the most recent decennial federal census.

(e) Nothing in this section shall be construed as:

(1) Diminishing the rights of or remedies available to any tenant under a lease agreement, statute, or at common law; or

(2) Prohibiting a city from adopting an ordinance with more stringent heating requirements than provided for by this section."

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

Jaw report

Short Title: Require Rental Property Heat. (Public)

Sponsors:

Referred to:

February 3, 1997

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.

The General Assembly of North Carolina enacts:

Section 1. Part 6 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

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(b) All heating systems and appliances shall be installed and maintained in a good and safe working condition by the owner of the dwelling unit.

(c) Portable kerosene heaters are not acceptable as a permanent source of heat as required by subsection (a) of this section, but may be used as a supplementary source in single

family dwellings and duplex units. An owner who has complied with subsection (a) shall not be held in violation of this section where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.

(d) This section applies only to cities with a population of 200,000 or over, according to the most recent decennial federal census.

(e) Nothing in this section shall be construed as:

(1) diminishing the rights of or remedies available to any tenant under a lease agreement, statute, or at common law; or

(2) prohibiting a city from adopting an ordinance with more stringent heating requirements than provided for by this section."

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

North Carolina General Assembly
Legislative Services Office

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Terrence D. Sullivan, Director
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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, 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 Farenheit.

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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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, 1997

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".

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SIGNED Robby R. Hall

ADOPTED X FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

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

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.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 33.

"Telephonic Seller Registration and Bond Requirement.

"**§ 66-260. Definitions.**

As used in this Article, unless the context requires otherwise:

(1) 'Gift or prize' means any premium, bonus, award, or any other thing of value.

(2) 'Item' means any good or any service. 'Item' includes coupon books, vouchers, or certificates that are to be used with businesses other than the seller's business.

(3) 'Owner' means a person who owns or controls ten percent (10%) or more of the equity of, or otherwise has a claim to ten percent (10%) or more of the net income of, a telephonic seller.

(4) 'Person' includes any individual, firm, association, corporation, partnership, joint venture, or any other business entity.

(5) 'Principal' means an owner, an executive officer of a corporation, a general partner of a partnership, a sole proprietor of a sole proprietorship, a trustee of a trust, or any other individual with similar supervisory functions with respect to any person.

(6) 'Purchaser' or 'prospective purchaser' means a person who is solicited to become obligated to a telephonic seller or to make any donation or gift to any person represented by the telephonic seller.

(7) 'Room operator' means any principal, employee, or agent responsible for the operational management and supervision of facilities from which telephonic sales calls are made or received.

(8) 'Salesperson' means any individual employed, appointed, or authorized by a telephonic seller, whether referred to by the telephonic seller as an agency, representative, or independent contractor, who attempts to solicit or solicits a sale on behalf of the telephonic seller.

(9) 'Secretary' means the Office of the Secretary of State.

(10) 'Telephone solicitation' or 'attempted telephone solicitation' means any telephonic communication designed to persuade any person to purchase goods or services, to enter a contest, or to contribute to a charity or a person represented to be a charity, regardless of whether the telephone call initiating the solicitation is placed by the (i) telephonic seller or (ii) a person responding to any unsolicited notice or notices sent or provided by or on behalf of the seller, which notice or notices represent to the recipient that he or she has won a gift or prize, that the recipient may obtain or qualify for credit by contacting the seller, or that the seller has buyers interested in purchasing the recipient's property.

(11) 'Telephonic seller' or 'seller' means a person who, directly or through salespersons, causes a telephone solicitation or attempted telephone solicitation to occur. 'Telephonic seller' and 'seller' do not include any of the following:

a. A securities 'dealer' within the meaning of G.S. 78A-2(2) or a person excluded from the definition of 'dealer' by that provision: a 'salesman' within the meaning of G.S. 78A-2(9); an 'investment adviser' within the meaning of G.S. 78C-2(1) or a person excluded from the definition of 'investment adviser' by that provision; or an 'investment adviser representative' within the meaning of G.S. 78C-2(3); provided that such persons shall be excluded from the terms 'telephonic seller' and 'seller' only with respect to activities regulated by Chapters 78A and 78C.

b. Any person conducting sales or solicitations on behalf of a licensee of the Federal Communications Commission or

holder of a franchise or certificate of public convenience and necessity from the North Carolina Utilities Commission.

c. Any insurance agent or broker who is properly licensed by the Department of Insurance and who is soliciting within the scope of the agent's or broker's license or any employee or independent contractor of an insurance company licensed by the Department of Insurance conducting sales or solicitations on behalf of that company.

d. Any federally chartered bank or savings institution or any bank or savings institution properly licensed by the State or subject to federal regulating authorities.

e. Any organization that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section, or that is organized exclusively for one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section and that upon dissolution shall distribute its assets to an entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section, the United States, or a state; any 'charitable solicitor' properly licensed under Article 2 of Chapter 131F of the General Statutes, or any person exempt from Chapter 131F of the General Statutes under G.S. 131F-3.

f. A person who periodically issues and delivers catalogs to potential purchasers and the catalog:

1. Includes a written description or illustration and the sales price of each item offered for sale;
2. Includes at least 24 full pages of written material or illustrations;
3. Is distributed in more than one state; and
4. Has an annual circulation of not less than 250,000 customers.

g. A person engaging in a commercial telephone solicitation where the solicitation is an isolated transaction and not done in the course of a pattern of repeated transactions of a like nature.

h. A person primarily soliciting the sale of a newspaper of general circulation, a publisher of a magazine or other periodical of general circulation, or an agent of such a publisher acting pursuant to a written agency agreement.

i. A person soliciting the sale of services provided by a cable television system operating under the authority of a local franchise.

j. Any passenger airline licensed by the Federal Aviation Administration.

k. Any person holding a real estate broker's or sales agent's license under Chapter 93A of the General Statutes and who is soliciting within the scope of the broker's or agent's license.

l. Any person soliciting a transaction regulated by the Commodities Futures Trading Commission, provided the person is registered or temporarily licensed by the Commodities Futures Trading Commission under the Commodity Exchange Act, 7 U.S.C. § 1, et seq.

m. Any person soliciting a purchase from a business, provided the person soliciting makes reasonable efforts to ensure that the person solicited has actual authority to bind the business to a purchase agreement.

n. A foreign corporation, limited liability company, or limited partnership that has obtained and maintained a certificate of authority to transact business or conduct affairs in this State pursuant to Chapter 55, 55A, or 57C or Article 5 of Chapter 59 of the General Statutes and that only transacts business or conducts affairs in this State using the name set forth in the certificate of authority.

o. An issuer or a subsidiary of an issuer that has a class of securities which is subject to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. § 781) and which is either registered or exempt from registration under paragraph (A), paragraph (B), paragraph (C), paragraph (E), paragraph (F), paragraph (G), or paragraph (H) of subsection (g)(2) of that section.

p. A person soliciting the sale of food, seeds, or plants when a sale does not involve an amount in excess of one hundred dollars ($100.00) directed to a single address.

q. A person soliciting:

1. Without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation;
2. Who does not make the major sales presentation during the telephone solicitation but arranges for the major sales presentation to be made at a later face-to-face meeting between the salesperson and the purchaser;
3. Who does not cause an individual to go to the prospective purchaser to collect payment for the purchase or to deliver any item purchased directly following the telephone solicitation; or

4. Who offers to send the purchaser descriptive literature and does not require payment prior to the purchaser's review of the descriptive literature.

r. A person soliciting the purchase of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made.

s. A book, video, recording, or multimedia club or contractual plan or arrangement:

1. Under which the seller provides the consumer with a form with which the consumer can instruct the seller not to ship the offered merchandise.

2. Which is regulated by the Federal Trade Commission trade regulation concerning 'use of negative option plans by sellers in commerce'.

3. Which provides for the sale of books, recordings, multimedia products or goods, or videos which are not covered under paragraphs 1. or 2. of this sub-subdivision, including continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive such merchandise on a periodic basis.

t. A person who for at least two years has been operating under the same name as that used in connection with its telemarketing operations and retail establishment in North Carolina where consumer goods are displayed and offered for sale on a continuing basis if a majority of the person's business involves the buyers obtaining services or products at the person's retail establishment.

u. A person:

1. Who provides telephone solicitation services under contract to sellers;

2. Who has been operating continuously for at least three years under the same business name; and

3. For whom at least seventy-five percent (75%) of the person's contracts are performed on behalf of other persons exempt under this section.

v. A person soliciting political contributions in accordance with Article 22A of Chapter 163 of the General Statutes.

w. The seller of a 'business opportunity' as defined in G.S. 66-94, while engaged in activities subject to regulation under Article 19 of Chapter 66 of the General Statutes, provided

that such seller has complied with the provisions of G.S. 66-97.

x. A 'loan broker' as defined in G.S. 66-106, while engaged in activities subject to regulation under Article 20 of Chapter 66 of the General Statutes, provided that such loan broker has complied with the provisions of G.S. 66-109.

y. A 'membership camping operator' as defined in G.S. 66-232(10) or a 'salesperson' as defined in G.S. 66-232(16), while engaged in activities subject to regulation under Article 31 of Chapter 66 of the General Statutes, provided that such persons have complied with the provisions of G.S. 66-234 and G.S. 66-237, as applicable.

"§ 66-261. Registration of telephonic sellers.

(a) Not less than 10 days before commencing telephone solicitations in this State, a telephonic seller shall register with the Secretary by filing the information required in G.S. 66-262 and paying a filing fee of one hundred dollars ($100.00). A telephonic seller is doing business in this State if it solicits or attempts to solicit prospective purchasers from locations in this State or solicits or attempts to solicit prospective purchasers who are located in this State.

(b) The information required in G.S. 66-262 shall be submitted on a form provided by the Secretary and shall contain the notarized signatures of each principal of the telephonic seller.

(c) Registration of a telephonic seller shall be valid for one year from the effective date thereof and may be annually renewed by making the filing required in G.S. 66-262 and paying the filing fee of one hundred dollars ($100.00). Registration shall not be deemed effective unless all required information is provided and any deficiencies or errors noted by the Secretary have been corrected to the satisfaction of the Secretary.

(d) Whenever, prior to expiration of a seller's annual registration, there is a change in the information required by G.S. 66-262, the seller shall, within 10 days after the change, file an addendum with the Secretary updating the information.

"§ 66-262. Filing information.

(a) Each filing submitted to the Secretary shall contain all of the following information:

(1) The name or names, including any assumed names, under which the telephonic seller is doing or intends to do business in this State.

(2) The telephonic seller's business form and place of organization and, if the seller is a corporation, copies of its articles of incorporation and bylaws and amendments thereto, or if a partnership, a copy of the partnership agreement.

(3) Complete street address of the telephonic seller's principal place of business.

(4) The complete street address of each location from which telephone solicitations are placed by the telephonic seller.

(5) A listing of all telephone numbers to be used by the telephonic seller, including area codes, and the complete street address of the business premises served by each number.

(6) The name and title of each principal.

(7) The complete street address of the residence, the date of birth, and the social security number of each principal.

(8) The true name, street address, date of birth, and the social security number of each room operator, together with the room operator's full employment history during the preceding two years.

(9) The name and address of all banks or savings institutions where the telephonic seller maintains deposit accounts.

(10) The name and address of each long-distance telephone carrier used by the telephonic seller.

(11) A summary of each civil or criminal proceeding brought against the telephonic seller, any of its principals, or any of its room operators during the preceding five years by federal, State, or local officials relating to telephonic sales practices of each. The summary shall include the date each action was commenced, the criminal or civil charges alleged, the case caption, the court file number, the court venue, and the disposition of the action. For purposes of this section, a 'civil proceeding includes' means assurances of voluntary compliance, assurances of discontinuance, consent judgments, and similar agreements executed with federal, State, or local officials.

(b) For purposes of this section, 'street address' does not include a private mail service address.

"**§ 66-263. Bond requirement; prizes and gifts.**

(a) At least 10 days before the commencement of any promotion offering any gift or prize with an actual or represented market value of five hundred dollars ($500.00) or more, the telephonic seller shall notify the Secretary in writing of the details of the promotion, fully describing the nature and number of all gifts or prizes and their current market value, the seller's rules and regulations governing the promotion, and the date the gifts or prizes are to be awarded. All gifts or prizes offered shall be awarded. Concurrent with notifying the Secretary under this subsection, the telephonic seller shall post a bond with the Secretary for the market value or the represented value, whichever is greater, of all gifts or prizes represented as available under the promotion. The bond must be issued by a surety company authorized to do business in this State. The bond shall be in favor of the State of North Carolina for the benefit of any person entitled to receive a gift or prize under the promotion who did not receive it within 30 days of the specified date of award. The amount recoverable by any person under the bond shall not exceed the market value, the represented value of the gift or prize, or the amount of any consideration or contribution paid by that person in response to the telephone solicitation, whichever is greatest.

(b) Within 45 days after the specified date of the award of the gift or prize, the seller shall provide, in writing, to the Secretary, proof that the gifts or prizes were awarded. The writing shall include the name, address, and telephone number of all persons receiving awards or prizes. The bond shall be maintained until the Secretary receives reliable proof that the gifts or prizes have been delivered to the intended recipients.

(c) The Attorney General, on behalf of any injured purchaser, or any purchaser who is injured by the bankruptcy of the telephonic seller or its breach of any agreement entered into in its capacity as a telephonic seller, may initiate a civil action to recover against the bond.

"**§ 66-264. Calls made to minors.**

A telephonic seller must inquire as to whether the prospective purchaser it is contacting is under 18 years of age. If the prospective purchaser purports to be under 18 years of age, the telephonic seller must discontinue the call immediately.

"**§ 66-265. Offers of gifts or prizes.**

(a) It shall be unlawful for any telephonic seller to make a telephone solicitation or attempted telephone solicitation involving any gift or prize when the solicitation or attempted solicitation:

(1) Requests or directs the consumer to further the transaction by calling a 900 number or a pay-per-call number.

(2) Requests or directs the consumer to send any payment or make a donation in order to collect the gift or prize.

(3) Does not comply fully with G.S. 75-30, 75-32, 75-33, or 75-34.

(b) Notwithstanding subsection (a) of this section, a telephonic seller may offer a gift or prize in connection with the bona fide sale of a product or service.

"**§ 66-266. Penalties.**

(a) Any violation of this Article shall constitute an unfair and deceptive trade practice in violation of G.S. 75-1.1.

(b) In an action by the Attorney General against a telephonic seller for violation of this Article, or for any other act or practice by a telephonic seller constituting a violation of G.S. 75-1.1, the court may impose civil penalties of up to twenty-five thousand dollars ($25,000) for each violation involving North Carolina purchasers or prospective purchasers who are 65 years of age or older.

(c) The remedies and penalties available under this section shall be supplemental to others available under the law, both civil and criminal.

(d) Compliance with this Article does not satisfy or substitute for any other requirements for license, registration, or conduct imposed by law.

(e) In any civil proceeding alleging a violation of this Article, the burden of proving an exemption or an exception from a definition is upon the person claiming it, and in any criminal proceeding alleging a violation of this Article, the burden of producing evidence to support a defense based upon an exemption or an exception from a definition is upon the person claiming it."

Section 2. Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-401.15. Telephone sales recovery services.**

(a) Except as provided in subsection (c) of this section, it shall be unlawful for any person or firm to solicit or require payment of money or other consideration in exchange for recovering or attempting to recover:

(1) Money or other valuable consideration previously tendered to a telephonic seller, as defined in G.S. 66-260; or

(2) Prizes, awards, or other things of value that the telephonic seller represented would be delivered.

(b) A violation of this section shall be punishable as a Class 1 misdemeanor. Any violation involving actual collection of money or other consideration from a customer shall be punishable as a Class H felony.

(c) This section does not apply to attorneys licensed to practice law in this State, to persons licensed by the North Carolina Private Protective Services Board, or to any collection agent properly holding a permit issued by the Department of Insurance to do business in this State."

Section 3. Section 2 of this act becomes effective January 1, 1998, and applies to offenses committed on or after that date. The remaining sections of this act become effective October 1, 1997, and apply to violations occurring on or after that date.

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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 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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.) Culpepper

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 ~~[illegible]~~ Purchasers being under"

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SIGNED Bill Culpepper

ADOPTED X FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

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.

☐ 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** for the Committee on **Commerce**.

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S.B. 562 A BILL TO BE ENTITLED AN ACT TO INCREASE THE AMOUNT OF THE PROCESSING FEE CHARGED FOR RETURNED CHECKS.

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☐ 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

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE AMOUNT OF THE PROCESSING FEE CHARGED FOR RETURNED CHECKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-3-506 reads as rewritten:

"**§ 25-3-506. Collection of processing fee for returned checks.**

A person who accepts a check in payment for goods or services may charge and collect a processing fee, not to exceed ~~twenty dollars ($20.00),~~ twenty-five dollars ($25.00), for a check on which payment has been refused by the payor bank because of insufficient funds or because the drawer did not have an account at that bank if at the time the consumer presented the check to the person, a sign:

(1) Was conspicuously posted on or in the immediate vicinity of the cash register or other place where the check is received;
(2) Was in plain view of anyone paying for goods or services by check;
(3) Was no smaller than 8 by 11 inches; and
(4) Stated the amount of the fee that would be charged for returned checks.

When the drawer sends a check by mail for payment of a debt and the check is dishonored and returned, the processing fee may be collected if the drawer was given prior written notice that a fee would be charged for returned checks. Any document that clearly and conspicuously states the amount of the fee that will be charged for returned checks and is delivered to the drawer or his agent, or is mailed first-class

mail to the drawer at his last known address as part of any document requesting payment of a debt satisfies this notice requirement for that payment only.

If a collection agency collects or seeks to collect on behalf of its principal a processing fee as specified in this section in addition to the sum payable of a check, the amount of such processing fee must be separately stated on the collection notice. The collection agency shall not collect or seek to collect from the drawer any sum other than the actual amount of the returned check and the specified processing fee."

Section 2. This act becomes effective October 1, 1997, and applies to 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-288(d) reads as rewritten:

"(d) To obtain a license as a wholesaler, ~~the~~ an applicant who intends to sell or distribute self-propelled vehicles must have an established office in this ~~State.~~ State, and an applicant who intends to sell or distribute only trailers or semitrailers must have a place of business in this State where the records required under this Article are kept.

To obtain a license as a motor vehicle dealer, an applicant who intends to deal in self-propelled vehicles must have an established salesroom in this ~~State.~~ State, and an applicant who intends to deal in only trailers or semitrailers must have a place of business in this State where the records required under this Article are kept.

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State."

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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE ~~June 19,~~ July 2, 1997

S. B. No. 699 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) ~~SENATOR HAMILTON HORTON~~
Sen.)

moves to amend the bill on page 1, line 11

( ) WHICH CHANGES THE TITLE

by inserting after the word "semi-trailers" the phrase, "of less than 2500 pounds unloaded weight" and on line 16, by inserting after the word "semi-trailer" the phrase "of less than 2500 pounds unloaded weight."

SIGNED William D. Hartt

ADOPTED X FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

JULY 2, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCHBA
John Palisoul	Lauren Bailey & Assoc.
Michael Rhodes	DENR
John M. Gray	NC CWA
David Anders	PAT-NC
Richard O'Brien	PFTNC
David Hegg	ESC
Rob Schofield	NWCDC
Dick Hutson	AARP
Bill Dahlman	AARP
Fred Dahlman	AARP
Oscar Smith	AARP
Olene Ogden	AARP
[illegible]	AK Atty Gen.
Jane Feather	NC Atty Gen.
Jane B. Gray	DOJ
McNeill Chestnutt	AG's Office
Byron Nelson	Winston-Salem
Nick J. Benzick	Raleigh
[illegible]	RRC
Jack Nichols	Allen & Pinnix P.A.
[illegible]	St. Bd. of Refrigeration Examiners
Thomas C. Newton	St Bd of Refrigeration Examiners
[illegible]	AARP
Paul Stock	NC Bankers Assn.
A W Turner Jr	Public Staff - Utilities Commin
[illegible]	Secretary of State

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

JULY 2, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David T. Massey	Sec. of State
[illegible]	NC Assoc of Realtors
Alan Miles	Barley & Dixon LLP
[illegible]	NCAFI
KEITH HUNDLEY	WOMBLE CARLYLE SANDRIDGE & RICE
[illegible]	Moore & Van Allen
Cam Coker	BPM&L
Gary Harris	NC Petroleum Marketers Assoc.
Doug Hoover	"
[illegible]	Moore & Van Allen
[illegible]	[illegible]
Brenda Dougherty	Sprint
Karen Carpenter	DCS
Ken Eudy	Capital Strategies
Teri C. Harris	SHGRG
Jamar Broadnax	NCCBD
Catherine Davis	Electric Cities of NC
Bernard Allen	SOS
Don McCorquodale	NCRMA
Fran Preston	"
Kim Smith	NCLM
Amy Henderson	Hunton & Williams
Peri 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

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING THE PROCEDURE FOR ENTRY OF ORDERS IN THE COMMODITIES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78D-30(d) reads as rewritten:

"(d) If no ~~hearing is requested~~ request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of summary order under subsection (b) of this section and ~~none~~ no hearing is ordered by the Administrator, the summary order will automatically become a final order after 30 business ~~days.~~ days from the date service of the notice of summary order was received."

Section 2. This act becomes effective October 1, 1997, and applies to 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§ 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.)

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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)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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

A BILL TO BE ENTITLED

AN ACT REDEFINING THE BASE PERIOD FOR UNEMPLOYMENT BENEFITS AND ELIMINATING THE ONE AND ONE-HALF TIMES TEST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-8(17) reads as rewritten:

"(17) a. Repealed by Session Laws 1977, c. 727, s. 33.

b. Repealed by Session Laws 1977, c. 727, s. 33.

c. As to claims filed on or after October 1, 1974, for claimants who do not have a benefit year in progress, 'benefit year' shall mean the one-year period beginning with the first day of a week with respect to which an individual first registers for work and files a valid claim for benefits. A valid claim shall be deemed to have been filed only if such individual, at the time the claim is filed, is unemployed, and has been paid wages in his base period totaling at least five hundred sixty-five dollars and fifty cents ($565.50), and equal to at least one and one-half times his high-quarter wages, which high-quarter wages must equal at least one hundred and fifty dollars ($150.00). As to claims filed on or after August 1, 1981, for claimants who do not have a benefit year in progress, 'benefit year' shall mean the 52 week period beginning with the first day of a week with respect to which an individual first registers for work and files a valid claim

for benefits. Provided, however, if the first day of a week with respect to which an individual first registers for work and files a valid claim for benefits is either (i) the first day of a calendar quarter, or (ii) the second day of a calendar quarter followed by a February 29 within one year thereof, 'benefit year' shall mean the one-year period beginning with that first day of the week with respect to which the individual first registers for work and files a valid claim for benefits. A valid claim shall be deemed to have been filed only if such individual, at the time the claim is filed, is unemployed, and has been paid wages in his base period totaling at least six times the average weekly insured wage, obtained in accordance with ~~G.S. 96-8(22) and equal to at least one and one-half times his high-quarter wages, which high-quarter wages must equal at least one and one-half times the average weekly insured wage, obtained in accordance with G.S. 96-8(22).~~ G.S. 96-8(22), and has been paid wages in at least two quarters of the individual's base period.

d. Repealed by Session Laws, 1981, c. 160, s. 11."

Section 2. G.S. 96-8(18) reads as rewritten:

"(18) 'Base period' means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year as defined in subdivision (17) of this section. If an individual lacks sufficient base period wages in order to establish a benefit year in the manner set forth above, the claimant shall have an alternative base period substituted for the current base period so as not to prevent establishment of a valid claim. For the purposes of this subdivision, 'alternative base period' means the last four completed calendar quarters."

Section 3. This act is effective when it becomes law and applies to new initial claims filed on or after September 1, 1997. The Employment Security Commission shall report to the General Assembly by January 1, 2001, on the effect of 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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

law - report needs to go to Finance

S 1

SENATE BILL 425

Short Title: Refrigeration Contractors. (Public)

Sponsors: Senator Miller.

Referred to: Commerce.

March 19, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ARTICLE ON REFRIGERATION CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-58(a) reads as rewritten:

"(a) As applied in this Article, "refrigeration trade or business" is defined to include all persons, firms or corporations engaged in the installation, maintenance, servicing and repairing of refrigerating machinery, equipment, devices and components relating thereto and within limits as set forth in the codes, laws and regulations governing refrigeration installation, maintenance, service and repairs within the State of North Carolina or any of its political ~~subdivisions, provided however, that this~~ subdivisions. This Article shall not apply to the replacement of lamps and fuses and to the installation and servicing of domestic household refrigerators and freezers or domestic ice-making appliances connected by means of attachment plug-in devices to suitable receptacles which have been permanently ~~installed, and provided, further, that the~~ installed. The provisions of this Article shall not repeal any wording, phrase, or paragraph as set forth in Article 2 of Chapter 87 of the General Statutes. ~~North Carolina General Statutes, Chapter 87, Article 2; and provided, further, that this~~ This Article shall not apply to employees of persons, firms, or corporations or persons, firms or corporations, not engaged in refrigeration contracting as herein defined, that install, maintain and service their own refrigerating machinery, equipment and devices. The provisions of this Article shall not apply to any person, firm or corporation engaged in the business of selling, repairing and installing any ~~air-conditioning units,~~ comfort cooling devices or ~~systems~~ systems. ~~for~~

~~the purpose of cooling offices, buildings, houses, works, manufacturing plants, or any machinery, manufactured article or processing of material.~~"

Section 2. G.S. 87-58(d) reads as rewritten:

"(d) In order to protect the public health, comfort and safety, the Board shall prescribe the standard of experience to be required of an applicant for license and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating cost, fundamentals of installation and design as they pertain to refrigeration; and as a result of the examination, the Board shall issue a certificate of license in refrigeration to applicants who pass the required examination and a license shall be obtained in accordance with the provisions of this Article, before any person, firm or corporation shall engage in, or offer to engage in the business of refrigeration contracting. The Board shall prescribe standards for and issue licenses for refrigeration contracting and for transport refrigeration contracting. A transport refrigeration contractor license is a specialty license that authorizes the licensee to engage only in transport refrigeration contracting. A refrigeration contractor licensee is authorized to engage in transport refrigeration and all other aspects of refrigeration contracting.

Each application for examination shall be accompanied by a check, post-office money order or cash in the amount of the annual license fee required by this Article. Regular examinations shall be given in the months of April and October of each year and additional examinations may be given at times the Board deems wise and necessary. Any person may demand in writing a special examination and upon payment by the applicant of the cost of holding the examination and the deposit of the amount of the annual license fee, the Board in its discretion will fix a time and place for the examination. ~~A person who fails to pass any examination shall not be reexamined until the next regular examination.~~"

Section 3. G.S. 87-60 reads as rewritten:

"**§ 87-60. Reissuance of revoked licenses; replacing lost or destroyed licenses.**

The Board may in its discretion reissue license to any person, firm or corporation whose license ~~may have been revoked: Provided, three or more members~~ was revoked if a majority of the Board ~~vote~~ votes in favor of such reissuance for reasons deemed sufficient by the Board. A new certificate of registration to replace any license which may be lost or destroyed may be issued subject to the rules and regulations of the Board."

Section 4. G.S. 87-62 reads as rewritten:

"**§ 87-62. Only one person in partnership or corporation need have license.**

(a) A corporation or partnership may engage in the business of refrigeration contracting ~~provided~~ if one or more persons connected with ~~such~~ the corporation or partnership is registered and licensed as herein ~~required; and provided such~~ required, and the licensed person ~~shall execute~~ executes all contracts, ~~exercise~~ exercises general supervision over the work done thereunder and ~~be~~ is responsible for compliance with all the provisions of this Article. The Board may determine the number of businesses and the proximity of the businesses one to another over which the licensed person may be responsible.

(b) For purposes of this section, the licensee's connection to the corporation or partnership shall be in the form of a written contract that is executed prior to the corporation or partnership engaging in refrigeration contracting.

(c) Nothing in this Article shall prohibit any employee from becoming licensed pursuant to the provisions thereof."

Section 5. G.S. 87-64 reads as rewritten:

"**§ 87-64. Examination and license fees; annual renewal.**

Each applicant for a license by examination shall pay to the Board of Refrigeration Examiners a nonrefundable examination fee in an amount not to exceed the sum of forty dollars ($40.00). In the event the applicant successfully passes ~~said~~ the examination, the examination fee ~~so paid~~ shall be applied to the license fee required of licensees for the current year in which the examination was taken and passed.

The license of every person licensed under the provisions of this statute shall be annually renewed. On or before November 1 of each year the Board shall cause to be mailed an application for renewal of license to every person who has received from the Board a license to engage in the refrigeration business, as heretofore defined. On or before January 1 of each year every licensed person who desires to continue in the refrigeration business shall forward to the Board a renewal fee in an amount not to exceed forty dollars ($40.00) together with the application for renewal. Upon receipt of the application and renewal fee the Board shall issue a renewal certificate for the current year. Failure to renew the license annually shall automatically result in a forfeiture of the right to engage in the refrigeration business. Any licensee who allows ~~his~~ the license to lapse may be reinstated by the Board upon payment of a fee not to exceed ~~forty-five dollars ($45.00); provided any~~ seventy-five dollars ($75.00). Any person who fails to renew ~~his~~ a license for two consecutive years shall be required to take and pass the examination prescribed by the Board for new applicants before being licensed to engage further in the refrigeration business."

Section 6. This act is effective when it becomes law.

North Carolina General Assembly
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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 supervision 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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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

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.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that:

(1) Some telephone systems operated by State government agencies require callers to proceed through several menus to finally reach an individual extension, an arrangement that can be intimidating to the caller;

(2) Many State telephone systems also make it difficult to reach an attendant or operator at the agency; and

(3) While automated telephone systems and voice mail are intended to improve the efficiency of government, the first duty of government is to serve the people, and efficiency should not impede the average citizen in attempting to contact a State agency for service or information.

Section 2. State agency telephone systems routing calls to multiple extensions shall be reprogrammed by September 1, 1997, to minimize the number of menus that a caller must go through to reach the desired extension, and to allow the

caller to reach an attendant or operator from the first menu when calling during normal business hours.

This act shall be implemented by State agencies with existing personnel at no additional cost to the State.

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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 531

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

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 Shirley
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

Short Title: Industrial Revenue Bond Changes. (Public)

Sponsors:

Referred to:

April 7, 1997

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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159C-6, as amended by S.L. 1997-111, reads as rewritten:

"**§ 159C-6. Bonds.**

Each authority is authorized to provide for the issuance, at one time or from time to time, of bonds of the authority for the purpose of paying all or any part of the cost of any project. The principal of, the interest on and any premium payable upon the redemption of such bonds shall be payable solely from the funds herein authorized for such payment. The bonds of each issue shall bear interest as may be determined by the Local Government Commission of North Carolina with the approval of the authority and the obligor irrespective of the limitations of G.S. 24-1.1, as amended, and successor provisions. The bonds of each issue shall be dated, shall mature at such time or times not exceeding ~~30 years from~~ 35 years after the date of their issuance, and may be made redeemable before maturity at such price or prices and under such terms and conditions, as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest. In case any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears on any bonds or coupons ~~shall cease~~ ceases to be ~~an~~

that officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the person had remained in office until such delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects, or a portion thereof, for which the bonds were issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the financing agreement and the security document. If the proceeds of the bonds of any issue, by reason of increased construction costs or error in estimates or otherwise, ~~shall be~~ are less than such cost, additional bonds may in like manner be issued to provide the amount of the deficiency.

The proceeds of bonds shall not be used to refinance the cost of a project. For the purposes of this section, a cost of a project is considered refinanced if both of the following conditions are met:

(1) The cost is initially paid from sources other than bond proceeds, and the original expenditure is to be reimbursed from bond proceeds.

(2) The original expenditure was paid more than 60 days before the authority took some action indicating its intent that the expenditure would be financed or reimbursed from bond proceeds.

However, preliminary expenditures that are incurred prior to the commencement of the acquisition, construction, or rehabilitation of a project, such as architectural costs, engineering costs, surveying costs, soil testing costs, bond issuance costs, and other similar costs, may be reimbursed from bond proceeds even if these costs are incurred or paid more than 60 days prior to the authority's action. This exception that allows preliminary expenditures to be reimbursed from bond proceeds, regardless of whether or not they are incurred or paid within 60 days of the authority's action, does not include costs that are incurred incident to the commencement of the construction of a project, such as expenditures for land acquisition and site preparation. In any event, an expenditure originally paid before the authority took some action indicating its intent that the expenditures would be financed or reimbursed from bond proceeds may only be reimbursed from bond proceeds if the authority finds that reimbursing those costs from bond proceeds will promote the purposes of this Chapter.

The authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The authority may also provide for the replacement of any bonds ~~which shall~~ that become mutilated or ~~shall be~~ are destroyed or lost.

Bonds may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of the State or of

any political subdivision or of any agency of ~~either thereof,~~ either, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Chapter and the provisions of the financing agreement and security document authorizing the issuance of such bonds and securing the same."

Section 2. G.S. 159C-7 reads as rewritten:

"**§ 159C-7. Approval of ~~project.~~ project by Secretary of Commerce.**

(a) Approval Required. -- No bonds may be issued by an authority unless the project for which ~~the issuance thereof~~ their issuance is proposed is first approved by the Secretary of Commerce. The authority shall file an application for approval of its proposed project with the Secretary of Commerce, and shall notify the Local Government Commission of such filing.

(b) Findings. -- The Secretary shall not approve any proposed project unless ~~he shall make~~ the Secretary makes all of the following, applicable findings:

(1) In the case of a proposed industrial project,

a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) ~~which~~ is above the average weekly manufacturing wage paid in the county, or (ii) ~~which~~ is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State, and

b. That the proposed project will not have a materially adverse effect on the ~~environment;~~ environment.

(2) In the case of a proposed pollution control project, that such project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise ~~occur; and~~ occur.

(2a) In the case of a hazardous waste facility or low-level radioactive waste facility ~~which~~ that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.

(3) In any case (whether the proposed project is an industrial or a pollution control project), except a pollution control project for a public utility,

a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,

b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and

c. That the financing of such project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations.

If the initial proposed operator of a project is not expected to be the operator for the term of the bonds proposed to be issued, the Secretary may make the findings required pursuant to subdivisions (1)a. and (3)b. only with respect to the initial operator. The initial operator shall be identified in the application for approval of the proposed project. ~~In no case shall the Secretary of Commerce~~

(c) Public Hearing. -- The Secretary of Commerce shall not approve any proposed project pursuant to this section unless the governing body of the county in which the project is located has first conducted a public hearing and, at or after the public hearing, approved in principle the issuance of bonds under this Chapter for the purpose of paying all or part of the cost of the proposed project. Notice of the public hearing shall be published at least once in at least one newspaper of general circulation in the county not less than 14 days before the public hearing. The notice shall describe generally the bonds proposed to be issued and the proposed project, including its general location, and any other information the governing body considers appropriate or the Secretary of Commerce prescribes for the purpose of providing the Secretary with the views of the community. The notice shall also state that following the public hearing the authority intends to file an application for approval of the proposed project with the Secretary of Commerce.

(d) Certificate of Department of Environment, Health, and Natural Resources. -- The Secretary of Commerce shall not make the findings required by subdivisions (1)b and (2) of this section unless ~~he shall have~~ the Secretary has first received a certification from the Department of Environment, Health, and Natural Resources that, in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on the environment and that, in the case of a proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur. ~~In no case shall the~~ The Secretary of Commerce shall not make the findings required by subdivision (2a) unless ~~he shall have~~ the Secretary has first received a certification from the Department of Environment, Health, and Natural Resources that the proposed project is environmentally sound, will not have an adverse effect on public health and will further the waste management goals of North Carolina. The Secretary of Commerce shall deliver a copy of the application to the Department of Environment, Health, and Natural Resources. The Department of Environment, Health, and Natural Resources shall provide each certification to the Secretary of Commerce within seven days after the applicant satisfactorily demonstrates to it that all permits, including environmental permits, necessary for the construction of the proposed project have been obtained, unless the authority consents to a longer period of time. ~~In any case where the Secretary shall make~~

(e) Waiver of Wage Requirement. -- If the Secretary of Commerce has made all of the required findings respecting a proposed industrial project except that prescribed in subparagraph (1)a of this section, the Secretary may, in ~~his~~ the Secretary's discretion, approve the proposed project if ~~he shall have~~ the Secretary has received (i) a resolution of the governing body of the county requesting that the proposed project be approved notwithstanding that the operator will not pay an average weekly manufacturing wage above the average weekly manufacturing wage in the county and (ii) a letter from an appropriate State official, selected by the Secretary, to the effect that unemployment in the county is especially severe.

(f) Rules. -- To facilitate ~~his~~ review of each proposed project, the Secretary may require the authority to obtain and submit such data and information about such project as the Secretary may prescribe. ~~In addition, the Secretary may, in his discretion, request the authority to hold a public hearing on the proposed project for the purpose of providing the Secretary directly with the views of the community to be affected.~~ The Secretary may also prescribe such forms and such rules ~~and regulations as he shall deem~~ as the Secretary considers reasonably necessary to implement the provisions of this section.

(g) Certificate of Approval. -- If the Secretary approves the proposed project, ~~he~~ the Secretary shall prepare a certificate of approval evidencing such approval and setting forth ~~his~~ the findings and shall cause ~~said~~ the certificate of approval to be published in a newspaper of general circulation within the county. Any such approval shall be reviewable as provided in Article 4 of Chapter 150B of the General Statutes of North Carolina only by an action filed, within 30 days after notice of such findings and approval shall have been so published, in the Superior Court of Wake County. ~~Such~~ The superior court is hereby vested with jurisdiction to hear such action, but if no such action is filed within the 30 days herein prescribed, the validity of such approval shall be conclusively presumed, and no court shall have authority to inquire into such approval. Copies of the certificate of approval of the proposed project will be given to the authority, the governing body of the county and the Secretary of the Local Government Commission.

~~Such~~ The certificate of approval shall become effective immediately following the expiration of ~~such~~ the 30-day period or the expiration of any appeal period after a final determination by any court of any action timely filed pursuant to this section. ~~Such~~ The certificate shall expire one year after its date unless extended by the Secretary who shall not extend ~~such~~ the certificate unless ~~he shall again approve~~ the Secretary again approves the proposed project as provided in this section. If bonds are issued within that year pursuant to the authorization of this Chapter to pay all or part of the costs of the project, however, the certificate shall expire three years after the date of the first issuance of the bonds."

Section 3. G.S. 159C-10 reads as rewritten:

"**§ 159C-10. Location of projects.**

Except as provided in this section, any project or projects of an authority shall be located within the boundaries of the county for which the authority was created. A portion or portions of any project including, but not limited to, any real or personal

property or improvements necessary or convenient for the construction, maintenance, and operation of the project, may be located in a county or counties other than the county in which the principal part of the project is located so long as the additional portion or portions constitute functionally appurtenant or incidental facilities and the governing body of each other county in which the additional portion or portions of the project is or are located approves the project. In addition, if a project or a group of related projects is located in two or more adjacent counties, the authority created for any one of the counties may issue bonds as provided in G.S. 159C-6 for the purpose of paying all or any part of the cost of the project or group of related projects if the following conditions are met:

(1) The board of commissioners of each county in which the project or group of related projects is located has consented.

(2) The governing body of the authority created for each county in which the project or group of related projects is located has consented.

(3) The bonds are issued in compliance with all other provisions of this Chapter."

Section 4. G.S. 159C-19(a) reads as rewritten:

"(a) Each authority is hereby authorized to provide by resolution for the issuance of refunding bonds of the authority for the purpose of refunding any bonds then outstanding ~~which shall~~ that have been issued under the provisions of this Chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the authority, for either or both of the following additional purposes:

(1) Constructing improvements, additions, extensions or enlargements of the project or projects in connection with which the bonds to be refunded ~~shall~~ have been issued, and

(2) Paying all or any part of the cost of any additional project or projects.

The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect to the same shall be governed by the provisions of this Chapter ~~which~~ that relate to the issuance of bonds, insofar as such provisions may be appropriate ~~therefor.~~ therefor, including that any such bonds may have a single maturity within the limit prescribed by G.S. 159C-6.

The approvals required by G.S. 159C-7 and 159C-8 shall be obtained prior to the issuance of any refunding bonds; provided, however, that in the case where the refunding bonds of all or a portion of an issue are to be issued solely for the purpose of refunding outstanding bonds issued under this Chapter, the approval required by G.S. 159C-7 shall not be required as to the project financed with the bonds to be refunded."

Section 5. This act is effective when it becomes law.

North Carolina General Assembly
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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

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE STUDY OF WAYS TO INCREASE RAIL SERVICE TO THE STATE'S PORTS AND ADJOINING COMMUNITIES, INCLUDING INCENTIVES FOR RAILROADS TO INCREASE SERVICE TO THE STATE'S PORTS.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission may study the issue of ways to increase rail service to the State ports at Wilmington and Morehead City and adjoining communities, including incentives to railroads to increase rail service to the State ports. The Commission may look at issues addressed in House Bill 257, First Edition, of the 1997 General Assembly. The study shall include at least the following:

(1) Ways to entice railroads to provide increased rail service to the State's ports at Morehead City and Wilmington, including increased services from Charlotte, Winston-Salem, Greensboro, Raleigh, Hamlet, and Wallace;

(2) The effect of incentives, including tax incentives, on rail service;

(3) Examination of what other states, including South Carolina, Virginia, Georgia, and Florida, have done to encourage and effect increased rail service to the ports and other state-owned economic development and trade areas in those states;

(4) The costs and benefits of the State ports operating rail lines, or transporting freight, to inland rail terminals and connections;

(5) Use of the North Carolina Railroad to increase rail service to the ports;

(6) Incentives and preferences now being granted to Class I railroads serving North Carolina, their parent, sister, subsidiary, or related companies in North Carolina;

(7) A comparison of incentives and preferences as set forth in subdivision (6) offered by other states, including the states set forth in subdivision (3); and

(8) The cost and effect (economic and otherwise) of North Carolina ports not having rail service commensurate to that of other states. This analysis should include the effect on statewide economic development, job creation, and tax revenues.

Section 2. The Legislative Research Commission may make an interim report to the 1997 General Assembly, 1998 Regular Session, and shall make a final report to the 1999 General Assembly.

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

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

JULY 9, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Catherine Davis	ElectriCities of NC.
[illegible]	JP Dessoc.
Amy Tindall	Hunton & Williams
Nancy Bradley	NCCBA
Brendal Dougherty	Sprint
KEITH TON POPER	DARPA
Laura Hartsell	MCIC
[illegible]	NCPC
R L Smith	NCJEDC
Adam Searcy	NCDAC
[illegible]	Sec. of State
Bernard Allen	Secy of State
[illegible]	Allen + Pinnix
[illegible]	St. Bar Association
[illegible]	St Bd. of Education Ex.
James ANDREWS	NC State AFL-CIO
[illegible]	IHL
VL McBride	NCDA
SCOTT LASSITER	CITY TRANSFER & STG. W.
Donald Taylor	ARC Music & Sr. Greenville
E.L. Peters	NC Trucking Association
Pat Yancey	SCSL
Linda Simmons	DOC Equity
Sonia Schmidt	NCJEDC
Tom Thom	[illegible]
Chad Simon	DOT
[illegible]	

VISITOR REGISTRATION SHEET

COMMERCE — Name of Committee

JULY 9, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
GILBERT ALLIGOOD	DOCTOR of the DAY
Curt Williams	Hall's Office
Angie Harris	Commerce
Rick Culosh	"
Lynn Hormes	Bell South
Bob Sherman	NC Forestry Assoc.
[illegible]	Mann & Van Alen

1997

HOUSE COMMERCE – BUSINESS & LABOR

MINUTES

1997-1998 Session

COMMERCE/Business & Labor Subcommittee

Representative Don Davis, Chairman

HOUSE SUBCOMMITTEE ON BUSINESS & LABOR
1997-98 SESSION

MEMBER (Clerk)	TEL	OFFICE	SEAT
Donald Davis, Chairman Audrey Johnson	5-3003	419-C	89
Martha Alexander Margy Blackmon	3-5605	1209	34
Rex Baker Jo Hinton	3-5787	632	50
Daniel Blue Lin Threatt	5-2528	1227	80
Joanne Bowie Sharon Gaudette	3-5853	1206	26
Flossie Boyd-McIntyre Angel Artis	3-5905	507	84
Robert Brawley Bonnie Trivette	3-5931	513	3
Billy Creech Betty Anne Lennon	3-5829	635	42
Ruth Easterling Judy Willis	3-5786	606	79
Wayne Goodwin Ann Smith	3-4838	502	111
Dewey Hill Ginny McCann	3-5830	1309	21
Mia Morris Monty Floyd	3-5741	1315	99
John Rayfield Karen George	5-3009	418-C	97
David Redwine Katie Shull	3-4948	1211	117
Drew Saunders Ruth Fish	3-5530	1017	110
Wilma Sherrill Rosa Kelley	3-5601	2215	51
Gene Wilson Rebecca Jones	3-7727	1109	52
Bill Gilkeson, research	3-2578	545	
Karen Cochrane-Brown, research	3-2578	545	

CHAIRMAN

Donald Spencer Davis

Martha Bedell Alexander

Rex L. Baker

Daniel T. Blue, Jr.

Joanne W. Bowie

Flossie Boyd-McIntyre

C. Robert Brawley

Billy James Creech

Ruth M. Easterling

Wayne Goodwin

Dewey L. Hill

Mia Morris

John M. Rayfield

E. David Redwine

Drew P. Saunders

Wilma M. Sherrill

Gene Wilson

David Miner

Cherie Killian Berry

Walter Church, Sr.

William S. Hiatt

Timothy N. Tallent

STANDING CHAIRS

N. Leo Daughtry

Julia Craven Howard

Stephen Wood

EX OFFICIO

ATTENDANCE

HOUSE COMMITTEE ON BUSINESS & LABOR

(Name of Committee)

DATES	2/26	4/9	4/16	5/2											
DAVIS, Chairman	✓	✓	✓	✓											
ALEXANDER	✓	✓	✓	✓											
BAKER	✓	✓	✓												
BLUE		✓	✓	✓											
BOWIE	✓	✓	✓												
BOYD MCINTYRE	✓	✓	✓												
BRAWLEY	✓	✓	✓	✓											
CREECH	✓	✓													
EASTERLING	✓	✓	✓	✓											
GOODWIN	✓	✓	✓												
HILL		✓	✓	✓											
MORRIS	✓	✓	✓	✓											
RAYFIELD	✓	✓	✓	✓											
REDWINE	✓	✓													
SAUNDERS	✓	✓	✓	✓											
SHERRILL	✓		✓												
WILSON, G.	✓	✓		✓											
HIATT	✓	✓	✓	✓											
DAUGHTRY															
HOWARD															
WOOD															

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1997-98 Regular Session — HOUSE: COMMERCE--BUSINESS AND LABOR — Valid Through 7-AUG-1997

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 27=	THOMPSON	INCREASE PENALTY/PYRAMID SCHEMES	*S -RE-REF COM ON APPROPR	02-04-97	04-23-97
H 41=	DAVIS D	DOWNTOWN LOAN GUARANTEE FUND	H -REPTD TO COMM	02-05-97	
H 45=	DAVIS D	BUILDING CODE COUNCIL MEMBERSHIP	H -REPTD TO COMM	02-05-97	
H 46=	DAVIS D	HOUSING TRUST FUND/DOWNTOWNS	H -REF TO COM ON COMM-B&L	02-05-97	
H 48=	DAVIS D	DOWNTOWN DATABASE	H -REPTD TO COMM	02-05-97	
H 49=	**DAVIS D**	**BUILDING CODE TRAINING FUNDS**	**H -REPTD TO COMM**	**02-05-97**	
H 499	THOMPSON	GIS RECORD EXCEPTION	*R -CH. SL 97-0193	04-03-97	04-09-97
H1173=	DEDMON	CONSTRUCTION WORKER TRAINING CREDIT	H -ASSIGNED TO COMM-B&L	05-15-97	
S 486=	LUCAS	CLARIFY FOOD ESTAB. DEFINITION	*H -REPTD TO COMM	05-28-97	06-05-97

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.

HOUSE COMMERCE COMMITTEE
Subcommittee on Business and Labor
Minutes
February 26, 1997

The Subcommittee on Business and Labor of the Standing Committee on Commerce met on February 26, 1997 in Room 425, Legislative Office Building. The following members were present: Representative Davis, Subcommittee Chairman, Representative Hiatt, Commerce Committee Cochairman, and Representatives Alexander, Baker, Bowie, Boyd-McIntyre, Brawley, Creech, Easterling, Goodwin, Morris, Rayfield, Redwine, Saunders, Sherrill, G. Wilson.

Representative Davis called the meeting to order at 11:00 a.m. and asked the Committee Members to introduce themselves and give a brief history of his or her business and labor background. Representative Davis then introduced staff: Bill Gilkeson, staff attorney, Karen Cochrane-Brown, staff attorney, Beth Farr, sergeant at arms, Audrey Johnson, committee clerk.

House Bill 48 - DOWNTOWN DATABASE-was before the committee for consideration. Representative Hiatt presided for Representative Davis, bill sponsor, to explain the bill. He explained that House Bill 48 was recommended by the Downtown Revitalization Study Committee. It would require the Department of Commerce to maintain a computerized database of properties in downtown areas which are available for industrial recruitment. The information would be available to the public, particularly to industry and local governments.

Representative Redwine offered an amendment that would make the information available to regional economic development partnerships, and moved for its adoption. Motion carried.

Several members expressed concern that the bill would benefit larger cities and not smaller towns. After committee discussion, Representative Bowie moved to give House Bill 48 a favorable recommendation , as amended. A voice vote was taken and the chair announced that the "yeas' appear to have the majority. Division was called and the vote was seven (yes) to six (no), motion carried. House Bill 48 was reported back to the Standing Committee on Commerce .

The meeting adjourned at 10:50 a.m.

Representative Don Davis, Chairman

Audrey Johnson, Committee Clerk

House Sub-Committee Business & Labor

Agenda
February 26, 1997
Room 425 LOB
10:00 AM

OPENING REMARKS
Representative Davis, Chairman

INTRODUCTIONS

BILLS TO BE CONSIDERED
House Bill 48 Downtown Database
Sponsor Representative Davis

ADJOURNMENT

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Davis** for the Permanent Subcommittee on **Business and Labor** of the Standing Committee on **COMMERCE** .

☐ Committee Substitute for
H.B. 48 ☒A BILL TO BE ENTITLED AN ACT TO REQUIRE THE DEPARTMENT OF COMMERCE TO MAINTAIN A DATABASE OF DOWNTOWN PROPERTIES AVAILABLE FOR INDUSTRIAL RECRUITMENT.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

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

☒ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a unfavorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

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

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF COMMERCE TO MAINTAIN A DATABASE OF DOWNTOWN PROPERTIES AVAILABLE FOR INDUSTRIAL RECRUITMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-431 is amended by adding a new subsection (c1) to read:

"(c1) The Department of Commerce shall maintain a computerized database of downtown properties available for industrial recruitment and shall make information contained in the database available to the public including industry, municipalities, and counties."

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page _____, line _____

( ) WHICH CHANGES THE TITLE

by _____

by rewriting the line to read:

counties, and regional economic development partnerships."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

COMMITTEE CLERK

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
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(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
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Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
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300 N. Salisbury St.
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Donald W. Fulford, Director
Information Systems Division
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Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sulliv
Research Division
Suite 545, LOB
300 N. Salisbury S
Raleigh, NC 2760
(919) 733-2578

February 25, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, House Business and Labor Sub-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 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.

This act would become effective July 1, 1997.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

VISITOR REGISTRATION SHEET

Business & Labor — Name of Committee

February 26, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Angie Harris	Commerce
Bill Faulkner	Downtown Durham Inc
RAY GIBBS	DOWNTOWN SMITHFIELD DEV CORP
Mike Carpenter	NCHSA
Natalie Haskins	Charlotte Chamber
Dale Mundt	
Gene Upchurch	
Curtis	
MILLICAN	NC STATE AFL-CIO
Chris Scott	NC AFL-CIO
Lu-Ann Cole	HSI
Billy Herring	HSI

SPEAKER SIGN UP SHEET

NAME	EMPLOYER
Angie Harris	Commerce

HOUSE COMMERCE COMMITTEE
Subcommittee on Business and Labor
Minutes
April 9, 1997

The Subcommittee on Business and Labor of the Standing Committee on Commerce met on April 9, 1997 in Room 425, Legislative Office Building. The following members were present: Representative Davis, Subcommittee Chairman, Representative Hiatt, Commerce Committee Cochairman, and Representatives Alexander, Baker, Blue, Bowie, Boyd-McIntyre, Brawley, Creech, Easterling, Goodwin, Goodwin, Morris, Rayfield, Redwine, Saunders, G. Wilson. Representative Davis called the meeting to order at 10:00 a.m.

HB 499 - GIS RECORD EXEMPTION - was before the committee for consideration. Representative Thompson, the bill sponsor, was introduced to explain the bill. Representative Brawley moved to give HB 499 a favorable recommendation. Representative Baker had a question about resale. A voice vote was taken and the bill passed with a favorable recommendation and that it be re-referred to Judiciary I.

HB 27 - INCREASE PENALTY/PYRAMID SCHEMES was taken up next. Representative Thompson was the sponsor for this bill. Two representatives from the Attorney General's Office were present to answer questions. Representative Alexander moved for a favorable report. A voice vote was taken and HB 27 passed with afavorable recommendation and reported back to the Standing Committee on Commerce.

HB 41 - DOWNTOWN LOAN GUARANTEE FUND was the next bill on the agenda. Representative Hiatt presided for Representative Davis, bill sponsor, to explain the bill. A representative from Downtown Smithfield Development Corporation was present to answer questions. One concern expressed was if there was a default on the loan, who would be responsible for the risk, the state or the bank. Staff counsel, Karen Cockrane Brown, explained the bill in detail. Another concern was that once the business was established that it would upgrade to a larger mall and move out of the downtown areas. It was explained that the rental by square foot was substantially higher at malls vs. the downtown areas making it unfeasible for most small businesses to move out. Representative Hill moved for a favorable recommendation. A voice vote was taken and HB 41 passed with a favorable recommendation and was reported back to the Standing Committee on Commerce.

The meeting adjourned at 10:50 a.m.

Respectfully submitted,

Representative Don Davis, Chairman

Audrey Johnson, Committee Clerk

AGENDA

COMMERCE/Business & Labor Subcommittee

April 9, 1997
ROOM 425 LOB
10:00 AM

CALL TO ORDER Chairman Davis

BILLS TO BE CONSIDERED

HB 499	GIS Record Exemption	Rep. Thompson
HB 41	Downtown Loan Guarantee Fund	Rep Davis
HB 27	Increase Penalty/Pyramid Schemes	Rep. Thompson

ADJOURMENT

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Davis** for the Permanent Subcommittee on **Business and Labor** of the Standing Committee on **COMMERCE** .

☐ Committee Substitute for
H.B. 499 ☐A BILL TO BE ENTITLED AN ACT RELATING TO THE USE OF GEOGRAPHICAL INFORMATION SYSTEM DATABASE INFORMATION BY REAL ESTATE TRADE ASSOCIATIONS.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

☒ With a favorable recommendation and recommend that the bill be re-referred to the Committee on **JUDICIARY I .**

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 499

Short Title: GIS Record Exception. (Public)

Sponsors: Representatives Thompson; Boyd-McIntyre, Buchanan, Davis, Decker, Dedmon, Hill, Howard, Miner, Nichols, Sherrill, Tallent, and C. Wilson.

Referred to: Commerce, if favorable, Judiciary I.

March 11, 1997

A BILL TO BE ENTITLED

AN ACT RELATING TO THE USE OF GEOGRAPHICAL INFORMATION SYSTEM DATABASE INFORMATION BY REAL ESTATE TRADE ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 132-10 reads as rewritten:

"**§ 132-10. Qualified exception for geographical information systems.**

Geographical information systems databases and data files developed and operated by counties and cities are public records within the meaning of this Chapter. The county or city shall provide public access to such systems by public access terminals or other output devices. Upon request, the county or city shall furnish copies, in documentary or electronic form, to anyone requesting them at reasonable cost. As a condition of furnishing an electronic copy, whether on magnetic tape, magnetic disk, compact disk, or photo-optical device, a county or city may require that the person obtaining the copy agree in writing that the copy will not be resold or otherwise used for trade or commercial purposes. For purposes of this section, publication or broadcast by the news ~~media~~ media, real estate trade associations, or Multiple Listing Services operated by real estate trade associations shall not constitute a resale or use of the data for trade or commercial purposes and use of information without resale by a licensed professional in the course of practicing the professional's profession shall not constitute use for a commercial purpose."

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

North Carolina General Assembly
Legislative Services Office

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

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
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Donald W. Fulford, Director
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(919) 733-6834

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

April 9, 1997

MEMORANDUM

TO: Representative Don Davis, Chair, House Commerce Subcommittee on Business and Labor

FROM: Karen Cochrane-Brown and O. Walker Reagan, House Commerce Committee Co-Counsel

RE: **HOUSE BILL 499 - GIS RECORD EXEMPTION** - Representative Thompson

House Bill 499 would add another exemption to the general prohibition against reselling or otherwise using for trade or commercial purposes, geographical information developed by counties and cities, to allow resale of this data by real estate trade associations and multiple listing services.

G.S. 132-10 was added to the public records law in 1995. This statute makes the geographic information systems databases and data files developed and operated by counties and cities public records and requires that the public have access to public terminals to retrieve the information contained in these databases. Under this statute when a person requests an electronic copy of the database the person must agree in writing that the copy will not be resold or otherwise used for trade or commercial purposes. The statute makes an exception from this requirement that publication or broadcast by the news media does not constitute resale, trade or commercial use. The statute also currently makes clear that use of the data by a licensed professional in the course of practicing the professional's profession is not use for a commercial purpose.

This bill adds real estate trade associations and multiple listing services to the news media as entities that may resale this information.

The bill would become effective when it becomes law.

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

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Davis** for the Permanent Subcommittee on **Business and Labor** of the Standing Committee on **COMMERCE** .

☐ Committee Substitute for

H.B. 41 ☐A BILL TO BE ENTITLED AN ACT TO CREATE A DOWNTOWN LOAN GUARANTEE FUND THAT WILL GUARANTEE TWENTY-FIVE PERCENT OF ELIGIBLE LOANS MADE BY PARTICIPATING LENDING INSTITUTIONS FOR DOWNTOWN DEVELOPMENT.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☒ With a favorable recommendation.

☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 41

Short Title: Downtown Loan Guarantee Fund. (Public)

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

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

February 5, 1997

A BILL TO BE ENTITLED

AN ACT TO CREATE A DOWNTOWN LOAN GUARANTEE FUND THAT WILL GUARANTEE TWENTY-FIVE PERCENT OF ELIGIBLE LOANS MADE BY PARTICIPATING LENDING INSTITUTIONS FOR DOWNTOWN DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 16. Downtown Loan Guarantee Program.

"§ 143B-472.40. Purpose and intent.

(a) Downtown Loan Guarantee Fund. -- The Downtown Loan Guarantee Fund is created as a special revenue fund. Revenue in the Fund does not revert at the end of a fiscal year, and interest and other investment income earned by the Fund accrues to the Fund. The Department of Commerce shall administer the Fund or may contract for the administration of the Fund.

(b) Downtown Loan Guarantee Program. -- The Fund shall be used to guarantee a private loan made by a federally insured lending institution for downtown economic development. The guarantee may not exceed twenty-five percent (25%) of the amount of the unpaid balance of the loan or one hundred twenty-five thousand dollars ($125,000), whichever is less. The loan proceeds must be used for building purchase or rehabilitation. The term of the loan may not exceed 20 years and must be callable at up to seven years. The loan applicant must invest equity of at least ten

percent (10%) of the project amount. The Fund shall charge a fee of one percent (1%) of the guaranteed amount of a loan.

(c) Defined Downtown Area. -- Local municipalities shall define, for purposes of this Fund, the boundaries of the 'downtown area' qualified for loan guarantees. The local government body must adopt a map showing the downtown boundaries and the map must be certified by the municipal clerk.

(d) Application for Loan Guarantee. -- A participating lender may apply to the Department of Commerce for a loan guarantee on behalf of a loan applicant. The application must include the following:

(1) Borrower's name.
(2) Borrower's address and business address, if it is different.
(3) Loan amount.
(4) Terms of the loan.
(5) Purpose of the loan.
(6) A copy of a certified map showing the downtown boundaries of the city in which the borrower's business is located and the location of the business on the map.

(e) Loan Guarantee Approvals. -- All guarantees must be approved by the Department of Commerce. The approval must be based on the location of the business in a designated downtown area. The total amount of guarantees issued may not exceed three times the amount of money in the Fund. The Department may not pledge any money other than money in the Fund for payment of a loss. No action by the Department constitutes the creation of a debt secured by a pledge of the taxing power or of the faith and credit of the State or any of its political subdivisions. The face of each guarantee issued must contain a statement that the Department is obligated to pay the guarantee only from the revenue in the Fund and that neither the taxing power nor the faith and credit of the State or any of its political subdivisions is pledged in payment of the guarantee.

(f) Disbursements. -- The Department of Commerce shall pay a participating lender the amount owed under a guarantee on a defaulted loan upon certification of the lender that all collateral for that loan that can be reasonably liquidated has been liquidated."

Section 2. There is appropriated from the General Fund to the Downtown Loan Guarantee Fund, created by this act, the sum of five million dollars ($5,000,0000) for the 1997-98 fiscal year.

Section 3. This act becomes effective July 1, 1997.

North Carolina General Assembly
Legislative Services Office

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April 9, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, Business and Labor Subcommittee

FROM: Karen Cochrane Brown, Committee Counsel

RE: **House Bill 41 - Downtown Loan Guarantee Fund.**

House Bill 41 is a recommendation of the LRC Downtown Revitalization Study Committee. The bill establishes a fund to provide a 25% guarantee for loans made by federally insured lending institutions to a person investing in a downtown property or business.

The bill provides that the guarantee may not exceed 25% of the amount of the unpaid balance of the loan or $125,000, whichever is less. The loan must be used for building purchase or renovation in a downtown area and the loan applicant must invest equity of at least 10% of the project amount. The term of the loan cannot exceed 20 years and it must be callable at up to seven years. A fee of one percent of the guaranteed amount of the loan would be charged by the Fund. The lending institution may apply for the guarantee on behalf of the applicant and must include a certified map of the downtown boundaries as determined by the local governing body.

The application would need to be approved by the Department of Commerce. The only basis upon which the guarantee can be approved is that it is located in a downtown area. The total amount of guarantees cannot exceed three times the amount of money in the fund and the Department of Commerce cannot create a debt secured by the taxing power or the faith and credit of the State.

Money from the fund would be dispersed only in the event of a loan default. In order to receive the guarantee on default of the loan, the lender must certify that all collateral that can be reasonably liquidated has been liquidated. The bill appropriates $5,000,000 to the fund for the 1997-98 fiscal year.

The act would become effective July 1, 1997.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Davis** for the Permanent Subcommittee on **Business & Labor** of the Standing Committee on **COMMERCE** .

☐ Committee Substitute for
H.B. 27 ☐A BILL TO BE ENTITLED AN ACT TO INCREASE THE PENALTY FOR THE ESTABLISHMENT OF PYRAMID DISTRIBUTION PLANS.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

x With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 27*

Short Title: Increase Penalty/Pyramid Schemes. (Public)

Sponsors: Representatives Thompson, Beall, Cunningham, Preston, Rayfield; Hill, Hardy, and Weatherly.

Referred to: Commerce Subcommittee on Business and Labor, if favorable, Judiciary II.

February 4, 1997

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTY FOR THE ESTABLISHMENT OF PYRAMID DISTRIBUTION PLANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-291.2 reads as rewritten:

"**§ 14-291.2. Pyramid and chain schemes prohibited.**

(a) ~~Any~~ No person ~~who~~ shall establish, ~~promote, operate or participate in~~ operate, participate in, or otherwise promote any pyramid distribution plan, program, device or scheme whereby a participant pays a valuable consideration for the opportunity or chance to receive a fee or compensation upon the introduction of other participants into the program, whether or not such opportunity or chance is received in conjunction with the purchase of ~~merchandise, shall be deemed to have participated~~ merchandise. A person who establishes or operates a pyramid distribution plan is guilty of a Class H felony. A person who participates in or otherwise promotes a pyramid distribution plan is deemed to participate in a lottery and ~~shall be~~ is guilty of a Class 2 misdemeanor.

(b) 'Pyramid distribution plan' means any program utilizing a pyramid or chain process by which a participant gives a valuable consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program; and

'Compensation' does not mean payment based on sales of goods or services to persons who are not participants in the scheme, and who are not purchasing in order to participate in the ~~scheme; and~~ scheme.

~~'Promotes' shall mean inducing one or more other persons to become a participant.~~

(c) Any judge of the superior court shall have jurisdiction, upon petition by the Attorney General of North Carolina or district attorney of the superior court, to enjoin, as an unfair or deceptive trade practice, the continuation of the scheme described in subsection (a); in such proceeding the court may assess civil penalties and attorneys' fees to the Attorney General or the District Attorney pursuant to G.S. 75-15.2 and 75-16.1; and the court may appoint a receiver to secure and distribute assets obtained by any defendant through participation in any such scheme.

(d) Any contract hereafter created for which a part of the consideration consisted of the opportunity or chance to participate in a program described in subsection (a) is hereby declared to be contrary to public policy and therefore void and unenforceable."

Section 2. This act is effective when it becomes law and applies to offenses committed on and after that date.

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April 8, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, Business and Labor Sub-Committee

FROM: Karen Cochrane Brown, Committee Counsel

RE: **House Bill 27 - INCREASE PENALTY/PYRAMID SCHEMES**

House Bill 27 is a recommendation of the LRC Consumer Protection Issues Committee. It would increase the penalty for establishing or operating a pyramid distribution plan. A pyramid distribution plan is defined as a pyramid or chain process by which a participant gives consideration for the opportunity to receive compensation for inducing others to become participants in the program, but compensation, in this case, does not include payments for the sale of goods or services to third parties who are not participants in the program and are not purchasing in order to participate in it.

Under current law, it is a Class 2 misdemeanor to establish, promote, operate or participate in any pyramid distribution plan. The bill would create two classes of offenses. The first makes it a Class H felony to establish or operate a pyramid distribution plan. Under the second class, the penalty for participating in or otherwise promoting such a plan remains a Class 2 misdemeanor.

The bill also deletes the definition of "promotes". The study committee found that the definition is not needed because it does nothing to clarify the offense. Promotion is an activity that is inherent in the establishment and operation of pyramid schemes, as well as in the participation of the scheme as an investor.

The bill would become effective when it becomes law and apply to offenses occurring on or after that date.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

SPEAKER SIGN UP SHEET
COMMERCE/Business & Labor
April 9, 1997

NAME	EMPLOYER
Justice Jenning	A.G.
Jane P. Gray	Attorney General's Office
Ray Gibbs	North Carolina Downtown Dev. Assoc.

VISITOR REGISTRATION SHEET

Business & Labor — April 9, 1997

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sherron Hampton	Triangle MLS - RTP, NC
Jim	NC Association of REALTORS, Inc.
Randy Herman	North Carolina Downtown Dev. Assoc
Ray Gibbs	North Carolina Downtown Dev. Assoc & Downtown Smithfield Dev. Corp
Kristie Fanning	Consumer Protection
Edna Sykes	NC Gen. Assembly clerk
Amy Tenburen	Hunton & Williams
Jim Blackburn	Assoc of County Commissioners
Don McLaughlin	NC Retail Merchants
	NCTA
Emery P. Dalesio	The Associated Press
Jane O. Gray	DOJ
Ellen Hirsch	Atty Gen's Office
Mary L. Carmichael	Mecklenburg County

HOUSE COMMERCE COMMITTEE
Subcommittee on Business and Labor
Minutes
April 16, 1997

The Subcommittee on Business and Labor of the Standing Committee on Commerce met on April 16, 1997 in Room 425, Legislative Office Building. The following members were present: Representative Davis, Subcommittee Chairman, Representative Hiatt, Commerce Committee Cochairman, and Representatives Alexander, Baker, Blue, Bowie, Boyd-McIntyre, Brawley, Easterling, Goodwin, Goodwin, Morris, Rayfield, Saunders, Sherrill. Representative Davis called the meeting to order at 10:00 a.m.

HB 45 Membership/Building Code Council was before the Committee for consideration. Representative Baker presided for Representative Davis, the bill sponsor. Representative Davis explained the bill. An amendment was offered by Davis deleting 3 words from line 8-9. Representative Alexander moved to adopt the amendment. The amendment passed. Rep. Davis asked for a favorable recommendation as to the proposed committee substitute, unfavorable to original bill. The bill passed an was re-referred back to the Standing Committee on Commerce.

HB 49 Building Code Officials/ Training was taken up next. This was also Representative Davis' bill and Representative Hiatt presided for him on this bill. A question was asked about how much money it would cost to train the officials. A fiscal note was requested. A motion for a favorable report was called by Representative Brawley and by voice vote the bill passed with a favorable recommendation back to the Standing Committee on Commerce.

The meeting adjourned at 10:50 a.m.

Respectfully submitted,

Representative Don Davis, Chairman

Audrey Johnson, Committee Clerk

AGENDA

COMMERCE/Business & Labor Subcommittee

April 16, 1997
ROOM 425 LOB
10:00 AM

CALL TO ORDER **Chairman Davis**

BILLS TO BE CONSIDERED

HB 45 Membership/Building Code Council
Rep. Davis

HB 49 Building Code Officials/Training
Rep. Davis

ADJOURMENT

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Davis** for the Permanent Subcommittee on **Business & Labor** of the Standing Committee on **COMMERCE** .

☐ Committee Substitute for
H.B. 45 ☐A BILL TO BE ENTITLED AN ACT TO ADD A DOWNTOWN DEVELOPMENT REPRESENTATIVE TO THE MEMBERSHIP OF THE BUILDING CODE COUNCIL.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

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

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 45
Proposed Committee Substitute H45-PCS8184

Short Title: Membership/Building Code Council. (Public)

Sponsors:

Referred to:

February 5, 1997

A BILL TO BE ENTITLED

AN ACT TO ADD A DOWNTOWN DEVELOPMENT REPRESENTATIVE TO THE MEMBERSHIP OF THE BUILDING CODE COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-136(a) reads as rewritten:

"(a) Creation; Membership; Terms. -- There is hereby created a Building Code Council, which shall be composed of ~~15~~ 16 members appointed by the Governor, consisting of one registered architect, one licensed general contractor, one ~~registered architect or~~ licensed general contractor specializing in residential design or construction, one registered engineer practicing structural engineering, one registered engineer practicing mechanical engineering, one registered engineer practicing electrical engineering, one licensed plumbing and heating contractor, one municipal or county building inspector, one licensed liquid petroleum gas dealer/contractor involved in the design of natural and liquid petroleum gas systems who has expertise and experience in natural and liquid petroleum gas piping, venting and appliances, a representative of the public who is not a member of the building construction industry, a licensed electrical contractor, a registered engineer on the engineering staff of a State agency charged with approval of plans of State-owned buildings, a municipal elected official or city manager, a county commissioner or county manager, a representative of a downtown development group or association, and an active member of the North Carolina fire service with expertise in fire safety. In selecting the municipal and county members, preference should be given to members who qualify as either a registered architect, registered engineer, or licensed general

contractor. Of the members initially appointed by the Governor, three shall serve for terms of two years each, three shall serve for terms of four years each, and three shall serve for terms of six years each. Thereafter, all appointments shall be for terms of six years. The Governor may remove appointive members at any time. Neither the architect nor any of the above named engineers shall be engaged in the manufacture, promotion or sale of any building material, and any member who shall, during his term, cease to meet the qualifications for original appointment (through ceasing to be a practicing member of the profession indicated or otherwise) shall thereby forfeit his membership on the Council. In making new appointments or filling vacancies, the Governor shall ensure that minorities and women are represented on the Council.

The Governor may make appointments to fill the unexpired portions of any terms vacated by reason of death, resignation, or removal from office. In making such appointment, he shall preserve the composition of the Council required above."

Section 2. This act becomes effective October 1, 1997.

North Carolina General Assembly
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April 16, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, Business and Labor Subcommittee

FROM: Karen Cochrane Brown, Committee Counsel

RE: **House Bill 45 - Membership/Building Code Council.**

House Bill 45 is a recommendation of the LRC Downtown Revitalization Study Committee. It increases the membership of the North Carolina Building Code Council from 15 to 16 and provides that the new member will be a representative of a downtown development group or association. All member of the Building Code Council are appointed by the Governor.

This act would become effective October 1, 1997.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Davis** for the Permanent Subcommittee on **Business & Labor** of the Standing Committee on **COMMERCE** .

☐ Committee Substitute for
H.B. 49 ☐A BILL TO BE ENTITLED AN ACT TO PROVIDE TRAINING FOR BUILDING CODE ENFORCEMENT OFFICIALS IN THE INSPECTION AND REVIEW OF EXISTING BUILDINGS AND HISTORIC STRUCTURES.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

x With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 49

Short Title: Building Code Officials/Training. (Public)

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

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

February 5, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TRAINING FOR BUILDING CODE ENFORCEMENT OFFICIALS IN THE INSPECTION AND REVIEW OF EXISTING BUILDINGS AND HISTORIC STRUCTURES.

The General Assembly of North Carolina enacts:

Section 1. The Department of Insurance, Engineering Division, shall conduct training of Code-enforcement officials in the renovation of old and historic structures, federal standards imposed for rehabilitation of historic buildings, and the use of Volume IX of the North Carolina Building Code dealing with existing buildings.

Section 2. There is appropriated from the General Fund to the Department of Insurance, Engineering Division, the sum of twenty-five thousand dollars ($25,000) for the 1997-98 fiscal year and the sum of twenty-five thousand dollars ($25,000) for the 1998-99 fiscal year to implement the provisions of this act.

Section 3. This act becomes effective July 1, 1997.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 49 (First Edition)

SHORT TITLE: Building Code Officials/Training

SPONSOR(S): Reps. Davis, *et al.*

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02
REVENUES	**0**	**0**	**0**	**0**	**0**
EXPENDITURES	$25,000	$25,000	$25,000	$25,000	$25,000
POSITIONS:	**0**	**0**	**0**	**0**	**0**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Insurance, Safety Services Group, Engineering Division

EFFECTIVE DATE: July 1, 1997

BILL SUMMARY: Appropriates $25,000 for 1997-98 and $25,000 for 1998-99 from General Fund to Dep't of Insurance, Engineering Division, for training of code enforcement officials concerning renovation of old and historic structures, federal standards that apply to the rehabilitation of historic buildings, and the use of volume IX of the State Building Code dealing with existing buildings.[1]

[1] Legislative Reporting Service, Institute of Government: "Daily Bulletin," Vol. 1997, No. 5, p. 3.

ASSUMPTIONS AND METHODOLOGY: Assumes that all 800 building inspectors will take the training each year. Assumes that the Building Code will continue to be revised annually, thus necessitating new training annually. Assumes training will be delivered to 8 classes of 100 trainees each year. Assumes three trainers per class; classes at various locations statewide.

Class costs (space, materials, registration & postage)	$ 7,200
Instructional costs (Salaries, travel and subsistence)	15,750
10 % Contingencies	2,295
Total	25,245 ~ $25,000

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: **William L. Spencer**
APPROVED BY: Tom L. Covington **TomC**
DATE: April 16, 1997

North Carolina General Assembly
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April 16, 1997

MEMORANDUM

TO: Representative Don Davis, Chairman, Business and Labor Subcommittee

FROM: Karen Cochrane Brown, Committee Counsel

RE: **House Bill 49 - Building Code Officials/Training.**

House Bill 49 directs the Engineering Division of the Department of Insurance to conduct training of Code enforcement officials in the renovation of old and historic structures, federal requirements for rehabilitation of historic structures, and the use of Volume IX of the North Carolina Building Code dealing with existing buildings.

This bill is a recommendation of the LRC Downtown Revitalization Study Committee. The Committee noted that the North Carolina Building Code Council recently approved a new Code section dealing specifically with existing buildings, Volume IX. However, many Code-enforcement officials are either unaware or lack a basic understanding of this section. Also, Code-enforcement officials across the State are often unaware of federal standards imposed for the rehabilitation of structures designated as "historic". The Committee further found that this lack of understanding creates confusion and needless delay and discourages the renovation and rehabilitation of many downtown structures, and that training of these officials in these specific areas is necessary to encourage downtown revitalization.

Section 2 of the bill appropriates $25,000 to the Department of Insurance for each of the next two fiscal years to conduct the training. This figure provides for the training of all 800 building inspectors across the State.

This act would become effective July 1, 1997.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

SPEAKER SIGN UP SHEET (Sign Name)

April 16, 1997

RAY GIBBS, VICE-PRESIDENT, N.C. DOWNTOWN DEVELOPMENT ASSOCIATION

VISITOR REGISTRATION SHEET

Business & Labor April 16, 1997

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
RAY GIBBS	N.C. DOWNTOWN DEV. ASSOC / DOWNTOWN SMITHFIELD DEV. CORP.
Mike Carpenter	NCCBA
Paul Wilkins	NCCBA
Sandra Long	Porter Wheel
Bob Lucas	NC Housing Finance Agency

HOUSE COMMERCE COMMITTEE
Subcommittee on Business and Labor
Minutes
June 4, 1997

The Subcommittee on Business and Labor of the Standing Committee on Commerce met on June 4, 1997 in Room 425, Legislative Office Building. The following members were present: Representative Davis, Subcommittee Chairman, Representative Hiatt, Commerce Committee Cochairman, and Representatives Alexander, Blue, Brawley, Easterling, Hill, Morris, Rayfield, Saunders, Wilson. Representative Davis called the meeting to order at 10:00 a.m.

SB 486 Food Establishment/Clarify Definition, Senate Committee substitute was before the Committee for consideration. Senator Lucas, the bill sponsor, presented the bill. A House committee substitute was proposed. A motion for a favorable report was called by Rep. Brawley. Rep. Hill asked a clarifying question about whether established businesses can then open up regularly a second location. It was stated that these events are only allowed for 2 days, once a month. A voice vote on the committee substitute passed with a favorable recommendation back to the Standing Committee on Commerce.

The meeting adjourned at 9:20 a.m.

Respectfully submitted,

Representative Don Davis, Chairman

Audrey Johnson, Committee Clerk

AGENDA

COMMERCE/Business & Labor Subcommittee

June 4, 1997
ROOM 425 LOB
10:00 AM

CALL TO ORDER Chairman Davis

BILLS TO BE CONSIDERED

SB 486 Food Establishment/Clarify Definition
Sen. Lucas

ADJOURMENT

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Davis** for the Permanent Subcommittee on **Business & Labor** of the Standing Committee on **COMMERCE.**

☒ Committee Substitute for
S.B. 486 ☐ A BILL TO BE ENTITLED AN ACT TO CLARIFY THE DEFINITION OF ESTABLISHMENTS THAT ARE SUBJECT TO REGULATION AS FOOD AND LODGING FACILITIES.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

With a favorable recommendation as to proposed committee substitute bill, unfavorable as to original bill.

x With a favorable recommendation as to proposed House committee substitute bill, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ 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 referred to the Committee on .)
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar. (PUBLIC BILLS ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 486*
Children and Human Resources Committee Substitute Adopted 4/24/97
Proposed House Committee Substitute S486-PCS8717

Short Title: Food Estab. - Clarify Def./AB. (Public)

Sponsors:

Referred to:

March 25, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF ESTABLISHMENTS THAT ARE SUBJECT TO REGULATION AS FOOD AND LODGING FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-247(4) reads as rewritten:

"(4) 'Establishment that prepares or serves drink' means a business or other entity that processes fruits and vegetables to produce juices or other liquids for drinks, or otherwise puts together, portions, sets out, or hands out drinks ~~in unpackaged portions using containers that are reused on the premises rather than single-service containers.~~ for human consumption."

Section 2. G.S. 130A-247(5) reads as rewritten:

"(5) 'Establishment that prepares or serves food' means a business or other entity that cooks, puts together, portions, sets out, or hands out food ~~in unpackaged portions for human consumption.~~ for human consumption, except for establishments that only distribute packaged foods which were prepared in a permitted establishment or in a facility regulated by the North Carolina Department of Agriculture."

Section 3. G.S. 130A-247 is amended by adding a new subdivision to read:

"(8) 'Packaged' means package as defined in G.S. 106-121(13a)."

Section 4. G.S. 130A-250 reads as rewritten:

"**§ 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;~~ days, including establishments permitted pursuant to this Part when preparing or serving food or drink at a location other than at the permitted location;

(8) Establishments that put together, portion, set out, or hand out only drinks that do not include the processing of fruits and vegetables to produce juices or other liquids for 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.~~ Agriculture; and

(10) Establishments that process fruits and vegetables to produce juices or other liquids for drinks and are under inspection by the North Carolina Department of Agriculture."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 486*
Children and Human Resources Committee Substitute Adopted 4/24/97

Short Title: Food Estab. - Clarify Def./AB. (Public)

Sponsors:

Referred to:

March 25, 1997

A BILL TO BE ENTITLED

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Section 2. G.S. 130A-247(5) reads as rewritten:

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(6) Curb markets operated by the State Agricultural Extension Service;

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(8) Establishments that put together, portion, set out, or hand out only ~~drinks~~ drinks that do not include the processing of fruits and vegetables to produce juices or other liquids for 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.~~ Agriculture; and

(10) Establishments that process fruits and vegetables to produce juices or other liquids for drinks and are under inspection by the North Carolina Department of Agriculture or the United States Department of Agriculture."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 486*
Children and Human Resources Committee Substitute Adopted 4/24/97
Proposed House Committee Substitute
S486-CSRO-001
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Food Estab. - Clarify Def./AB. (Public)

Sponsors:

Referred to:

March 25, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF ESTABLISHMENTS THAT ARE SUBJECT TO REGULATION AS FOOD AND LODGING FACILITIES.

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in a permitted establishment or in a facility regulated by the North Carolina Department of Agriculture."

Section 3. G.S. 130A-247 is amended by adding a new subdivision to read:

"(8) 'Packaged' means package as defined in G.S. 106-121(13a)."

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(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;~~ days, including establishments permitted pursuant to this Part when preparing or serving food or drink at a location other than at the permitted location;

(8) Establishments that put together, portion, set out, or hand out only ~~drinks~~ drinks that do not include the processing of fruits and vegetables to produce juices or other liquids for 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.~~ Agriculture; and

(10) Establishments that process fruits and vegetables to produce juices or other liquids for drinks and

are under inspection by the North Carolina Department of Agriculture."

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

North Carolina General Assembly
Legislative Services Office

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

Elaine 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
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Raleigh, NC 27603-5925
(919) 733-2578

June 4, 1997

MEMORANDUM

TO: Representative David Miner, Chair, House Commerce Committee

FROM: Karen Cochrane Brown and O. Walker Reagan, Committee Co-Counsel

RE: PROPOSED HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 486- FOOD ESTABLISHMENTS - CLARIFY DEFINITIONS - Senator Lucas

The Proposed House Committee Substitute for Senate Bill 486 would amend the law that subjects food and lodging establishments to regulation by the Health Services Commission by clarifying the distinction between serving fresh produced juices and prepackaged juices. Under the bill most establishments that process fruits and vegetables to produce juices to be handed out for public consumption are regulated by Health Services while prepackaged juices are regulated by the Department of Agriculture.

Section 1 of the bill amends definition of "establishments that prepare and serve drink" to include businesses that process fruits and vegetables to produce juices or other liquids for drinks for human consumption.

Section 2 amends the definition of "establishment that prepares or serves food" to exclude those establishments that only serve packaged food prepared in an establishment or facility regulated by the Department of Agriculture.

Section 3 incorporates the definition of "packaged" used in the Food, Drugs and Cosmetics law (copy attached).

Section 4 amends the list of establishments that serve food and drinks that are exempt from regulation by the Health Services Commission. This section clarifies that establishments that serve food or drink for no more than two consecutive days per month , including establishments when serving at a different location, are exempt from these provisions. This section also excludes establishments that serve nonprocessed drinks, and establishments that process fruits and vegetables to produce juices and other liquids for drinks under the continuous inspection of the United States or the North Carolina Departments of Agriculture.

This act becomes effective when it becomes law.

S486-SMRU-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

§ 106-121. Definitions and general consideration.

For the purpose of this Article:

....

(13a) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include:

a. Shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof; or

b. Shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity.

§ 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) .....

(a2) .....

(a3) .....

(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) For the protection of the public health, the Commission shall adopt rules governing the sanitation of limited food service establishments. In adopting the rules, the Commission shall not limit the number of days that limited food service establishments may operate. Limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by other charitable organizations. On and after January 1, 1996, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with

amateur athletic events, or for establishments operated by organizations that have applied for exemption or are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code. On and after January 1, 1997, limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by organizations that are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code.

(b) .....

(b1).....

(c) .....

(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile food units. A pushcart or mobile food unit shall be operated in conjunction with a permitted restaurant.

(d) .....

VISITOR REGISTRATION SHEET

Business & Labor — Name of Committee

June 4, 1997 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Bailey	DOT/for DEHNR
David Campbell	DEHNR
[illegible]	NCCA
Don McConnaughey	NCRMA
[illegible]	NC AFL-CIO
Mike Mum	PAEC
Jan Case	DEHNR

1997

HOUSE COMMERCE – FINANCIAL INSTITUTIONS

MINUTES

Representative Bobby Ray Hall
Chairman

Rep. Andrew Dedmon

Rep. Jerry Dockham

Rep. Thomas Hardaway

Rep. Edwin Hardy

Rep. Howard Hunter

Rep. Larry Justus

Rep. Mary McAllister

Rep. Edwin McMahan

Rep. John Nichols

Rep. Liston Ramsey

Rep. Ronald Smith

Rep. Gregory Thompson

COMMERCE/SUBCOMMITTEE FINANCIAL INSTITUTIONS

MEMBERSHIP LIST

Representative Bobby Ray Hall-Chairman
Representative Gregory Thompson
Representative Jerry Dockham
Representative Edwin Hardy
Representative Larry Justus
Representative W. Edwin McMahan
Representative John Nichols
Representative Liston Ramsey
Representative Andrew Dedmon
Representative Thomas Hardaway
Representative Howard Hunter
Representative Mary McAllister
Representative Ronald Smith

ATTENDANCE

Commerce/Subcommittee Financial Institutions

(Name of Committee)

DATES	4/9	5/4													
Hall, Bobby Ray	✓	✓													
Thompson, Gregory	✓	✓													
Dockham, Jerry	✓	✓													
Hardy, Edwin															
Justus, Larry	✓	✓													
McMahan, W. Edwin	✓														
Nichols, John		✓													
Ramsey, Liston	✓	✓													
Dedmon, Andrew	✓	✓													
Hardaway, Thomas	✓	✓													
Hunter, Howard															
McAllister, Mary	✓	✓													
Smith, Ronald	✓	✓													

VISITOR REGISTRATION SHEET

Commerce/Financial Institutions — 06-04-97

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carrie Cowen	B.P.M.C.
Phil Lehman	NC AGO
J.W. Blair	Check Cashing Headquarters
Jerry Byrd	NC Check Cashers Assn.
Mark Smith	Admin. & Comm. of Banks
Otis W. Freeman	Deputy Commissioner of Banks
Jim Blair	NC Check Cashers Association
Rob Schofield	NCJCDC
[illegible]	
Chuck Byrd	Check Cashing Headquarters
Jane P. Gray	DOJ
Paul Stock	NC Bankers Assn
Nancy Bradley	NCEBD
Gordon Allen	NCBA
Lighton Pope	2D & PA
Joe McElees	McElees Consulting
Walter Church Sr	

North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096

REPRESENTATIVE BOBBY RAY HALL
19TH DISTRICT

OFFICE ADDRESS: ROOM 637
LEGISLATIVE OFFICE BUILDING
RALEIGH, N.C. 27601-1096
TELEPHONE: (919) 733-5906
(919) 829-0630 FAX

HOME ADDRESS: P. O. BOX 40
SANFORD, N.C. 27330
TELEPHONE: (919) 776-6590-HOME
(910) 892-4167-O-DUNN

September 9, 1997

COMMITTEES:

MEMBER:
APPROPRIATIONS
SUBCOMMITTEE ON NATURAL & ECONOMIC RESOURCES
SUBCOMMITTEE ON CAPITAL & BUDGET
COMMERCE
CHAIRMAN-SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
EDUCATION
SUBCOMMITTEE ON PRESCHOOL, ELEMENTARY & SECONDARY
ENVIRONMENT
JUDICIARY I
WAYS & MEANS

Minutes of Commerce/Financial Institutions Committee Meeting on April 9, 1997

Representative Bobby Ray Hall called meeting to order and welcomed everyone. Rep. Hall introduced the staff.
Billie Stevens - Clerk
Walker Reagan - Staff - Research Division
Karen Cochrane-Brown - Staff - Research Division
Cheryl Coats - Sergeant - At-Arms
Cid Sutton - Page - Rowan County

Chairman Hall introduced Representative Gamble to present his Bill - HB 325.

Dr. Gamble made remarks about Bill. He spoke to Chairman to hold Bill for several weeks for following reasons.

1. Cannot obtain Fiscal Note.
2. As in past years, he had looked at economic interest of committee.
3. Ethics of Committee
4. Financial Institutions is not a tax committee and this is a tax bill and he does know why the bill is in this committee.
5. Has letter to Attorney Generals asking for a Constitutional opinion on this bill.

Chairman agreed with Representative Gamble that the Committee would hold bill.

Meeting adjourned.

Signed Bobby Ray Hall

Representative Bobby Ray Hall
Chairman - Sub-Committee-Financial Institutions

Signed Billie Stevens

Billie Stevens
Clerk

North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096

REPRESENTATIVE BOBBY RAY HALL
19TH DISTRICT

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COMMITTEES:

MEMBER:
APPROPRIATIONS
SUBCOMMITTEE ON NATURAL & ECONOMIC RESOURCES
SUBCOMMITTEE ON CAPITAL & BUDGET
COMMERCE
CHAIRMAN-SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
EDUCATION
SUBCOMMITTEE ON PRESCHOOL, ELEMENTARY & SECONDARY
ENVIRONMENT
JUDICIARY I
WAYS & MEANS

September 9, 1997

Minutes of Commerce/Financial Institutions Committee Meeting on June 4, 1997

Representative Bobby Ray Hall - Chairman of Committee called meeting to order. Introduced Staff.

HB-1125
Chairman read a request from the Chairman of Commerce, Representative David Miner that this bill be re-referred to Rules Committee.

Motion Passed.

SB-312
Representative Thompson presented bill. Representative Nichols moved that the Committee give the Bill a favorable report.
Representative Ramsey spoke in favor of bill.

vote to give bill favorable report.

SB-329

Senator Dalton presented bill. Committee substitute passed out. Requested by Chairman of Commerce Representative David Miner.
Adds new Section - 2-1 – on line 19, Page 1
Amends NC Banking act.
Representative Nichols asked if Banks were in favor. Paul Stock, Bankers Association stated that the Banks have no problem with the bill

Motion by Rep. Nichols for favorable report to Committee Substitute, unfavorable to original.

Motion passed

SB-330

Senator Dalton explained his bill.
Representative Nichols made motion for favorable report.
Motion carried.

No other business, meeting adjourned.

Signed Bobby Ray Hall
Representative Bobby Ray Hall
Chairman- Sub-Committee - Financial Institutions

Signed Billie Stevens
Billie Stevens
Clerk

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Bobby Ray Hall** for the Permanent Subcommittee on **Financial Institutions** of the Standing 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.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

☒ With a favorable recommendation and recommend that the bill be re-referred to the Committee on **RULES**.

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ 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 referred to the Committee on .)
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar. (PUBLIC BILLS ONLY)

4/24/97

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Bobby Ray Hall** for the Permanent Subcommittee on **Financial Institutions** of the Standing Committee on **COMMERCE.**.

☐ Committee Substitute for
S.B. 330 ☐A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW GOVERNING SAFE-DEPOSIT BOXES.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☒ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

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☐ Other recommended action: _____.

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Rep. for the Standing Committee on _____.

s/_____

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☐ With a favorable report, as amended.
☐ 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 referred to the Committee on .)
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4/24/97

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Bobby Ray Hall** for the Permanent Subcommittee on **Financial Institutions** of the Standing Committee on **COMMERCE,.**

☐ Committee Substitute for
S.B. 312. ☐A BILL TO BE ENTITLED AN ACT TO REGULATE CHECK-CASHING BUSINESSES.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☒ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ 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 referred to the Committee on .)
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar. (PUBLIC BILLS ONLY)

4/24/97

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Bobby Ray Hall** for the Permanent Subcommittee on **Financial Institutions** of the Standing Committee on **COMMERCE.**.

☐ Committee Substitute for
S.B. 329 ☐A BILL TO BE 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.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☒ With a favorable recommendation as to proposed House committee substitute bill, X which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ 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 referred to the Committee on .)
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar. (PUBLIC BILLS ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1125

Short Title: Mortgage Lenders. (Public)

Sponsors: Representatives Miner; Barbee, Church, Culpepper, Hardaway, Hardy, Justus, and Nichols.

Referred to: Commerce, if favorable, Finance.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO REVISE THE CLASSIFICATION OF LENDERS WHO MAY CONTRACT FOR THE PAYMENT OF CHARGES IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.1A(a) reads as rewritten:

"(a) Notwithstanding any other provision of this Chapter, parties to a home loan may contract in writing as follows:

(1) Where the principal amount is ten thousand dollars ($10,000) or more the parties may contract for the payment of interest as agreed upon by the parties;

(2) Where the principal amount is less than ten thousand dollars ($10,000) the parties may contract for the payment of interest as agreed upon by the parties, if the lender is either (i) approved as a mortgagee by the Secretary of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, a national mortgage association or any federal agency; or (ii) a local or foreign bank, savings and loan association or service corporation wholly owned by one or more savings and loan associations and permitted by law to make home loans, credit union or insurance ~~company;~~ company or a mortgage banker registered pursuant to G.S. 53-233 who is under the common

control with a bank, savings and loan association, or insurance company; or (iii) a State or federal agency;

(3) Where the principal amount is less than ten thousand dollars ($10,000) and the lender is not a lender described in the preceding subdivision (2) the parties may contract for the payment of interest not in excess of sixteen percent (16%) per annum.

(4) Notwithstanding any other provision of law, except as provided in subdivision (2) of this subsection, where the lender is an affiliate operating in the same office or subsidiary operating in the same office of a licensee under the North Carolina Consumer Finance Act, the lender may charge interest to be computed only on the following basis: monthly on the outstanding principal balance at a rate not to exceed the rate provided in this subdivision.

On the fifteenth day of each month, the Commissioner of Banks shall announce and publish the maximum rate of interest permitted by this subdivision. Such rate shall be the latest published noncompetitive rate for U.S. Treasury bills with a six-month maturity as of the fifteenth day of the month plus six percent (6%), rounded upward or downward, as the case may be, to the nearest one-half of one percent (1/2 of 1%) or fifteen percent (15%), whichever is greater. If there is no nearest one-half of one percent (1/2 of 1%), the Commissioner shall round downward to the lower one-half of one percent (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the term of loans made under this section during the following calendar month when the parties to such loans have agreed that the rate of interest to be charged by the lender and paid by the borrower shall not vary or be adjusted during the term of the loan. The parties to a loan made under this section may agree to a rate of interest which shall vary or be adjusted during the term of the loan in which case the maximum rate of interest permitted on such loans during a month during the term of the loan shall be the rate announced by the Commissioner in the preceding calendar month.

An affiliate operating in the same office or subsidiary operating in the same office of a licensee under the North Carolina Consumer Finance Act may not make a home loan for a term in excess of six (6) months which provides for a balloon payment. For purposes of this subdivision, a balloon payment means any scheduled payment that is more than twice as large as the average of earlier scheduled

payments. This subsection does not apply to equity lines of credit as defined in G.S. 45-81."

Section 2. G.S. 24-10(h) reads as rewritten:

"(h) A ~~bank, savings and loan association, savings bank, or credit union,~~ lender described in G.S. 24-1.1A(a)(2), or any subsidiary or affiliate thereof organized under the laws of this State or the United States, may charge a party to a loan secured by real property a reasonable fee as may be agreed upon by the parties for an appraisal performed by an employee of the bank, savings and loan association, savings bank, or credit union, or any subsidiary or affiliate thereof. Upon the request of the borrower, the lender shall provide at no additional charge to the borrower a copy of any appraisal for which the lender has collected a fee under this subsection. Provision of the copy of an appraisal shall not be construed to create or imply any warranty which does not otherwise exist by the lender as to the accuracy of the appraisal."

Section 3. This act becomes effective October 1, 1997, and applies to contracts entered into on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 330
Commerce Committee Substitute Adopted 3/26/97

Short Title: Safe-Deposit Boxes. (Public)

Sponsors:

Referred to:

March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING SAFE-DEPOSIT BOXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-43.7 reads as rewritten:

"**§ 53-43.7. Safe-deposit boxes; unpaid rentals; procedure; escheats.**

(a) If the rental due on a safe-deposit box has not been paid for ~~one year,~~ 90 days, the lessor may send a notice by registered mail or certified mail, return receipt requested, to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box may be opened in the presence of an officer of the lessor and of a notary public who is not a director, officer, employee or stockholder of the lessor. The contents shall be sealed in a package by the notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box and a list of its contents. The certificate shall be included in the package and a copy of the certificate shall be sent by registered mail or certified mail, return receipt requested, to the last known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box.

(b) Any property, including documents or writings of a private nature, which has little or no apparent value, need not be sold but may be destroyed by the Treasurer

or by the lessor, if retained by the lessor pursuant to a determination by the Treasurer under G.S. 116B-31(c).

(c) If the contents of the safe-deposit box have not been claimed within two years of the mailing of the certificate, the lessor may send a further notice to the last known address of the lessee stating that, unless the accumulated charges are paid within 30 days, the contents of the box will be delivered to the State Treasurer as abandoned property under the provisions of Chapter 116B.

(d) The lessor shall submit to the Treasurer a verified inventory of all of the contents of the safe-deposit box upon delivery of the contents of the box or such part thereof as shall be required by the Treasurer under G.S. 116B-31(c); but the lessor may deduct from any cash of the lessee in the safe-deposit box an amount equal to accumulated charges for rental and shall submit to the Treasurer a verified statement of such charges and deduction. If there is no cash, or insufficient cash to pay accumulated charges, in the safe-deposit box, the lessor may submit to the Treasurer a verified statement of accumulated charges or balance of accumulated charges due, and the Treasurer shall remit to the lessor the charges or balance due, up to the value of the property in the safe-deposit box delivered to him, less any costs or expenses of sale; but if the charges or balance due exceeds the value of such property, the Treasurer shall remit only the value of the property, less costs or expenses of sale. Any accumulated charges for safe-deposit box rental paid by the Treasurer to the lessor shall be deducted from the value of the property of the lessee delivered to the Treasurer.

(e) Repealed by Session Laws 1979, 2nd Session, c. 1311, s. 5.

(f) ~~A copy of~~ An explanation of the contractual provisions pertaining to default, together with reference to this section shall be printed on every contract for rental of a safe-deposit box."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 312
Commerce Committee Substitute Adopted 4/2/97

Short Title: Regulate Check Cashing/AB. (Public)

Sponsors:

Referred to: Finance.

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO REGULATE CHECK-CASHING BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 53 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 22.

"Check-Cashing Businesses.

"§ 53-275. Definitions.

As used in this Article, unless the context clearly requires otherwise, the term:

(1) 'Cashing' means providing currency for payment instruments, but does not include the bona fide sale or exchange of travelers checks and foreign denomination payment instruments.

(2) 'Check-cashing service' means any person or entity engaged in the business of cashing checks, drafts, or money orders for a fee, service charge, or other consideration.

(3) 'Commission' means the State Banking Commission.

(4) 'Commissioner' means the Commissioner of Banks.

(5) 'Licensee' means a person or entity licensed to engage in a check-cashing business under this Article.

(6) 'Person' means an individual, partnership, association, or corporation.

"§ 53-276. License required.

No person or other entity may engage in the business of cashing checks, drafts, or money orders for consideration without first obtaining a license under this Article. No person or other entity providing a check-cashing service may avoid the requirements of this Article by providing a check or other currency equivalent instead of currency when cashing payment instruments.

"**§ 53-277. Exemptions.**

(a) This Article shall not apply to:

(1) A bank, savings institution, credit union, or farm credit system organized under the laws of the United States or any state; and

(2) Any person or entity principally engaged in the bona fide retail sale of goods or services, who either as an incident to or independently of a retail sale or service and not holding itself out to be a check-cashing service, from time to time cashes checks, drafts, or money orders for a fee or other consideration, where not more than two dollars ($2.00) is charged for the service.

(b) A person licensed under Article 16 of this Chapter (Money Transmitters Act) is exempt from G.S. 53-276, 53-278, 53-279, and 53-284, but is deemed a licensee for purposes of the remaining provisions of this Article. This exemption does not apply to an agent of a person licensed under Article 16 of this Chapter.

"**§ 53-278. Application for license; investigation; application fee.**

(a) An application for licensure under this Article shall be in writing, under oath, and on a form prescribed by the Commissioner. The application shall set forth all of the following:

(1) The name and address of the applicant.

(2) If the applicant is a firm or partnership, the name and address of each member of the firm or partnership.

(3) If the applicant is a corporation, the name and address of each officer, director, registered agent, and principal.

(4) The addresses of the locations of the business to be licensed.

(5) Other information concerning the financial responsibility, background experience, and activities of the applicant and its members, officers, directors, and principals as the Commissioner requires.

(b) The Commissioner may make such investigations as the Commissioner deems necessary to determine if the applicant has complied with all applicable provisions of this Article and State and federal law.

(c) The application shall be accompanied by payment of a two hundred fifty dollar ($250.00) application fee and a five hundred dollar ($500.00) investigation fee. These fees are not refundable or abatable, but, if the license is granted, payment of the application fee shall satisfy the fee requirement for the first license year or remaining part thereof.

(d) Licenses shall expire annually and may be renewed upon payment of a license fee of two hundred fifty dollars ($250.00) plus a fifty dollar ($50.00) fee for each branch location certificate issued under a license.

"§ 53-279. Liquid assets required; other qualifications; denial of license; hearing.

(a) Every licensee and applicant shall have and maintain liquid assets of at least fifty thousand dollars ($50,000) per licensee.

(b) Upon the filing and investigation of an application, and compliance by the applicant with G.S. 53-278, and this section, the Commissioner shall issue and deliver to the applicant the license applied for to engage in business under this Article at the locations specified in the application, provided that the Commissioner finds that the financial responsibility, character, reputation, experience, and general fitness of the applicant and its members, officers, directors, and principals are such as to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with law. If the Commissioner fails to make such findings, no license shall be issued, and the Commissioner shall notify the applicant of the denial and the reasons therefor. The applicant shall be entitled to an informal hearing on the denial provided the applicant requests the hearing in writing within 30 days after the Commissioner has mailed the notice required under this subsection to the applicant. In the event of a hearing, which shall be held in the offices of the Commissioner of Banks in Raleigh, the Commissioner shall reconsider the application and, after hearing, issue a written order granting or denying the application.

"§ 53-280. Maximum fees for service; fees posted; endorsement of checks cashed.

(a) Notwithstanding any other provision of law, no check-cashing business licensed under this Article shall directly or indirectly charge or collect fees or other consideration for check-cashing services in excess of the following:

(1) Three percent (3%) of the face amount of the check or five dollars ($5.00), whichever is greater, for checks issued by the federal government, State government, or any agency of the State or federal government, or any county or municipality of this State.

(2) Ten percent (10%) of the face amount of the check or five dollars ($5.00), whichever is greater, for personal checks.

(3) Five percent (5%) of the face amount of the check or five dollars ($5.00), whichever is greater, for all other checks, or for money orders.

(b) A licensee may not advance monies on the security of any check unless the ~~account~~ from which the check being presented is drawn is legitimate, open, and active. Except as provided by G.S. 53-281(a), any licensee who cashes a check for a fee shall deposit the check not later than three business days from the date the check is cashed.

(c) A licensee shall ensure that in every location conducting business under a license issued under this Article, there is conspicuously posted and at all times displayed a notice stating the fees charged for cashing checks, drafts, and money orders. A licensee shall further ensure that notice of the fees currently charged at every location shall be filed with the Commissioner.

(d) A licensee shall endorse every check, draft, or money order presented by the licensee for payment in the name of the licensee.

"§ 53-281. Postdated or delayed deposit checks.

(a) A licensee may defer the deposit of a personal check cashed for a customer for up to 31 days pursuant to the provisions of this section.

(b) The face amount of any postdated or delayed deposit check cashed pursuant to this section shall not exceed three hundred dollars ($300.00).

(c) Each postdated or delayed deposit check cashed by a licensee shall be documented by a written agreement that has been signed by the customer and the licensee. The written agreement shall contain a statement of the total amount of any fees charged, expressed both as a dollar amount and as an effective annual percentage rate (APR). The written agreement shall authorize the licensee to defer deposit of the personal check until a specific date not later than 31 days from the date the check is cashed.

(d) A licensee shall not directly or indirectly charge any fee or other consideration for cashing a postdated or delayed deposit check in excess of fifteen per cent (15%) of the face amount of the check.

(e) No check cashed under the provisions of this section shall be repaid by the proceeds of another check cashed by the same licensee or any affiliate of the licensee. A licensee shall not, for any consideration, renew or otherwise extend any postdated or delayed check or withhold such check from deposit for any period beyond the time set forth in the written agreement with the customer.

"§ 53-282. Record keeping; receipt requirements.

(a) Every person required to be licensed under this Article shall maintain in its offices such books, accounts, and records as the Commissioner may reasonably require. The books, accounts, and records shall be maintained separate from any other business in which the person is engaged, and shall be retained for a period prescribed by the Commissioner.

(b) The licensee shall ensure that each customer cashing a check shall be provided a receipt showing the name or trade name of the licensee, the transaction date, amount of the check, and the fee charged.

(c) The Commissioner may examine the books, accounts, and records in order to determine whether the person is complying with this Article and rules adopted pursuant thereto. The cost of the examination shall be paid by the licensee and shall be determined by applying the hourly rate for special examinations adopted by the State Banking Commission by regulation.

"§ 53-283. Prohibited practices.

No person required to be licensed under this Article shall do any of the following:

(1) Charge fees in excess of those authorized under this Article.

(2) Engage in the business of making loans of money, or extensions of credit, or discounting notes, bills of exchange, items, or other evidences of debt; or accepting deposits or bailments of money or items, except as expressly provided by G.S. 53-281.

(3) Use or cause to be published or disseminated any advertising communication which contains any false, misleading, or deceptive statement or representation.

(4) Conduct business at premises or locations other than locations licensed by the Commissioner.
(5) Engage in unfair, deceptive, or fraudulent practices.
(6) Cash a check, draft, or money order made payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the executive entity of the payee clearly indicating the authority of the natural person or persons cashing the check, draft, or money order on behalf of the payee.

"**§ 53-284. Suspension and revocation of license; grounds; procedure.**

(a) The Commissioner may suspend or revoke any license or licenses issued pursuant to this Article if, after notice and opportunity for hearing, the Commissioner issues written findings that the licensee has engaged in any of the following conduct:

(1) Violated this Article or applicable State or federal law or rules.
(2) Made a false statement on the application for a license under this Article.
(3) Refused to permit investigation by the Commissioner authorized under this Article.
(4) Failed to comply with an order of the Commissioner.
(5) Demonstrated incompetency or untrustworthiness to engage in the business of check cashing.
(6) Been convicted of a felony or misdemeanor involving fraud, misrepresentation, or deceit.

(b) The Commissioner may not suspend or revoke any license issued under this Article unless the licensee has been given notice and opportunity for hearing in accordance with Article 3A of Chapter 150B of the General Statutes.

"**§ 53-285. Cease and desist orders.**

If the Commissioner determines that a person required to be licensed under this Article has violated this Article or rules adopted pursuant to it, the Commissioner may, upon notice and opportunity for hearing in accordance with Article 3A of Chapter 150B of the General Statutes, order the person to cease and desist from the violations and to comply with this Article. The Commissioner may enforce compliance with an order issued pursuant to this section by the imposition and collection of civil penalties authorized under this Article.

"**§ 53-286. Civil penalties and restitution.**

The Commissioner may order and impose civil penalties upon any person required to be licensed under this Article for violations of this Article or rules adopted thereunder. Civil penalties shall not exceed one thousand dollars ($1,000) per violation. All civil money penalties collected under this Article shall be paid to the county school fund. The Commissioner may also order repayment of unlawful or excessive fees charged to customers.

"**§ 53-287. Criminal penalties.**

A violation of G.S. 53-276 by a person required to obtain a license under this Article is a Class I felony. Each transaction involving the unlawful cashing of a check, draft, or money order constitutes a separate offense.

"**§ 53-288. Commissioner to adopt rules.**

The Commissioner may adopt rules necessary to carry out the purposes of this Article, to provide for the protection of the public, and to assist licensees in interpreting and complying with this Article.

"**§ 53-289. Commission may review rules, orders, or acts by Commissioner.**

The Commission shall have full authority to review any rule, regulation, order, or act of the Commissioner done pursuant to or with respect to the provisions of this Article, and any person aggrieved by any such rule, regulation, order, or act may appeal to the Commission for review upon giving notice in writing within 20 days after such rule, regulation, order, or act complained of is adopted, issued, or done."

Section 2. The Commissioner of Banks shall report to the 2001 General Assembly on the practices of licensees with regard to checks cashed pursuant to the provisions of G.S. 53-281, including any evidence as to consumer complaints, unfair or deceptive trade practices, and the frequency of repeat use by individuals of postdated or delayed deposit checks. It is the intent of the General Assembly that the sunset contained in Section 3 of this act be repealed if there is no evidence of excessive complaints or unfair and deceptive trade practices.

Section 3. This act becomes effective October 1, 1997, and the provisions of G.S. 53-281 shall expire on July 31, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 329

Short Title: Savings Bank Name. (Public)

Sponsors: Senators Dalton, Soles; and Warren.

Referred to: Commerce.

March 10, 1997

A BILL TO BE 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.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54C-8(a) reads as rewritten:

"(a) Nothing in this Chapter shall be construed to invalidate any charter that was valid before the enactment of this Chapter. Any savings banks so chartered on October 1, 1991, may continue operation in accordance with the Chapter under which it was chartered. However, after October 1, 1991, no depository institution may be qualified as a savings bank except in accordance with this Chapter. ~~Any savings bank chartered under this Chapter shall use the letters 'SSB' in its legal name.~~"

Section 2. G.S. 54C-64(3) is repealed.

Section 3. This act becomes effective July 1, 1997, and Section 2 applies to acts committed on or after that date.

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.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

North Carolina General Assembly
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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 329 - Savings Bank Name.**
(Proposed House Committee Substitute)

Senate Bill 329 amends G.S. 54C-8(a) by deleting the requirement that any savings bank chartered by the North Carolina Savings Institution Commission use the letters "SSB" in its legal name.

The present law was enacted in 1991 and authorized the creation of state chartered savings banks. At that time, federal savings banks chartered by the Office of Thrift Supervision, were required to use the letters "FSB" in their legal name. The state law was designed to track many of the provisions of the federal law. Since that time, the Office of Thrift Supervision has eliminated the "FSB" designation requirement for federal savings banks. This bill would similarly eliminate the requirement for state savings banks to keep these institutions on a par with their federal counterparts.

Section 2 of the bill is a conforming amendment which repeals G.S. 54C-64(3). That provision makes it a misdemeanor for a savings bank to advertise without using the "SSB" designation and the words "savings bank" in a type that is equally prominent with the other terms in the name of the savings bank.

The proposed committee substitute adds another section to the bill which amends the North Carolina Reciprocal Interstate Banking Act relating to banks acting as agents for depository institution affiliates. In 1996, the General Assembly added a new section to the Act to clarify that North Carolina banks which are subsidiaries of bank holding companies, may act as agents for other banks affiliated with the bank holding company, without becoming a branch of the affiliate bank. The provision in this bill adds a sentence stating that an "affiliate" for purposes of this section, includes an affiliate as defined in the federal Bank Holding Company Act.

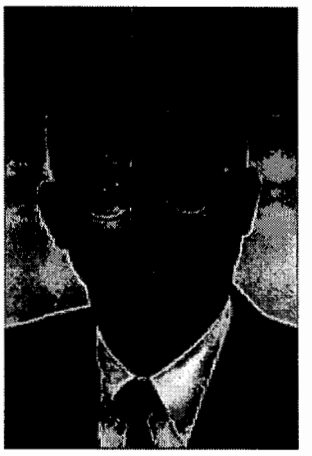
Section 2.1 is effective when the act becomes law. The remainder of the act would become effective July 1, 1997, and Section 2 would apply to acts committed on or after that date.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

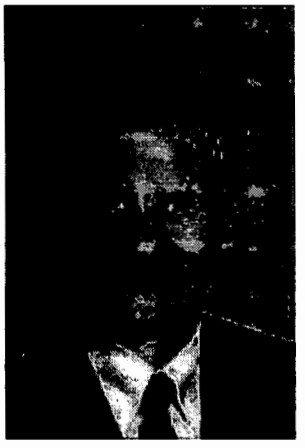
1997-1998

HOUSE COMMERCE – PUBLIC UTILITIES

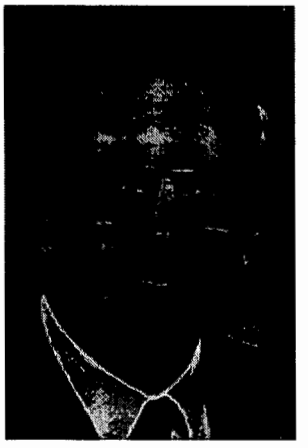
MINUTES



Rep. Daniel McComas
Chair
Subcommittee on Public Utilities

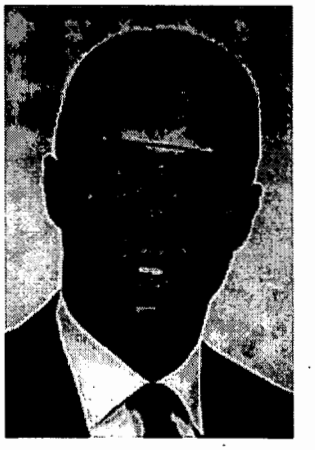


Rep. James Crawford
RMM

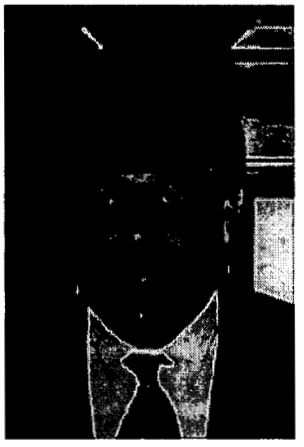


Rep. Cary Allred

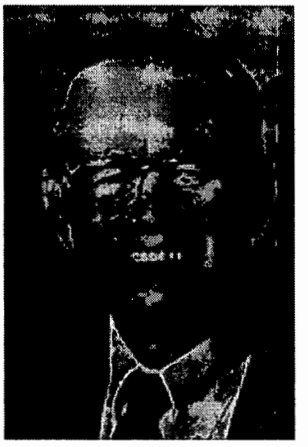
Rep. Donald Bonner



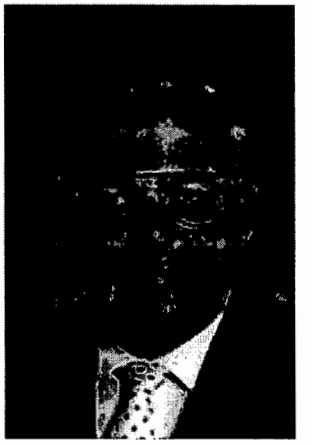
Rep. Jerry Braswell



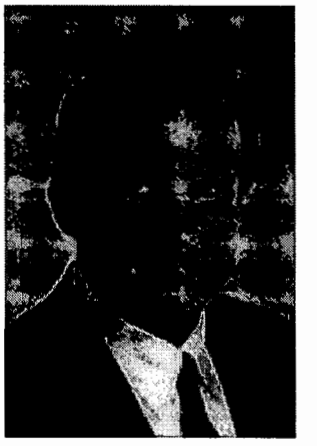
Rep. William Culpepper



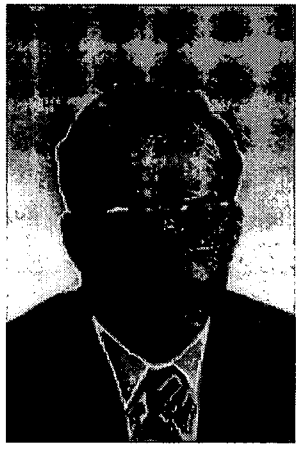
Rep. Walter Dickson



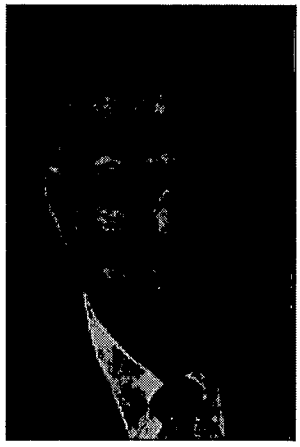
Rep. George Holmes



Rep. John Hurley

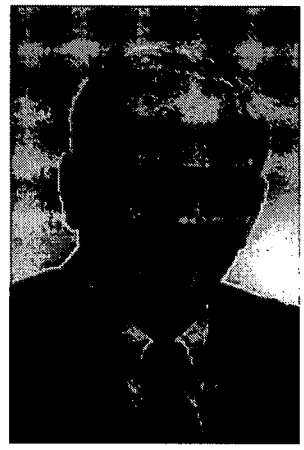


Rep. William Ives

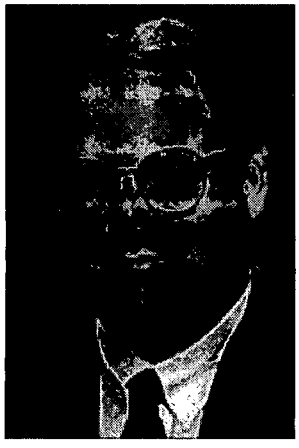


Rep. Eugene McCombs

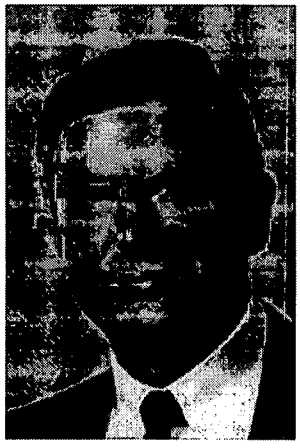
Rep. Paul McCrary



Rep. Frank Mitchell

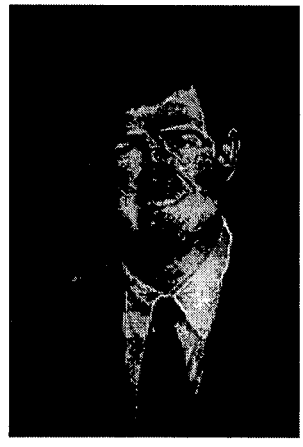


Rep. Richard Morgan

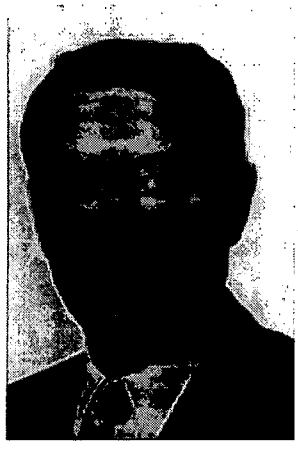


Rep. Charles Neely, Jr.

Rep. Edd Nye



Rep. Dennis Reynolds



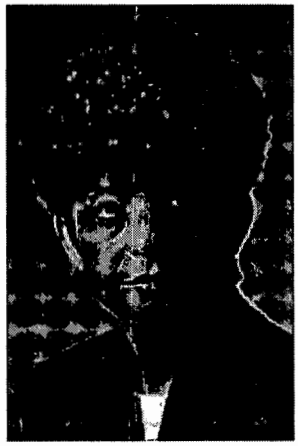
Rep. Eugene Rogers

Rep. Constance Wilson

Rep. Larry Womble

Subcommittee on Public Utilities 1997

Rep. Leo Daughtry
Majority Leader
Ex Officio



Rep. Julia Howard
Majority Whip
Ex Officio

Rep. Steve Wood
Speaker Pro Tem
Ex Officio

Subcommittee on Public Utilities 1997

HOUSE COMMITTEE ON PUBLIC UTILITIES
1997 SESSION

MEMBER/Clerk	PHONE	OFFICE	SEAT
Rep. Daniel McComas, Chairman Rita Quinn, Committee Clerk	3-5758	2123	63
Rep. James Crawford, RMM Linda Winstead	3-5824	1301	24
Rep. Cary Allred Jean Allred	3-5773	2223	11
Rep. Donald Bonner Lucy Johnson	5-9664	617	109
Rep. Jerry Braswell Dianna Gilmore	3-5809	539	96
Rep. William Culpepper Dot Crocker	3-5802	604	36
Rep. Walter Dickson Joyce Langdon	3-5662	530	25
Rep. George Holmes Glenda Jacobs	3-5900	631	6
Rep. John Hurley Dot Anderson	3-5859	1004	71
Rep. William Ives Jayne Walton	3-5784	633	90
Rep. Eugene McCombs Susanne Erskine	3-5881	514	55
Rep. Paul McCrary Barbara Berry	3-5780	610	10
Rep. Frank Mitchell Susan Thomason	3-5959	638	9
Rep. Richard Morgan Dixie Epps	5-3028	404	17
Rep. Charles Neely Betty Harrison	5-3001	420	29
Rep. Edd Nye Jo Bobbitt	3-5477	639	23

HOUSE COMMITTEE ON PUBLIC UTILITIES
1997 SESSION

Contined...

MEMBER/Clerk	PHONE	OFFICE	SEAT
Rep. Dennis Reynolds Tina Covington	3-5820	533	76
Rep. Eugene Rogers Judy Veorse	5-3023	416A	35
Rep. Constance Wilson Joanna Mills	3-7663	529	40
Rep. Larry Womble Phyllis Cameron	3-5751	540	105
Rep. Leo Daughtry, Majority Leader (Ex Officio) Bernice Bullard	5-0850	2301	30
Rep. Julia Howard, Majority Whip (Ex Officio) Gail Stewart	3-5904	1021	8
Rep. Steve Wood, Speaker Pro Tem (Ex Officio) Sylvia Perkins	3-5807	2208	12
Rep. David Miner, SRM (Commerce CTE CoChair) Stephanie Mansur	3-5749	2219	16
Rep. Cherie Berry (Commerce CTE CoChair) Betty Smith	3-5861	1006	41
Rep. Walter Church (Commerce CTE CoChair) Joyce Fuller	3-5805	1311	33
Rep. William Hiatt (Commerce CTE CoChair) Edna Pearce	3-5862	1008	14
Rep. Tallent (Commerce CTE CoChair) Joyce Bulluck	3-5934	1104	73
Steve Rose, Staff Attorney	5-2578	545	

ATTENDANCE

SUBCOMMITTEE ON PUBLIC UTILITIES

DATES	4/9	4/16	6/25	6/26											
McCOMAS, CHAIR	✓	✓	✓	✓											
CRAWFORD, RMM			✓												
ALLRED	✓		✓												
BONNER	✓	✓	✓	✓											
BRASWELL	✓	✓													
CULPEPPER	✓														
DICKSON	✓	✓	✓												
HOLMES	✓														
HURLEY	✓	✓													
IVES	✓	✓	✓												
McCOMBS	✓	✓	✓	✓											
McCRARY	✓	✓	✓												
MITCHELL	✓	✓	✓												
MORGAN	✓		✓												
NEELY			✓												
NYE	✓		✓	✓											
REYNOLDS			✓	✓											
ROGERS	✓	✓	✓												
WILSON, C.	✓	✓	✓												
WOMBLE	✓		✓												
DAUGHRTY (Ex Officio)															
HOWARD (Ex-Officio)															
WOOD (Ex Officio)															
MINER, SRM (Commerce CTE CoChair)		✓		✓											
BERRY (Commerce CTE CoChair)															
CHURCH (Commerce CTE CoChair)															
HIATT (Commerce CTE CoChair)		✓													
TALLENT (Commerce CTE CoChair)	✓		✓	✓											

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1997-98 Regular Session — HOUSE: COMMERCE--PUBLIC UTILITIES — Valid Through 19-AUG-1997

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 26=	THOMPSON	AMEND LP GAS CODE	H -RE-REF COM ON RULES	02-04-97	07-31-97
H 495	OWENS	NATURAL GAS	*H -PRES. TO GOV. 08-12	04-02-97	04-22-97
H 547=	CULP	RENEWABLE RESOURCE ENERGY	H -ASSIGNED TO COMM-UTL	04-02-97	
H1126	MINER	NO SALES TAX ON PAY PHONES	*S -REF TO COM ON FINANCE	05-28-97	07-03-97

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.

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Daniel F. McComas** for the Permanent Subcommittee on **Public Utilities** of the Standing Committee on **COMMERCE** .

Committee Substitute for
H.B. 26 ☐A BILL TO BE ENTITLED AN ACT TO MAKE CONFORMING CHANGES TO THE LP GAS STATUTE.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

x With a favorable recommendation as to proposed committee substitute bill unfavorable as to original bill, and re-referred to the Committee on Finance.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Daniel F. McComas** for the Permanent Subcommittee on **Public Utilities** of the Standing Committee on **COMMERCE** .

Committee Substitute for

H.B. 495 ☐A BILL TO BE ENTITLED AN ACT TO ADDRESS NORTH CAROLINA'S URGENT INFRASTRUCTURE NEEDS BY CLARIFYING THAT THE NORTH CAROLINA UTILITIES COMMISSION MAY ESTABLISH DIFFERENT RATES FOR NATURAL GAS SERVICE TO UNSERVED COUNTIES THAT REFLECT THE ACTUAL COST OF PROVIDING SERVICE TO THE UNSERVED COUNTIES AND AUTHORIZING THE CREATION OF NATURAL GAS DISTRICTS FOR NATURAL GAS EXPANSIION.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

x With a favorable recommendation as to proposed committee substitute bill, which changes the title, unfavorable as to original bill, and re-referred to the Committee on Finance.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:
By Representative(s) **Daniel F. McComas** for the Permanent Subcommittee on **Public Utilities** of the Standing Committee on **COMMERCE**.

☐ Committee Substitute for
H.B. 1126 ☒A BILL TO BE ENTITLED AN ACT TO EXEMPT LOCAL PAY PHONE SERVICES FROM SALES TAX.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

☐ With a favorable recommendation.

☒ With a favorable recommendation and recommend that the bill be re-referred to the Committee on **FINANCE.**

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on _____.

s/_____

☐ With a favorable report.
☐ With a favorable report, as amended.
☐ 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 referred to the Committee on .)
☐ And having received a unanimous vote in committee, be placed on the Consent Calendar. (PUBLIC BILLS ONLY)

4/24/97

North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096

REPRESENTATIVE DANIEL F. McCOMAS
13TH DISTRICT

OFFICE ADDRESS: 2123 LEGISLATIVE BUILDING
RALEIGH, N.C. 27601-1096
TELEPHONE: (919) 733-5758
(919) 733-2599 FAX

E-MAIL ADDRESS: DANNYM@MS.NCGA.STATE.NC.US

HOME ADDRESS: P. O. BOX 2274
WILMINGTON, N.C. 28402

April 9, 1997

COMMITTEES:

COMMERCE
SUBCOMMITTEE ON PUBLIC UTILITIES, CHAIR
ENVIRONMENT
FINANCE, DEPUTY WHIP
SUBCOMMITTEE ON LOCAL, REGIONAL & STATE REVENUES
INSURANCE
SUBCOMMITTEE ON HEALTH, CHAIR
TRANSPORTATION

TO: Principle Clerk's Office

FROM: Rita A. Quinn, Committee Clerk

RE: Action of Subcommittee on Public Utilities

At today's meeting, the Subcommittee on Public Utilities appointed a sub-subcommittee to further study HB 547 *Renewable Resource Energy*. The Representatives assigned are: Tallent, Chairman; Dickson; McCombs; Nye; Reynolds. Chairman Tallent will schedule the meetings and report back to the permanent subcommittee at the conclusion of the study.

North Carolina General Assembly

House of Representatives
State Legislative Building
Raleigh 27601-1096

MINUTES

HOUSE COMMERCE
SUBCOMMITTEE ON PUBLIC UTILITIES

April 9, 1997

The Subcommittee on Public Utilities met at 10:00 a.m. on April 9, 1997 in the Legislative Office Building, Room 544.

Representative Daniel F. McComas, Chairman, presided and the following members were present:

Representatives Allred; Bonner; Braswell; Culpepper; Dickson; Holmes; Hurley; Ives; McCombs; McCrary; Mitchell; Morgan; Nye; Rogers; Tallent; C. Wilson; Womble

Staff Counsel Steve Rose was present to assist the Committee. The visitor registration sheet is attached as part of the minutes.

Chairman McComas called the meeting to order, introduced the Page serving the Committee and welcomed guests. The following bill was discussed:

Representative Arlie Culp, bill sponsor, was recognized to explain HB 547 *Renewable Resource Energy*. Also recognized for their input on this legislation were Steve Cook, Cook Industries, Inc.; Gene Upchurch, Carolina Power & Light; Bob Kaylor, Duke Power.

Chairman McComas announced the formation of a sub-subcommittee to further study HB 547. The members appointed were Representatives Tallent, Chairman; Dickson; McCombs; Nye; Reynolds. Chairman Tallent will schedule the meetings and report back to the permanent subcommittee at the conclusion of the study.

The meeting adjourned at 10:53 a.m.

Daniel F. McComas
Chairman

Rita A. Quinn
Committee Clerk

North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096

April 9, 1997

TO: Principle Clerk's Office

FROM: Rita A. Quinn, Committee Clerk

RE: Action of Subcommittee on Public Utilities

At today's meeting, the Subcommittee on Public Utilities appointed a sub-subcommittee to further study HB 547 *Renewable Resource Energy*. The Representatives assigned are: Tallent, Chairman; Dickson; McCombs; Nye; Reynolds. Chairman Tallent will schedule the meetings and report back to the permanent subcommittee at the conclusion of the study.

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(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, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

April 8, 1997

MEMORANDUM

TO: **Subcommittee on Public Utilities,**
House Committee on Commerce

FROM: **Committee Counsel for Public Utilities**

RE: **House Bill 547; Avoided costs for certain small power producers**

House Bill 547 amends G.S. 62-156 by providing a specific method for calculation of rates to be paid by public utilities to power producers producing 5 megawatts of electricity or less at the same site at dams in existence prior to 1997.

As currently written, G.S. 62-156 requires the Utilities Commission to hold a biennial proceeding to determine the rates to be paid by electric utilities for power purchased by small power producers where the utility and the power producer cannot agree on the terms. Under present law, the rates paid by the utility to the small power producer shall not exceed the cost to the utility of the electric energy which, but for the purchase from the small power producer, the utility would generate or purchase from another source. This is known as the avoided cost rate.

The amendment would require that the rates paid to hydroelectric power producers producing 5 megawatts or less at the same site at dams in existence prior to 1997 be calculated by using the Commission's approved residential retail rate for electricity for the particular utility and deducting from it a billing and distribution charge, not to exceed 10% of the retail rate, and a handling charge, not to exceed 12% of the retail rate. The amendment allows for the deduction for billing and distribution, and the deduction for the handling charge to be established by agreement between the small power producer and the utility for a period of up to 15 years, provided that the rate paid by the utility fluctuates as the Commission's approved residential rate for the utility fluctuates.

The requirement that public utilities purchase electricity from small power producers is imposed by Congress pursuant to the Public Utilities Regulatory Policies Act of 1978 (PURPA).

Under PURPA, the amount paid by the electric utility to the small hydroelectric facility may not exceed the avoided cost to the utility. Under federal law, avoided cost is the cost to the electric utility of the electric energy which, but for the purchase from the small power producer, the utility would generate or purchase from another source. While differences exist in the methods which may be used to calculate avoided costs, a formula not based on avoided costs is not permissible under PURPA.

It should be pointed out to the Committee that, although House Bill 547 uses the "residential retail rate" as the starting point for calculating the amount to be paid to the small power producer, there are a number of different residential retail rates used by each of the public utilities.

The matter of payments to small hydroelectric power producers was referred to the Joint Legislative Utility Review Committee by the 1995 General Assembly. The Utility Review Committee considered the matter but declined to make a recommendation to the 1997 General Assembly.

House Bill 547 would become effective when it becomes law and applies to contracts entered into on or before January 1, 1997. This would affect preexisting contracts.

H547-SMRL-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 547*

Short Title: Renewable Resource Energy. (Public)

Sponsors: Representatives Culp and Allred (Cosponsors).

Referred to: Commerce.

March 19, 1997

A BILL TO BE ENTITLED

AN ACT TO ENHANCE, ENSURE, AND PROTECT THE PUBLIC'S RIGHT TO CONTINUED ACCESS TO RENEWABLE RESOURCE ENERGY GENERATED BY SMALL POWER PRODUCERS OF FIVE MEGAWATTS OR LESS BY PROVIDING THAT AVOIDED COSTS TO A UTILITY FROM THAT ENERGY BE CALCULATED BY THE RESIDUAL REVENUE METHOD.

Whereas, it is in the public interest to encourage small business development in the area of electric energy generation and to enhance the continued economic feasibility of the production of renewable energy at small power production facilities producing five megawatts or less of electricity; and

Whereas, the operation of such small power production facilities helps to curtail the need for facilities operating on fossil fuels; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-156 reads as rewritten:

"**§ 62-156. Power sales by small power producers to public utilities.**

(a) In the event that a small power producer and an electric utility are unable to mutually agree to a contract for the sale of electricity or to a price for the electricity purchased by the electric utility, the commission shall require the utility to purchase the power, under rates and terms established as provided in subsection (b) of this section.

(b) No later than March 1, 1981, and at least every two years thereafter, the commission shall determine the rates to be paid by electric utilities for power

purchased from small power producers, other than those producers described in subsection (c) of this section, according to the following standards:

(1) Term of Contract. -- Long-term contracts for the purchase of electricity by the utility from small power producers shall be encouraged in order to enhance the economic feasibility of small power production facilities.

(2) Avoided Cost of Energy to the Utility. -- The rates paid by a utility to a small power producer shall not exceed, over the term of the purchase power contract, the incremental cost to the electric utility of the electric energy which, but for the purchase from a small power producer, the utility would generate or purchase from another source. A determination of the avoided energy costs to the utility shall include a consideration of the following factors over the term of the power contracts: the expected costs of the additional or existing generating capacity which could be displaced, the expected cost of fuel and other operating expenses of electric energy production which a utility would otherwise incur in generating or purchasing power from another source, and the expected security of the supply of fuel for the utilities' alternative power sources.

(3) Availability and Reliability of Power. -- The rates to be paid by electric utilities for power purchased from a small power producer shall be established with consideration of the reliability and availability of the power.

(c) The rates paid by a utility to a small power producer producing five megawatts of electricity or less at the same site and at dams in existence prior to 1997, shall be determined by using the residual revenue method as follows: by deducting from the Commission's approved residential retail rate for electricity for the applicable utility a billing and distribution charge, not to exceed ten percent (10%) of the retail rate, and a handling charge, not to exceed twelve percent (12%) of the retail rate. The result of this calculation shall be the avoided cost to the utility. The percentage deduction for the billing and distribution charge and the handling charge may be established by agreement between the small power producer and the utility for a period of up to 15 years, but the rate paid by a utility shall fluctuate as the Commission's approved residential rate for electricity for the receiving utility fluctuates."

Section 2. This act is effective when it becomes law and applies to contracts entered into on or before January 1, 1997.

Retroactive ?
S - Rose

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 547*

Short Title: Renewable Resource Energy. (Public)

Sponsors: Representatives Culp and Allred (Cosponsors).

Referred to: Commerce.

March 19, 1997

A BILL TO BE ENTITLED

AN ACT TO ENHANCE, ENSURE, AND PROTECT THE PUBLIC'S RIGHT TO CONTINUED ACCESS TO RENEWABLE RESOURCE ENERGY GENERATED BY SMALL POWER PRODUCERS OF FIVE MEGAWATTS OR LESS BY PROVIDING THAT AVOIDED COSTS TO A UTILITY FROM THAT ENERGY BE CALCULATED BY THE RESIDUAL REVENUE METHOD.

Whereas, it is in the public interest to encourage small business development in the area of electric energy generation and to enhance the continued economic feasibility of the production of renewable energy at small power production facilities producing five megawatts or less of electricity; and

Whereas, the operation of such small power production facilities helps to curtail the need for facilities operating on fossil fuels; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-156 reads as rewritten:

"**§ 62-156. Power sales by small power producers to public utilities.**

(a) In the event that a small power producer and an electric utility are unable to mutually agree to a contract for the sale of electricity or to a price for the electricity purchased by the electric utility, the commission shall require the utility to purchase the power, under rates and terms established as provided in subsection (b) of this section.

(b) No later than March 1, 1981, and at least every two years thereafter, the commission shall determine the rates to be paid by electric utilities for power

purchased from small power producers, other than those producers described in subsection (c) of this section, according to the following standards:

(1) Term of Contract. -- Long-term contracts for the purchase of electricity by the utility from small power producers shall be encouraged in order to enhance the economic feasibility of small power production facilities.

(2) Avoided Cost of Energy to the Utility. -- The rates paid by a utility to a small power producer shall not exceed, over the term of the purchase power contract, the incremental cost to the electric utility of the electric energy which, but for the purchase from a small power producer, the utility would generate or purchase from another source. A determination of the avoided energy costs to the utility shall include a consideration of the following factors over the term of the power contracts: the expected costs of the additional or existing generating capacity which could be displaced, the expected cost of fuel and other operating expenses of electric energy production which a utility would otherwise incur in generating or purchasing power from another source, and the expected security of the supply of fuel for the utilities' alternative power sources.

(3) Availability and Reliability of Power. -- The rates to be paid by electric utilities for power purchased from a small power producer shall be established with consideration of the reliability and availability of the power.

(c) The rates paid by a utility to a small power producer producing five megawatts of electricity or less at the same site and at dams in existence prior to 1997, shall be determined by using the residual revenue method as follows: by deducting from the Commission's approved residential retail rate for electricity for the applicable utility a billing and distribution charge, not to exceed ten percent (10%) of the retail rate, and a handling charge, not to exceed twelve percent (12%) of the retail rate. The result of this calculation shall be the avoided cost to the utility. The percentage deduction for the billing and distribution charge and the handling charge may be established by agreement between the small power producer and the utility for a period of up to 15 years, but the rate paid by a utility shall fluctuate as the Commission's approved residential rate for electricity for the receiving utility fluctuates."

Section 2. This act is effective when it becomes law and applies to contracts entered into on or before January 1, 1997.

S 408. RENEWABLE RESOURCE ENERGY. *TO ENHANCE, ENSURE, AND PROTECT THE PUBLIC'S RIGHT TO CONTINUED ACCESS TO RENEWABLE RESOURCE ENERGY GENERATED BY SMALL POWER PRODUCERS OF FIVE MEGAWATTS OR LESS BY PROVIDING THAT AVOIDED COSTS TO A UTILITY FROM THAT ENERGY BE CALCULATED BY THE RESIDUAL REVENUE METHOD.* Amends GS 62-156 to provide that rates paid by utility to small power producer producing five megawatts of electricity or less, with regard to same site and dams existing before 1997, will be determined by using residual revenue method to calculate an avoided cost by deducting from the Utility Comm'n's approved residential retail rate a billing and distribution charge not to exceed 10% of the retail rate and a handling charge not to exceed 12% of retail rate. The percentages used in calculating the avoided cost may be established by agreement between the producer and the utility for up to 15 years, but the rate paid by the utility continues to vary as the comm'n's approved residential rate for electricity for the receiving utility varies. Applies to contracts entered into on or before Jan. 1, 1997.

Intro. by Shaw of Guilford and Cochrane.

Ref. to Commerce GS 62

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 408

Short Title: Renewable Resource Energy. (Public)

Sponsors: Senators Shaw of Guilford and Cochrane.

Referred to: Commerce.

March 18, 1997

A BILL TO BE ENTITLED

AN ACT TO ENHANCE, ENSURE, AND PROTECT THE PUBLIC'S RIGHT TO CONTINUED ACCESS TO RENEWABLE RESOURCE ENERGY GENERATED BY SMALL POWER PRODUCERS OF FIVE MEGAWATTS OR LESS BY PROVIDING THAT AVOIDED COSTS TO A UTILITY FROM THAT ENERGY BE CALCULATED BY THE RESIDUAL REVENUE METHOD.

Whereas, it is in the public interest to encourage small business development in the area of electric energy generation and to enhance the continued economic feasibility of the production of renewable energy at small power production facilities producing five megawatts or less of electricity; and

Whereas, the operation of such small power production facilities helps to curtail the need for facilities operating on fossil fuels; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-156 reads as rewritten:

"**§ 62-156. Power sales by small power producers to public utilities.**

(a) In the event that a small power producer and an electric utility are unable to mutually agree to a contract for the sale of electricity or to a price for the electricity purchased by the electric utility, the commission shall require the utility to purchase the power, under rates and terms established as provided in subsection (b) of this section.

(b) No later than March 1, 1981, and at least every two years thereafter, the commission shall determine the rates to be paid by electric utilities for power

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(3) Availability and Reliability of Power. -- The rates to be paid by electric utilities for power purchased from a small power producer shall be established with consideration of the reliability and availability of the power.

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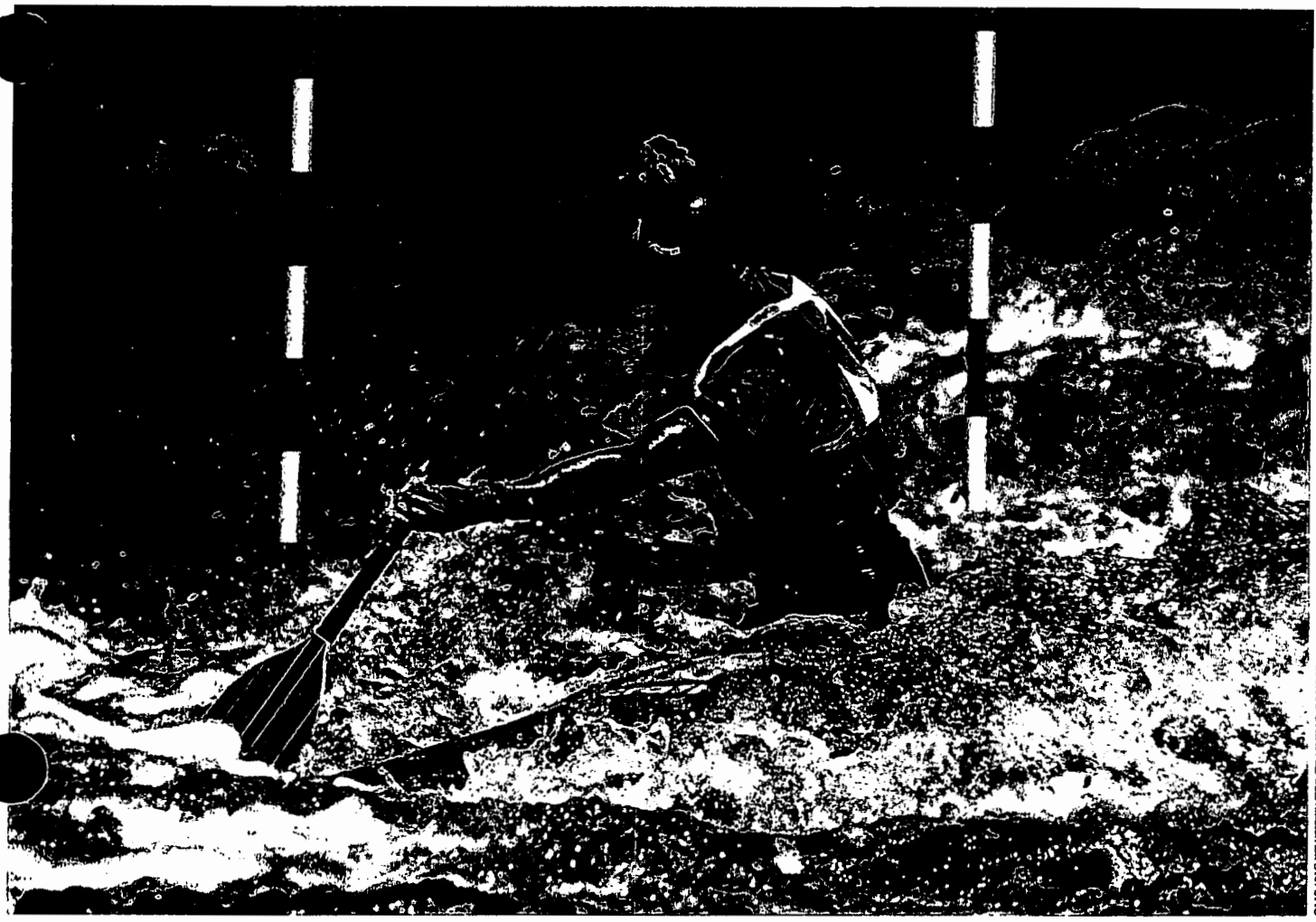
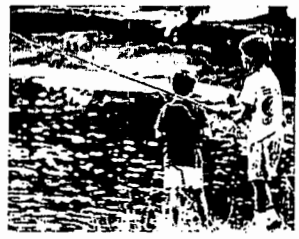
Section 2. This act is effective when it becomes law and applies to contracts entered into on or before January 1, 1997.

MEET A FEW OF OUR BIGGEST FANS



OLYMPIC WHITEWATER TRAINING COURSE, WAUSAU HYDROELECTRIC PLANT, WISCONSIN PUBLIC SERVICE

Boaters. Swimmers. Fishermen. Hikers. Campers. Kayakers. Rafters. They're just a few of the diverse groups of nature lovers who are discovering that hydropower can make the great outdoors even greater. By creating sparkling lakes, flowing streams, public parks and whitewater rapids, hydro stations have opened up new worlds of sporting and leisure for individuals, families and communities throughout the country. From coast to coast, Americans are learning that hydropower generates more than clean, safe, low-cost electric energy. It generates extraordinary recreational opportunities too. Rediscover hydropower — the world's oldest, most dependable source of endlessly renewable energy. You'll become a devoted fan, too.



HYDROPOWER. IT'S A NATURAL.

SPONSORED BY THE NATIONAL HYDROPOWER ASSOCIATION, WASHINGTON, D.C.

CLEARLY THE RIGHT ALTERNATIVE

LAKE ALMANOR SITS AT THE TOP OF THE STAIRWAY OF POWER ON THE FEATHER RIVER IN CALIFORNIA. PG&E

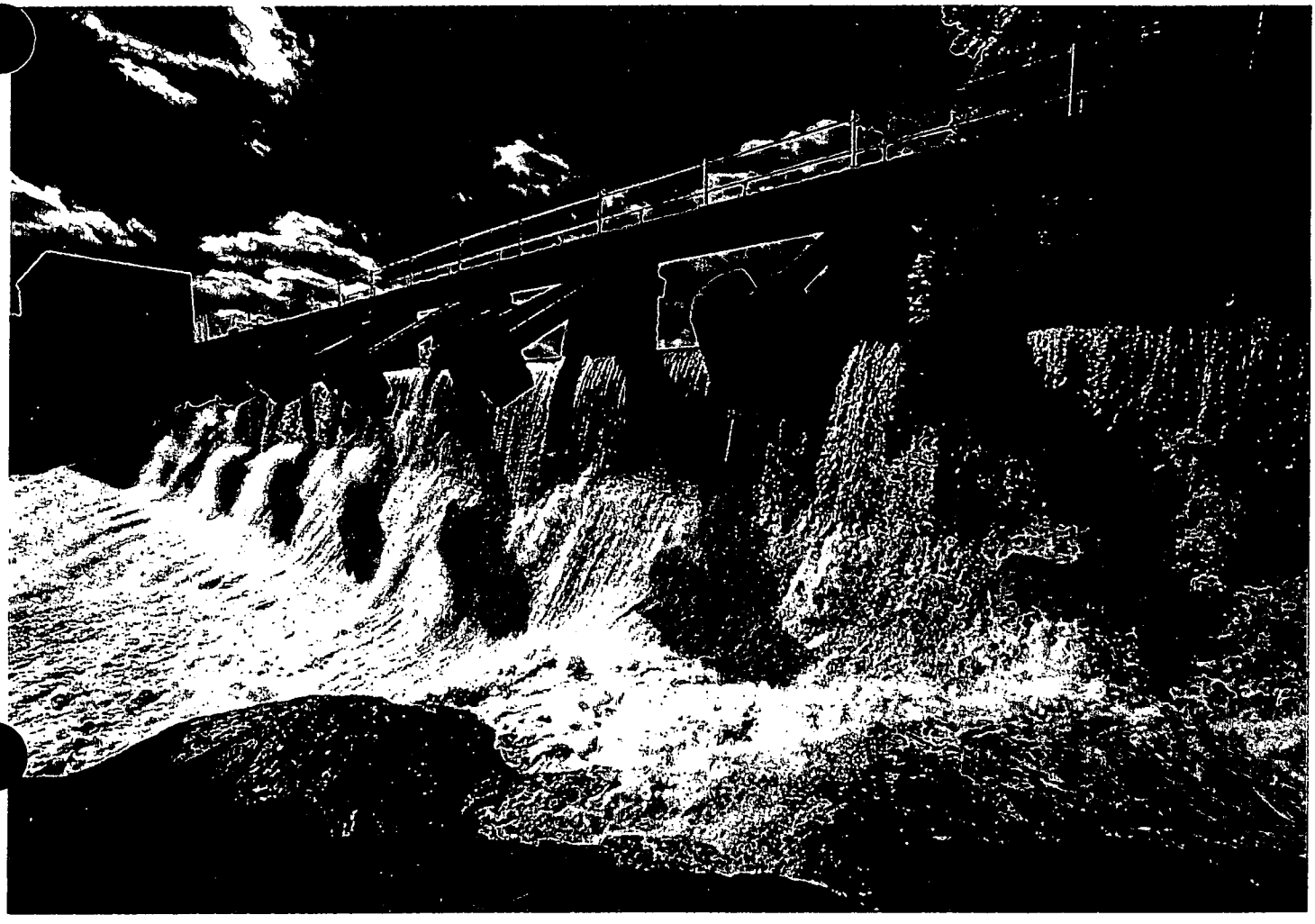
Thanks to hydropower, Americans have a safe, sound and economical energy source. In fact, reservoirs and hydroelectric stations are already at the heart of many thriving communities across the country. In the United States today, hydroelectric plants provide over 90,000 mega-

watts of power. That's more than thirteen percent of all electric power generated. Power that causes no air pollution. No drilling. No waste disposal problems. No foreign oil imports. Instead, an abundance of clean, safe, low-cost domestic energy. What's more, experts estimate that we could double our current hydro resources. Rediscover hydropower — the world's oldest and most dependable source of endlessly renewable energy. Because it's clearly the right alternative.

HYDROPOWER. IT'S A NATURAL!

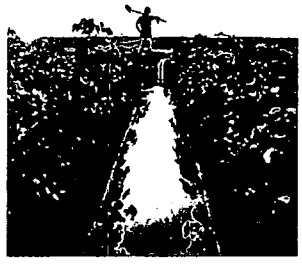
SPONSORED BY THE NATIONAL HYDROPOWER ASSOCIATION, WASHINGTON, D.C.

OVERFLOWING WITH POSSIBILITIES



HALIFAX HYDROPOWER PROJECT, VIRGINIA, SYNERGICS, INC.

It's bestowed countless communities with magnificent lakes, parks and woodlands. Transformed acres of western desert into fertile farmland. Provided a steady supply of clean, fresh water to households across the country. Sustained vital flood control networks. And created safe habitat for plants and wildlife.



It's hydropower. And no wonder it's America's first choice for electrical generation. Of all America's energy resources, only hydropower offers so many recreational and environmental benefits. All this, plus a domestic source of safe, non-polluting, low-cost electricity. Rediscover hydropower — the world's oldest and most dependable source of endlessly renewable energy. You'll see why hydro users across the country are overflowing with enthusiasm.

HYDROPOWER. IT'S A NATURAL!

SPONSORED BY THE NATIONAL HYDROPOWER ASSOCIATION, WASHINGTON, D.C.

Small Power Producers Of NC
5312 Groomtown Rd. Greensboro, NC 27407
Coordinators:
Steve Cook 910-294-9995
Tim Henderson 910-4495054
Bill Lee 910-824-2008
John Hagan 910-274-2044

Senate Bill S-408
House Bill HB-547

These plants were snake pits and a detrimate to the community when we bought and redeveloped them in the early 1980's. Without this bill history will repeat and the NC communities will suffer.

Save our Dams

Dear Senator/ Representative

Are the people of NC going to read that our State's Policy is to use it's cleanest electricity first or to do away with it and replace it with fossil fueled electricity? This is only a policy question. Duke and CP&L have lobbyist down here knee deep for weeks, we are told, saying the people will have to pay more. The people will pay the same as now and not one penny more in their monthly bill. If this bill does not pass Small Hydro will die and many jobs will die with it.

Two years ago the legislature voted unanimously in the House and Senate to save Small Hydro from over aggressive beaurocrats trying to take our water away. At that time Legislators expressed concern over decreasing rates to Small Hydro (while consumer rates were climbing) posing another threat to this renewable resource energy.

Duke and CP&L charge people at home about 7 cents per kilowatt for electricity whether it is produced by our Hydro or by their Coal. Our bill guarantees Duke and CP&L 12% profit and 10% for their expenses. We take the leftover or residue. We apologize for being blunt but, greed for total monopoly is the only true reason they are lobbying against our bill and why they are willing to deprive all of the people of their share of this clean electricity. **It comes down to this - Clean Electricity for 7 Cents or Fossil Fueled Electricity for 7 Cents?** If you help, we can save this clean energy. Small Hydro of 5 megawatts or less is paid a total of $3.2 million per year. Duke and CP&L take in $8 Billion per year. Shouldn't the people have the right to this renewable resource energy first regardless of Duke and CP&L's enormous lobbying power.

Every person associated with Small Hydro and the people, sincerely appreciates your support for these mom & pop businesses. Without your help these 40 Small Businesses are no match for Duke and CP&L's desire to finish us off.

Thank You

_____ Phone_____

Support Points For The Small Hydro Bill

Senate Bill Number S408 Sponsored by Senator Bob Shaw 919-715-3050
Co-Sponsored by Senator Betsy Cochrane 919-715-2525

House Bill Number HB547 Sponsored by Representative Arlie Culp 919-733-5865
Co-Sponsored by Representative Cary Allred 919-733-5773

Duke Power & Carolina Power & Light are massive. Combined, they turn in about $8 billion in sales annually. It's hard to take on companies this over-powering as small as we are. Thank you for taking time to read our side of the story. Duke and CP&L's greed to total market share should not prevail when they are not utilizing our natural resources. We are using them efficiently and no one will pay more at home if our Bill passes.

This is only a question of State Policy. **Is our State's policy going to be to use our cleanest electricity first?** This is the only clean renewable resource energy that this State has and the people do not believe it should be wasted. We have been told by numerous Legislators that Duke and CP&L have lobbyists nee deep down here for weeks saying the people will have to pay more if this bill passes. **The people will not pay one penny more in their monthly bill.** These rates are the same as the people already pay.

1. Our Bill calls for a new method to be used to calculate avoided cost for small power producers of 5 megawatts or less, called the Residual Revenue Method. This simply means that if you take out of retail residential rates those things that are not a part of avoided cost, the residue or left-over amount is the avoided cost.
2. We believe that the people have an inherent unwritten right through the NC Legislature to expect the cleanest electricity to be used first in this state, second cleanest second, third cleanest third and so on.

3. In 1984 & 1985 CP&L had a 1.5 penny spread between avoided cost and residential retail rate. In the current proceedings CP&L has almost a 6 penny spread. During the same period of time that they have raised what they have charged people for electricity they have also claimed their cost have gone down.
4. If CP&L had a 1.5 penny spread and now has near 6 pennies spread, why have residential rates not gone down?

5. Duke's residential retail rate, for example, today is 7.13 pennies. Our bill would deduct 12% for the power company's profit. It would then deduct another 10% for distribution and inter-connect expense. We would receive the left-over amount or about a nickel.

6. This bill ties us to the free market and lets our rates ride up and down with residential rates. If the people at home get a decrease, we do to. If the people at home get an increase, we do to. We think this is a reasonable approach.

7. With our rates riding up and down with the retail residential rates, the people are assured of getting our State's cleanest electricity first at the cheapest possible cost at all times.

8. This bill contains a formula for calculating avoided cost. Some folks will need to be reminded that a minimum of two formulas are already being used by the various utilities in this state, because of the special nature of those operations. Our bill contains simply a formula that more precisely calculates avoided cost for the special nature of our small industry.

9. Small Hydro of 5 megawatts or less received a combined total of $3.2 million last year. Duke, CP&L, and all the utilities in NC last year took in $8 billion. The amount paid to small hydro as a percentage of the total is an infinitesimally small amount but, should not be viewed as unimportant. We have no wind power in this State, there is no solar connected to the grid in this State, Small hydro

is one of the only substantial sources of clean renewable resource energy that we have and should not be destroyed simply because the utilities' would like to keep us out.

10. The utilities are saying that we are to small and they don't need us. That is exactly the same thing as having a reunion, 25 people come, Grandmother brings her famous Cherry Pie, and someone goes over to her, puts their hand on her shoulder and says; Madam, I'm sorry but you cannot put that on the table because you didn't bring enough for everybody. I thought this was supposed to be a united effort where every plant contributed what it could in an effort to give the people the cleanest electricity first at reasonable rates that move with the market.

11. All Small Hydro went in about 1981. Almost without exception, the plants took 15 year contracts with the utilities. Those contracts are running out now and spread over the next 36 months. **We went in for about a nickel a kW and this new bill will yield about a nickel. If we get the nickel and sign another 15 year contract to ride up and down and average about a nickel, it will mean that in our 30th year in business we will be selling our product for about the same price as 30 years before. We really believe this is a more than reasonable way for the people to keep this clean energy.**
12. In less number of years than described in #11 above, the Utilities' have let the residential rate climb from about 3 cents to 7cents and in some cases over 9 cents, yet they seem to believe that small power producers should be able to take a 75% reduction. I really don't believe we're that smart,

13. In some states the people have elected to bid for this clean power through 100kw blocks and are paying as much as 40 cents to 50 cents per kW for the power. If we already have this power for about a nickel, doesn't it make more sense to keep it for about a nickel instead of paying 40 cents later to restart it. We have already paid to develop it in this state, so why throw it away.

14. We ask the Public Staff of the Utilities Commission at a point to calculate for us how much it would cost the individual household total per month if our rates were doubled from the nickel now to about a dime. The answer was that the average total bill would increase less than 13 cents a month. That's a total of less than 13 cents per month increase in an average $100 per month bill, and yet we are not asking for an increase.

15. The Utilities' are telling everyone that since their proposed new avoided cost is about 2.6 cents per kW on 15 year contracts and about 1.5 cents per kW on open rates if 15 year contracts <u>are eliminated,</u> that the people will be paying more if we get about a nickel and that simply is not true. <u>Please think about this!</u> The people will not be paying more than now because they are already paying us about a nickel now and have been for 10 to 15 years. The people will see no increase in their bill at home if we maintain about a nickel as we now get. If we are eliminated, the people still will not see a decrease in their bill at home. Duke and CP&L have manipulated avoided cost to be exactly what they want it to be. They are now knowingly and without care, destroying our State's only substantial source of clean energy forever. Duke Power's own expert witness told the Utilities Commission on the record that there was no way the power companies were going to tell the commission their true avoided cost.

Steve Cook 910-294-9995 Tim Henderson 910-449-5054
Bill Lee 910-824-2008 John Hagan 910-274-2044
Ken Harris 910-275-4242 Bruse Cox 910-824-3791

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S HB 547 1

SENATE BILL 408

Short Title: Renewable Resource Energy. (Public)

Sponsors: Senators Shaw of Guilford and Cochrane.

Referred to: Commerce.

March 18, 1997

A BILL TO BE ENTITLED

AN ACT TO ENHANCE, ENSURE, AND PROTECT THE PUBLIC'S RIGHT TO CONTINUED ACCESS TO RENEWABLE RESOURCE ENERGY GENERATED BY SMALL POWER PRODUCERS OF FIVE MEGAWATTS OR LESS BY PROVIDING THAT AVOIDED COSTS TO A UTILITY FROM THAT ENERGY BE CALCULATED BY THE RESIDUAL REVENUE METHOD.

Whereas, it is in the public interest to encourage small business development in the area of electric energy generation and to enhance the continued economic feasibility of the production of renewable energy at small power production facilities producing five megawatts or less of electricity; and

Whereas, the operation of such small power production facilities helps to curtail the need for facilities operating on fossil fuels; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-156 reads as rewritten:

"**§ 62-156. Power sales by small power producers to public utilities.**

(a) In the event that a small power producer and an electric utility are unable to mutually agree to a contract for the sale of electricity or to a price for the electricity purchased by the electric utility, the commission shall require the utility to purchase the power, under rates and terms established as provided in subsection (b) of this section.

(b) No later than March 1, 1981, and at least every two years thereafter, the commission shall determine the rates to be paid by electric utilities for power

purchased from small power producers, other than those producers described in subsection (c) of this section, according to the following standards:

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(2) Avoided Cost of Energy to the Utility. -- The rates paid by a utility to a small power producer shall not exceed, over the term of the purchase power contract, the incremental cost to the electric utility of the electric energy which, but for the purchase from a small power producer, the utility would generate or purchase from another source. A determination of the avoided energy costs to the utility shall include a consideration of the following factors over the term of the power contracts: the expected costs of the additional or existing generating capacity which could be displaced, the expected cost of fuel and other operating expenses of electric energy production which a utility would otherwise incur in generating or purchasing power from another source, and the expected security of the supply of fuel for the utilities' alternative power sources.

(3) Availability and Reliability of Power. -- The rates to be paid by electric utilities for power purchased from a small power producer shall be established with consideration of the reliability and availability of the power.

(c) The rates paid by a utility to a small power producer producing five megawatts of electricity or less at the same site and at dams in existence prior to 1997, shall be determined by using the residual revenue method as follows: by deducting from the Commission's approved residential retail rate for electricity for the applicable utility a billing and distribution charge, not to exceed ten percent (10%) of the retail rate, and a handling charge, not to exceed twelve percent (12%) of the retail rate. The result of this calculation shall be the avoided cost to the utility. The percentage deduction for the billing and distribution charge and the handling charge may be established by agreement between the small power producer and the utility for a period of up to 15 years, but the rate paid by a utility shall fluctuate as the Commission's approved residential rate for electricity for the receiving utility fluctuates."

Section 2. This act is effective when it becomes law and applies to contracts entered into on or before January 1, 1997.

VISITOR REGISTRATION SHEET

Subcommittee on Public Utilities — 4-9-97

Name of Committee — Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Brenda Dougherty	Sprint
Natalie Haskins	Charlotte Chamber
Michelle Cook	Weyerhaeuser
John Hagan	Hydro Dynamics Industries
Jim Henderson	Hall Properties
Steve Cook	Cook and Assoc. Inc.
Sam Kirby	NCUC
Gisele Rankin	Public Staff - NCUC
WILLIAM H. LEE	DEEP RIVER HYDRO
Jim Fulmer	High Shoals & Long Shoals Hydro
Bruce Cox	Cox Lake Hydro
Jim Blackburn	County Comm's Assoc.
Kim Smith	League of Municipalities
Webb Hubbell	Arkansas
Tina Covington	Representative Reynolds' Office
David Simmons	Zeb Alley, PA
John Bode	Bode Call & Stroupe
Stuart Dixon	N.C. Natural Gas Corp.
Angie Harris	Commerce
Doug Culbreth	Commerce (Energy Div.)
DAVID SMITH	" " "

VISITOR REGISTRATION SHEET

Subcommittee on Public Utilities — 4-9-97

Name of Committee — Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Deborah Lamm	Dept of Commerce / Energy Div
N. David Smith	Dept of Agriculture
[signature]	CP&L
[signature]	Kaylor Law Firm
Joe McAlister	Duke Power
[signature]	[signature]
William Breeze	N.C. Med Board

North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096

MINUTES

HOUSE COMMERCE
SUBCOMMITTEE ON PUBLIC UTILITIES

April 16, 1997

The Subcommittee on Public Utilities met at 10:00 a.m. on April 16, 1997 in the Legislative Office Building, Room 544.

Representative Daniel F. McComas, Chairman, presided, and the following members were present:

Representatives: Bonner; Braswell; Dickson; Hurley; Ives; McCombs; McCrary; Mitchell; Reynolds; Rogers; C.; Wilson

Staff Counsel Steve Rose was present to assist the Committee. The visitor registration sheet is attached as part of the minutes.

Chairman McComas called the meeting to order, introduced the Page serving the Committee and welcomed guests. The following bills were discussed:

Rep. Thompson, bill sponsor, was recognized to explain HB 26 *Amend LP Gas Code*. An amendment was put forth by Rep. Thompson. Rep. Mitchell moved that the amendment be adopted. The adopted amendment is attached to the minutes. Rep. Dickson moved that the bill be reported favorably as amended. The bill passed as amended and was re-referred to the Committee on Finance.

Rep. Owens, bill sponsor, was recognized to explain HB 495 *Natural Gas Infrastructure*. Amendment #1 was put forth by Rep. Owens. Rep. McCombs moved that amendment #1 be adopted. The adopted amendment #1 is attached to the minutes. Rep. Owens put forth amendment #2. Rep. Dickson

MINUTES
HOUSE COMMERCE
SUBCOMMITTEE ON PUBLIC UTILITIES
April 16, 1997

HB 495 Continued...

moved that amendment #2 be adopted. The adopted amendment #2 is attached to the minutes. Chairman McComas put forth that the amendments to HB 495 be rolled into a Proposed Committee Substitute. Rep. Dickson moved that the Proposed Committee Substitute be adopted. The adopted Proposed Committee Substitute is attached to the minutes. Rep. Dickson moved that HB 495 be reported favorably as amended. The bill passed as amended and was re-referred to the Committee on Finance.

The meeting adjourned at 10:35 a.m.

Representative Daniel F. McComas
Chairman

Rita A. Quinn
Committee Clerk

North Carolina General Assembly
Legislative Services Office

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

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

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Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
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(919) 733-6834

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

April 8, 1997

MEMORANDUM

TO: **Subcommittee on Public Utilities,**
House Commerce Committee

FROM: **Steven Rose, Counsel for Public Utilities**

RE: **House Bill 26; Amend LP Gas Code**

House Bill 26 is a recommendation of the LRC Consumer Protection Study Committee. The bill removes the prohibition against unvented gas heaters in manufactured homes. It also removes the prohibition against unvented gas heaters in the bedroom of a home. Approval of certification laboratories is shifted from the Commissioner of Agriculture to the Building Code Council. Because of previous amendments to the statutes, jurisdiction over heating appliances inside homes has been shifted to the Building Code Council and jurisdiction over heating appliances inside manufactured homes has shifted to the Manufactured Housing Board. Both the Council and the Board are administratively assigned to the Department of Insurance.

It is my understanding that the Building Code Council and the Manufactured Housing Board, acting under their jurisdiction over heating appliances inside the home, already allow unvented gas heaters in the homes, but not in the bedrooms. By repealing subdivisions (2) and (3) of G.S. 119-58(a), the bill will allow the Building Code Council and the Manufactured Housing Board to also authorize unvented gas heaters in bedrooms. The repeal of subdivision (2) also recognizes that unvented gas heaters are already allowed in portions of a manufactured home.

The bill takes effect when it becomes law and applies to appliances installed on or after that date.

H26-SMRL-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 26*

Short Title: Amend LP Gas Code. (Public)

Sponsors: Representatives Thompson, Beall, Cunningham, Preston, and Rayfield.

Referred to: Commerce Subcommittee on Public Utilities.

February 4, 1997

A BILL TO BE ENTITLED

AN ACT TO MAKE CONFORMING CHANGES TO THE LP GAS STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 119-58 reads as rewritten:

"**§ 119-58. Unlawful acts.**

(a) It shall be an unlawful act for any person to:

(1) Sell any liquified petroleum gas burning appliance designed or built for domestic use which has not been approved by the American Gas Association, Inc., the Underwriters Laboratory, Inc., or other laboratory approved by the ~~Commissioner of Agriculture.~~ North Carolina Building Code Council. This subdivision shall not apply to appliances regulated under the North Carolina Building Code;

~~(2) Install any unvented space heating appliance in a manufactured home as defined in G.S. 143-145(7)~~

~~(3) Install any unvented space heating appliance in a sleeping room that has an input of over 30 BTU per cubic feet of enclosure;~~

(4) Fill a consumer tank or container in excess of 85 percent (85%) of its water capacity, or to fill a tank or container on the premises of a consumer that is not equipped with a fill tube or gauge; provided, ~~said~~ the tank or container may be filled by weight if the tank or container is weighed before and after filling;

(5) Disconnect an appliance from a gas supply line without capping or plugging ~~said~~ the line before leaving the premises;

(6) Turn on the gas after reestablishing an interrupted service without first having checked and closed all gas outlets;

(7) Violate any provisions of this Article or any rules and regulations promulgated thereunder.

(b) Every supply tank or container with its regulating equipment connected in a service system, shall be identified while in service by the supplier with an attached tag, label or other marking that includes the name of the person supplying liquefied petroleum gas to ~~said~~ the system, and it shall be unlawful for any person, other than ~~said~~ the supplier or the owner of the system, to disconnect, interrupt or fill ~~said~~ the system with liquefied petroleum gas without the consent of ~~said~~ the supplier. Provided, if another registered supplier is requested by the consumer to connect his service and is given permission by the consumer to do so, the new supplier shall notify the former supplier before disconnecting the former service and connecting the new service and shall cap or plug all disconnected equipment outlets and leave ~~said~~ the equipment in a condition consistent with this Article and the rules and regulations promulgated thereunder."

Section 2. This act is effective when it becomes law and applies to appliances installed on and after that date.

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April 2, 1997

MEMORANDUM

TO: **House Committee on Commerce**

FROM: **Steven Rose, Committee Counsel for Utilities**

RE: **House Bill 495; Natural Gas Infrastructure**

House Bill 495 is intended to promote the extension of natural gas service to unserved counties by permitting public utilities to charge different rates in those counties in order to reflect the additional cost of providing service, and by authorizing the creation of natural gas districts for the purpose of providing expansion into unserved counties.

Section 1 of the bill amends G.S. 62-140(a) by adding a provision authorizing the Utilities Commission to establish different rates for natural gas service to counties that are substantially unserved, to the extent that those rates reflect the actual cost of providing service to those counties. The Commission must find that natural gas service would not become available to those counties without the rate differential. As presently worded, G.S. 62-140(a) prohibits unreasonable differences as to rates or service to exist between localities or between classes of service.

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chair and vice-chair from its membership, and also annually elects a secretary and a treasurer. Members of the board are compensated at the rate of $50 for each meeting of the district. Proposed G.S. 160A-635 provides that a majority of the board constitutes a quorum. Proposed G.S. 160A-636 permits the election of advisory committees by the board, which may or may not include members of the board.

Proposed G.S. 160A-637 provides that the purpose of such a district is to enhance the quality of life within its jurisdiction by providing the development of natural gas distribution systems in order to enhance economic development in the area.

Proposed G.S. 160A-638 spells out the general powers of the district which include the making of rules and regulations, employment of persons, use of officers, employees, agents and facilities of units of local government with the approval of the chief administrator or official of the unit of local government, lease or ownership of property. Disposal of property constituting a substantial part of a natural gas system may only be disposed of with the approval of the Department of Commerce, and if approved, the district must repay the State the lesser of the amount of any capital grant made by the State or one half the amount of the proceeds from the sale. Among the powers granted to the district are the right to purchase, construct, and operate natural gas systems, the ability to contract with private parties and natural gas companies for management and operation of natural gas systems, the ability to own, lease, and operate gas systems which may include sources of gas supply such as gas fields and reserves, which must be located within the State, and the purchase of natural gas supplies within or without the State. The district may also enter into contracts and agreements with other natural gas districts, regional natural gas districts, or units of local government, and the district may also enter into contracts and agreements with private natural gas companies. The district is not authorized to operate or

Proposed G.S. 160A-644 provides that the provisions of this act control in the event of an inconsistency with any other law.

Proposed G.S. 160A-645 authorizes a gas district to issue bonds and notes pursuant to the Local Government Revenue Bond Act for the purpose of financing natural gas systems.

Proposed G.S. 160A-646 grants power to the district to purchase equipment and finance it in various ways. Payments shall be payable only from the income to the district, funds derived from sale of surplus property, and gift, grants, or contributions. Installment financing is permitted.

Proposed G.S. 160A-647 grants the power to acquire property, and specifically grants the power of eminent domain. In the event of the power of eminent domain is exercised, the county board of commissioners of the county where the land is located must consent to the taking.

Proposed G.S. 160A-648 provides that the property and income of the district is exempt from taxation except when a leasehold interest in district property is granted to a private party. Then the value of the leasehold interest is taxable and the income of the leasee is taxable. Interest on bonds or obligations is issued by the district is exempt from State taxes.

Proposed G.S. 160A-649 provides that the district has the power to require any public utility operating within the district to relocate structures, equipment, apparatus, and so forth. The district must provide new locations and may use the power of eminent domain for that purpose, except within the right-of-way of a public highway. Real estate taken from a public utility must be compensated subject to the right of the district to reduce the compensation by the value of property exchanged for that taken. The method and procedures of an adjustment to the facilities of the public utility are to be covered by an agreement between the district and the affected party. The district is responsible to reimburse the public utility for the cost of relocation or removal.

Pursuant to House Rule 38(b), if this bill is reported out favorably, the report should indicate that the bill authorizes the issuance of bonds or notes and, accordingly, it should be referred to the Committee on Finance.

H495-SMRL-001

Section 2 of the bill amends Chapter 160A of the General Statutes by adding a new Article 27 authorizing regional natural gas districts.

Proposed G.S. 160A-630 gives the title "Regional Natural Gas District Act" to the statutory provision. Proposed G.S. 160A-631 provides definitions to be used in the act.

Proposed G.S. 160A-632 provides that a district may be created for one or more entire counties that are totally unserved with natural gas at the time the district is created. This area constitutes the territorial jurisdiction and service area.

Proposed G.S. 160A-633 provides that a district may be created by the boards of county commissioners adopting a resolution to organize a district. The resolutions may be adopted only after a public hearing which occurs after a minimum of 10 days public notice in a general circulation newspaper. Municipalities located within the proposed service area may join the district using the same procedures as a county. The contents of the resolution includes articles of incorporation and a certified copy of each resolution must be filed with the Secretary of State together with proof of publication of the notice of hearing for each resolution. Upon a finding by the Secretary of State that the resolutions and articles of incorporation conform to the act, and that the notices of hearing were properly published, the Secretary of State shall file the resolutions and proofs of publication and issue a certificate of incorporation. After organization of the district, the secretary of the district must certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office.

Proposed G.S. 160A-634 specifies that the governing body of the district is its board of trustees, the membership of which is as provided in the articles of incorporation. Persons serving on the board of trustees may hold an elective public office as well. Members of the board of trustees must reside within the territorial jurisdiction of the district. The board annually elects a

contract for the operation of service of a natural gas system outside the service area of the district. Rates and charges are set at the sole discretion of the district.

Proposed G.S. 160A-639 provides that the Utilities Commission does not have jurisdiction over the rates, fees, and charges of a district for service within its territorial jurisdiction. However, safety regulations of the Commission shall apply and, except as otherwise stated in this act, the powers of the Utilities Commission are not limited or affected.

Proposed G.S. 160A-640 provides that the district is a public authority subject to the provisions of Chapter 159, the Local Government Finance Act.

Proposed G.S. 160A-641 provides that such districts are considered to be for a public purpose and the State and any unit of local government may appropriate funds for such districts. The State and other units of local government may give or otherwise convey property to the district and the district may apply for a grants from the State, the United States, or any agency of either. The Department of Commerce is specifically authorized to allocate funds appropriated for natural gas.

Proposed G.S. 160A-642 provides that the creation of a district will not affect existing franchises granted by units of local government. Ordinances and resolutions of units of local government regulating local natural gas systems continue in full force and effect unless superseded by regulation of the district which the unit of local government has agreed to.

Proposed G.S. 160A-643 provides that the board of trustees may terminate the district after providing for continuity of natural gas service to its customers and provided it has no outstanding indebtedness. In the event of termination, assets become the property of the State.

Proposed G.S. 160A-650 authorizes a district to establish and revise its rates and charges for gas service. Variations may exist according to the classes of service. Before establishing or revising rates, the board of trustees must hold a public hearing which must be preceded by at least 7 days notice in a newspaper having general circulation in the area. The district may not refuse to provide service to a tenant occupying a particular premises because a previous tenant is delinquent in payment of its account. Rates and charges are the legal obligation of the person contracting for them and shall not be a lien upon the property.

Section 3 of the bill amends G.S. 105-164.14(c) by adding a new subdivision (22) specifying that regional natural gas districts are permitted to claim a sales and use tax refund for taxes paid on direct purchases of tangible personal property.

Section 4 of the bill amends G.S. 159-81(1) by adding to the definition of "municipality" a regional natural gas district. These definitions apply to Article 5 of Chapter 159, the State and Local Government Revenue Bond Act. Article 5 establishes the procedure for the issuance of revenue bonds by municipalities.

Section 5 of the bill amends G.S. 160A-20(h) by adding regional natural gas districts to the list of entities included under the term "unit of local government." Units of local government listed in G.S. 160A-20 may purchase or finance the purchase of real or personal property by use of installment contracts and may establish security interests to secure payment of the purchase price to the seller or the entity providing the financing.

Section 6 of the bill provides that the act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 495
Proposed Committee Substitute H495-PCS8180

Short Title: Natural Gas. (Public)

Sponsors:

Referred to:

March 11, 1997

A BILL TO BE ENTITLED

AN ACT TO ADDRESS NORTH CAROLINA'S URGENT INFRASTRUCTURE NEEDS BY CLARIFYING THAT THE NORTH CAROLINA UTILITIES COMMISSION MAY ESTABLISH DIFFERENT RATES FOR NATURAL GAS SERVICE TO UNSERVED COUNTIES THAT REFLECT THE COST OF PROVIDING SERVICE TO THE UNSERVED COUNTIES AND AUTHORIZING THE CREATION OF NATURAL GAS DISTRICTS FOR NATURAL GAS EXPANSION.

The General Assembly of North Carolina enacts:

PART I.

DIFFERENT RATES.

Section 1. G.S. 62-140(a) reads as rewritten:

"(a) No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or services either as between localities or as between classes of service. The Commission may determine any questions of fact arising under this section; provided that it shall not be an unreasonable preference or advantage or constitute discrimination against any person, firm or corporation or general rate payer for telephone utilities to contract with motels, hotels and hospitals to pay reasonable commissions in connection with the handling of intrastate toll calls charged to a guest or patient and collected by the motel, hotel or hospital; provided further, that payment of such commissions shall be in accordance with uniform tariffs

which shall be subject to the approval of the Commission. Provided further, that it shall not be considered an unreasonable preference or advantage for the Commission to order, if it finds the public interest so requires, a reduction in local telephone rates for low-income residential consumers meeting a means test established by the Commission in order to match any reduction in the interstate subscriber line charge authorized by the Federal Communications Commission.

Nothing in this section prohibits the Commission from establishing different rates for natural gas service to counties that are substantially unserved, to the extent that those rates reflect the cost of providing service to the unserved counties and upon a finding by the Commission that natural gas service would not otherwise become available to the counties."

PART II.

NATURAL GAS DISTRICTS.

Section 2. Chapter 160A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 27.

"Regional Natural Gas District.

"**§ 160A-630. Title.**

This Article shall be known and may be cited as the 'Regional Natural Gas District Act'.

"**§ 160A-631. Definitions.**

As used in this Article, unless the context otherwise requires:

(1) 'District' means a regional natural gas district as defined by this section.

(2) 'Board of Trustees' means the governing board of the district in which the general legislative powers of the district are vested.

(3) 'Regional natural gas district' means a body corporate and politic organized in accordance with the provisions of this Article for the purposes, with the powers, and subject to the restrictions set forth in this Article.

(4) 'Unit of local government' means any county, city, town, or municipality of this State, and any other political subdivision, public corporation, or district in this State, that is or may be authorized by law to acquire, establish, construct, enlarge, improve, maintain, own, or operate natural gas systems.

(5) 'Unit of local government's chief administrative official' means the county manager, city manager, town manager, or other person, by whatever title known, in whom the responsibility for the unit of local government's administrative duties is vested.

"**§ 160A-632. Definition of territorial jurisdiction and service area of district.**

(a) A district may be created for one or more entire counties that are totally unserved with natural gas and in which a specific natural gas project has not been approved by the Utilities Commission, at the time of creation of the district. This area is the territorial jurisdiction and the service area of the district.

(b) The creation of a district does not confer on the district the exclusive right to provide natural gas service in that territorial jurisdiction.

"**§ 160A-633. Creation of district.**

(a) The boards of commissioners of any one or more counties within an area for which a district may be created as provided by G.S. 160A-632 may by resolution signify their determination to organize a district under the provisions of this Article. Each of these resolutions shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the district, and shall state the time and place of the public hearing. A copy of the notice shall be mailed not later than the first day of newspaper publication to the business office of any public utility that holds a franchise from the North Carolina Utilities Commission to serve any part of the proposed district with natural gas service. No county shall be required to make any other publication of the resolution under the provisions of any other law. Any municipality located within the area may join the district by following the procedures set out in this section.

(b) Each resolution shall include articles of incorporation which shall set forth all of the following:

(1) The name of the district.

(2) The composition of the board of trustees, terms of office, and the manner of making appointments and filling vacancies.

(3) A statement that the district is organized under this Article.

(4) The names of the organizing counties and municipalities.

(5) Provision for the distribution of assets in the event the district is terminated.

(c) A certified copy of each of the resolutions signifying the determination to organize a district under the provisions of this Article shall be filed with the Secretary of State, together with proof of publication and mailing of the notice of hearing on each of the resolutions. If the Secretary of State finds that the resolutions, including the articles of incorporation, conform to the provisions of this Article and that the notices of hearing were properly published and mailed, the Secretary of State shall file the resolutions and proofs of publication and mailing, shall issue a certificate of incorporation under the seal of the State, and shall record the certificate in an appropriate book of record. The issuance of this certificate of incorporation by the Secretary of State shall constitute the district a public body and body politic and corporate of the State of North Carolina. The certificate of incorporation shall be conclusive evidence of the fact that the district has been duly created and established under this Article.

(d) When the district has been duly organized and its officers elected, the secretary of the district shall certify to the Secretary of State the names and addresses of the officers, the name and address of the registered agent, and the address of the

principal office of the district. The district shall be subject to the provisions of Article 5 of Chapter 55A of the General Statutes.

(e) In the event the district is terminated, notification of the termination shall be filed with the Secretary of State.

"§ 160A-634. Membership; officers; compensation.

(a) The governing body of a district is the Board of Trustees. The Board of Trustees shall consist of members as provided in the articles of incorporation.

(b) Service on the Board of Trustees may be in addition to any other office which a person is entitled to hold. Each voting member of the Board of Trustees may hold elective public office as defined by G.S. 128-1.1(d).

(c) Members of the Board of Trustees shall reside within the territorial jurisdiction of the district as defined by G.S. 160A-632.

(d) The Board of Trustees shall annually elect from its membership a Chair and a Vice-chair, and shall annually elect a Secretary and a Treasurer.

(e) Members of the Board of Trustees shall receive the sum of fifty dollars ($50.00) as compensation for attendance at each duly conducted meeting of the district.

"§ 160A-635. Quorum.

A majority of the members of the Board of Trustees shall constitute a quorum for the transaction of business.

"§ 160A-636. Advisory committees.

The Board of Trustees may provide for the selection of any advisory committees that it finds appropriate, which may or may not include members of the Board of Trustees.

"§ 160A-637. Purpose of the district.

The purpose of the district is to enhance the quality of life in its territorial jurisdiction by promoting the development of natural gas distribution systems to enhance the economic development of the area.

"§ 160A-638. General powers of the district.

The general powers of the district include all of the following:

(1) To sue and be sued.

(2) To have a seal.

(3) To make rules and regulations, not inconsistent with this Article, for its organization and internal management.

(4) To employ persons deemed necessary to carry out the functions and duties assigned to them by the district and to fix their compensation, within the limit of available funds.

(5) With the approval of the unit of local government's chief administrative official, to use officers, employees, agents, and facilities of the unit of local government for such purposes and upon such terms as may be mutually agreeable.

(6) To retain and employ counsel, auditors, engineers, and private consultants on an annual salary, contract basis, or otherwise for rendering professional or technical services and advice.

(7) To acquire, lease as lessee with or without option to purchase, hold, own, and use any franchise, property, real or personal, tangible or intangible, or any interest therein and to sell, lease as lessor with or without option to purchase, transfer (or dispose thereof) whenever the property is no longer required for purposes of the district, or exchange it for other property or rights which are useful for the district's purposes. Except as provided in any covenant or debt instrument designed to protect the creditor, if any loans or grants by the Department of Commerce have not been repaid, all or a substantial part of an operating natural gas district may not be disposed of without the approval of the Department of Commerce. If the sale is approved by the Department of Commerce, the district shall repay the State the lesser of the amount of any capital grant made by the State or one-half of the amount of the proceeds.

(8) To acquire by gift, purchase, lease as lessee with or without option to purchase or otherwise to construct, improve, maintain, repair, operate, or administer any component parts of a natural gas system. The district also may contract for the maintenance, operation, or administration thereof or to lease as lessor the same for maintenance, operation, or administration by private parties.

(9) To make or enter into contracts, agreements, deeds, leases with or without option to purchase, conveyances, or other instruments, including contracts and agreements with the United States, the State of North Carolina, and units of local government.

(10) To develop and make data, plans, information, surveys, and studies of natural gas facilities within the territorial jurisdiction of the district, to prepare and make recommendations in regard thereto.

(11) To enter in a reasonable manner lands, waters, or premises for the purpose of making surveys, soundings, drillings, and examinations. This entry shall not be deemed a trespass except that the district shall be liable for any actual and consequential damages resulting from the entry.

(12) To develop and carry out demonstration projects.

(13) To make, enter into, and perform contracts with private parties and natural gas companies with respect to the management and operation of natural gas systems.

(14) To make, enter into, and perform contracts with any public utility, railroad, or transportation company for the joint use of property or rights.

(15) To own, lease, and operate gas production, storage, transmission, and distribution systems. These systems may also include the purchase or lease, or both, of natural gas fields and natural gas reserves within the State, and the purchase of natural gas supplies

within or without the State. A district may operate that part of a gas system involving the purchase or lease, or both, of natural gas fields, natural gas reserves, and natural gas supplies, in an operating agreement, partnership or joint venture arrangement with natural gas utilities and private enterprise. The district may acquire, purchase, construct, receive, own, operate, maintain, enlarge, and improve natural gas systems, and transport and sell at wholesale all or any part of its gas supply.

(16) To purchase or finance real or personal property under G.S. 160A-20.

(17) To obtain grants, loans, and assistance from the United States, the State of North Carolina, any public body, or any private source.

(18) To enter into and perform contracts and agreements with other natural gas districts, regional natural gas districts, or units of local government pursuant to the provisions of G.S. 160A-460 through G.S. 160A-464 (Part 1 of Article 20 of Chapter 160A of the General Statutes) and to enter into contracts and agreements with private natural gas companies, but this subdivision does not authorize the operation of, or contracting for the operation of, service of a natural gas system outside the service area of the district.

(19) Except as restricted by covenants in bonds, notes, security interests, or trust certificates, to set in its sole discretion rates, fees, and charges for use of its natural gas system in accordance with G.S. 160A-648.

(20) To do all related things necessary to carry out its purpose and to exercise the powers granted to the district.

(21) To issue bonds or other obligations of the district as provided by law and apply the proceeds thereof to the financing of any natural gas system or any part thereof and to refund, whether or not in advance of maturity or the earliest redemption date, any such bonds or other obligations.

"**§ 160A-639. Fiscal accountability.**

A district is a public authority subject to the provisions of Chapter 159 of the General Statutes.

"**§ 160A-640. Funds.**

The establishment and operation of a district is a public purpose, and the State of North Carolina and any unit of local government may appropriate funds to support the establishment and operation of the district. The State of North Carolina and any unit of local government may also dedicate, sell, convey, donate, or lease any of their interests in any property to the district. A district may apply for grants from the State of North Carolina, or from the United States or any department, agency, or instrumentality thereof. The Department of Commerce may allocate to a district any funds appropriated for natural gas.

"**§ 160A-641. Effect on existing franchises and operations.**

Creation of the district does not affect any existing franchises granted by any unit of local government. Those existing franchises shall continue in full force and effect until legally terminated, and all ordinances and resolutions of the unit of local government regulating local natural gas systems shall continue in full force and effect unless superseded by regulations of the district. This superseding, if any, may occur only on the basis of prior mutual agreement between the district and the respective unit of local government.

"**§ 160A-642. Termination.**

The Board of Trustees after providing for the continued availability of natural gas service to its customers, if any, may terminate the existence of the district at any time when it has no outstanding indebtedness.

"**§ 160A-643. Controlling provisions.**

Insofar as the provisions of this Article are not consistent with the provisions of any other law, public or private, the provisions of this Article shall be controlling.

"**§ 160A-644. Bonds and notes authorized.**

In addition to the powers granted by this Article, the district may issue bonds and notes pursuant to the provisions of the Local Government Revenue Bond Act for the purpose of financing natural gas systems or any part thereof and to refund the bonds and notes, whether or not in advance of their maturity or earliest redemption date.

"**§ 160A-645. Equipment trust certificates.**

In addition to the powers granted in this Article, the district shall have continuing power to purchase equipment, and in connection therewith to execute agreements, leases with or without option to purchase, or equipment trust certificates. All money required to be paid by the district under the provisions of these agreements, leases with or without option to purchase, and equipment trust certificates shall be payable solely from the fares, fees, rentals, charges, revenues, and earnings of the district, moneys derived from the sale of any surplus property of the district, and gifts, grants, and contributions from any source. Payment for such equipment or rentals therefore, may be made in installments; the deferred installments may be evidenced by equipment trust certificates payable solely from the aforesaid revenues or receipts and title to the equipment may or may not vest in the district until the equipment trust certificates are paid.

"**§ 160A-646. Acquisition, power of eminent domain.**

(a) The district shall have continuing power to acquire, by gift, grant, devise, bequest, exchange, purchase, lease with or without option to purchase, or any other lawful method including, but not limited to, the power of eminent domain, the fee or any lesser interest in real or personal property for use by the district.

(b) Exercise of the power of eminent domain by the district shall be as a private condemnor in accordance with Chapter 40A of the General Statutes. Notwithstanding Chapter 40A of the General Statutes, before final judgment may be entered in any action of condemnation initiated by the district, the district shall furnish proof that the county board of commissioners of the county where the land is located has consented by resolution or ordinance to the taking.

"**§ 160A-647. Tax exemption.**

The property of the district, both real and personal, its acts, activities, and income shall be exempt from any tax or tax obligation; in the event of any lease of district property, or other arrangement which amounts to a leasehold interest to a private party, this exemption shall not apply to the value of such leasehold interest nor shall it apply to the income of the lessee. Otherwise, however, for the purpose of taxation, when property of the district is leased to private parties solely for the purpose of the district, the acts and activities of the lessee shall be considered as the acts and activities of the district and the exemption. The interest on bonds or obligations issued by the district shall be exempt from State taxes.

"**§ 160A-648. Authority to fix and enforce rates.**

(a) A district may establish and revise from time to time schedules of reasonable rents, rates, fees, charges, and penalties made applicable throughout the district for the gas services. Schedules of rents, rates, fees, charges, or penalties may vary according to classes of service. Before it establishes or revises a schedule of rents, rates, fees, charges, or penalties, the district Board of Trustees shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing.

(b) A district may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts. A district may also discontinue service to any customer whose account remains delinquent for more than 30 days. When service is discontinued for delinquency, it shall be unlawful for any person other than a duly authorized agent or employee of the district to do any act that results in a resumption of services. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises, but this restriction shall not apply when the premises are occupied by two or more tenants whose services are measured by the same meter.

(c) Rents, rates, fees, charges, and penalties for services shall be legal obligations of the person contracting for them and shall in no case be a lien upon the property or premises served.

(d) Rents, rates, fees, charges, and penalties for services shall be legal obligations of the owner of the premises served when the property or premises are leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter."

Section 3. G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(22) A regional natural gas district created pursuant to Article 27 of Chapter 160A of the General Statutes."

Section 4. G.S. 159-81(1) reads as rewritten:

"(1) 'Municipality' means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer

authority, hospital authority, hospital district, parking authority, special airport district, regional public transportation authority, regional natural gas district, regional sports authority, airport authority, joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, and joint agency authorized by agreement between two cities to operate an airport pursuant to G.S. 63-56, but not any other forms of local government."

Section 5. G.S. 160A-20(h) reads as rewritten:

"(h) As used in this section, the term 'unit of local government' means any of the following:

(1) A county.

(2) A city.

(3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.

(4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.

(5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.

(5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995; provided that the authority granted by this section may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.

(6) A local school administrative unit (i) that is located in a county that has a population of over 90,000 according to the most recent federal decennial census and (ii) whose board of education is authorized to levy a school tax.

(7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.

(8) A consolidated city-county, as defined by G.S. 160B-2(1).

(9) A regional natural gas district, as defined by Article 27 of this Chapter."

Section 6. G.S. 62-3(23) is amended by adding a new sub-subdivision to read:

"k. The term 'public utility' shall not include a regional natural gas district organized and operated pursuant to Article 27 of Chapter 160A of the General Statutes."

Section 7. G.S. 62-50(g) reads as rewritten:

"(g) For the purpose of this section, 'gas operators' include gas utilities and gas pipeline carriers operating under a franchise from the Utilities Commission, municipal corporations operating municipally owned gas distribution systems, regional natural gas districts organized and operated pursuant to Article 27 of Chapter 160A of the General Statutes, and public housing authorities and any person operating apartment complexes or mobile home parks that distribute or submeter natural gas to their tenants. This section does not confer any other jurisdiction over municipally owned gas distribution systems, regional natural gas districts, public housing authorities or persons operating apartment complexes or mobile home parks."

PART III.

EFFECTIVE DATES.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

HOUSE BILL 495

Short Title: Natural Gas. (Public)

Sponsors: Representatives Owens; Miller, Culpepper, and Yongue.

Referred to: Commerce.

March 11, 1997

A BILL TO BE ENTITLED

AN ACT TO ADDRESS NORTH CAROLINA'S URGENT INFRASTRUCTURE NEEDS BY CLARIFYING THAT THE NORTH CAROLINA UTILITIES COMMISSION MAY ESTABLISH DIFFERENT RATES FOR NATURAL GAS SERVICE TO UNSERVED COUNTIES THAT REFLECT THE ACTUAL COST OF PROVIDING SERVICE TO THE UNSERVED COUNTIES AND AUTHORIZING THE CREATION OF NATURAL GAS DISTRICTS FOR NATURAL GAS EXPANSION.

The General Assembly of North Carolina enacts:

PART I.

DIFFERENT RATES

Section 1. G.S. 62-140(a) reads as rewritten:

"(a) No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or services either as between localities or as between classes of service. The Commission may determine any questions of fact arising under this section; provided that it shall not be an unreasonable preference or advantage or constitute discrimination against any person, firm or corporation or general rate payer for telephone utilities to contract with motels, hotels and hospitals to pay reasonable commissions in connection with the handling of intrastate toll calls charged to a guest or patient and collected by the motel, hotel or hospital; provided further, that payment of such commissions shall be in accordance with uniform tariffs which shall be subject to the approval of the Commission. Provided further, that it

shall not be considered an unreasonable preference or advantage for the Commission to order, if it finds the public interest so requires, a reduction in local telephone rates for low-income residential consumers meeting a means test established by the Commission in order to match any reduction in the interstate subscriber line charge authorized by the Federal Communications Commission.

Nothing in this section prohibits the Commission from establishing different rates for natural gas service to counties that are substantially unserved, to the extent that those rates reflect the actual cost of providing service to the unserved counties and upon a finding by the Commission that natural gas service would not otherwise become available to the counties."

PART II.

NATURAL GAS DISTRICTS

Section 2. Chapter 160A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 27.

"Regional Natural Gas District.

"**§ 160A-630. Title.**

This Article shall be known and may be cited as the 'Regional Natural Gas District Act'.

"**§ 160A-631. Definitions.**

As used in this Article, unless the context otherwise requires:

(1) 'District' means a regional natural gas district as defined by this section.

(2) 'Board of Trustees' means the governing board of the district in which the general legislative powers of the district are vested.

(3) 'Regional natural gas district' means a body corporate and politic organized in accordance with the provisions of this Article for the purposes, with the powers, and subject to the restrictions set forth in this Article.

(4) 'Unit of local government' means any county, city, town, or municipality of this State, and any other political subdivision, public corporation, or district in this State, that is or may be authorized by law to acquire, establish, construct, enlarge, improve, maintain, own, or operate natural gas systems.

(5) 'Unit of local government's chief administrative official' means the county manager, city manager, town manager, or other person, by whatever title known, in whom the responsibility for the unit of local government's administrative duties is vested.

"**§ 160A-632. Definition of territorial jurisdiction and service area of district.**

A district may be created for the one or more entire counties that are totally unserved for natural gas at the time of creation of the district. This area is the territorial jurisdiction and the service area of the district.

"**§ 160A-633. Creation of district.**

(a) The boards of commissioners of any one or more counties within an area for which a district may be created as provided by G.S. 160A-632 may by resolution signify their determination to organize a district under the provisions of this Article. Each of these resolutions shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the district, and shall state the time and place of the public hearing. No county shall be required to make any other publication of the resolution under the provisions of any other law. Any municipality located within the area may also join the district under the same procedures as a county.

(b) Each resolution shall include articles of incorporation which shall set forth all of the following:

(1) The name of the district.

(2) The composition of the board of trustees, terms of office, and the manner of making appointments and filling vacancies.

(3) A statement that the district is organized under this Article.

(4) The names of the organizing counties and municipalities.

(c) A certified copy of each of the resolutions signifying the determination to organize a district under the provisions of this Article shall be filed with the Secretary of State, together with proof of publication of the notice of hearing on each of the resolutions. If the Secretary of State finds that the resolutions, including the articles of incorporation, conform to the provisions of this Article and that the notices of hearing were properly published, the Secretary of State shall file the resolutions and proofs of publication, shall issue a certificate of incorporation under the seal of the State, and shall record the certificate in an appropriate book of record. The issuance of this certificate of incorporation by the Secretary of State shall constitute the district a public body and body politic and corporate of the State of North Carolina. The certificate of incorporation shall be conclusive evidence of the fact that the district has been duly created and established under this Article.

(d) When the district has been duly organized and its officers elected, the secretary of the district shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the district.

"**§ 160A-634. Membership; officers; compensation.**

(a) The governing body of a district is the Board of Trustees. The Board of Trustees shall consist of members as provided in the articles of incorporation.

(b) Service on the Board of Trustees may be in addition to any other office which a person is entitled to hold. Each voting member of the Board of Trustees may hold elective public office as defined by G.S. 128-1.1(d).

(c) Members of the Board of Trustees shall reside within the territorial jurisdiction of the district as defined by G.S. 160A-632.

(d) The Board of Trustees shall annually elect from its membership a Chair and a Vice-Chair, and shall annually elect a Secretary and a Treasurer.

(e) Members of the Board of Trustees shall receive the sum of fifty dollars ($50.00) as compensation for attendance at each duly conducted meeting of the district.

"**§ 160A-635. Quorum.**

A majority of the members of the Board of Trustees shall constitute a quorum for the transaction of business.

"**§ 160A-636. Advisory committees.**

The Board of Trustees may provide for the selection of any advisory committees that it finds appropriate, which may or may not include members of the Board of Trustees.

"**§ 160A-637. Purpose of the district.**

The purpose of the district is to enhance the quality of life in its territorial jurisdiction by promoting the development of natural gas distribution systems to enhance the economic development of the area.

"**§ 160A-638. General powers of the district.**

The general powers of the district include all of the following:

(1) To sue and be sued.

(2) To have a seal.

(3) To make rules and regulations, not inconsistent with this Article, for its organization and internal management.

(4) To employ persons deemed necessary to carry out the functions and duties assigned to them by the district and to fix their compensation, within the limit of available funds.

(5) With the approval of the unit of local government's chief administrative official, to use officers, employees, agents, and facilities of the unit of local government for such purposes and upon such terms as may be mutually agreeable.

(6) To retain and employ counsel, auditors, engineers, and private consultants on an annual salary, contract basis, or otherwise for rendering professional or technical services and advice.

(7) To acquire, lease as lessee with or without option to purchase, hold, own, and use any franchise, property, real or personal, tangible or intangible, or any interest therein and to sell, lease as lessor with or without option to purchase, transfer (or dispose thereof) whenever the property is no longer required for purposes of the district, or exchange it for other property or rights which are useful for the district's purposes. Except as provided in any covenant or debt instrument designed to protect the creditor, all or a substantial part of an operating natural gas system may not be disposed of without the approval of the Department of Commerce. If the sale is approved by the Department of Commerce, the district shall repay the State the lesser of the amount of any capital grant made by the State or one-half of the amount of the proceeds.

(8) To acquire by gift, purchase, lease as lessee with or without option to purchase or otherwise to construct, improve, maintain, repair, operate, or administer any component parts of a natural gas system. The district also may contract for the maintenance, operation, or administration thereof or to lease as lessor the same for maintenance, operation, or administration by private parties.

(9) To make or enter into contracts, agreements, deeds, leases with or without option to purchase, conveyances, or other instruments, including contracts and agreements with the United States, the State of North Carolina, and units of local government.

(10) To develop and make data, plans, information, surveys, and studies of natural gas facilities within the territorial jurisdiction of the district, to prepare and make recommendations in regard thereto.

(11) To enter in a reasonable manner lands, waters, or premises for the purpose of making surveys, soundings, drillings, and examinations. This entry shall not be deemed a trespass except that the district shall be liable for any actual and consequential damages resulting from the entry.

(12) To develop and carry out demonstration projects.

(13) To make, enter into, and perform contracts with private parties and natural gas companies with respect to the management and operation of natural gas systems.

(14) To make, enter into, and perform contracts with any public utility, railroad, or transportation company for the joint use of property or rights.

(15) To own, lease, and operate gas production, storage, transmission, and distribution systems. These systems may also include the purchase or lease, or both, of natural gas fields and natural gas reserves within the State, and the purchase of natural gas supplies within or without the State. A district may operate that part of a gas system involving the purchase or lease, or both, of natural gas fields, natural gas reserves, and natural gas supplies, in an operating agreement, partnership or joint venture arrangement with natural gas utilities and private enterprise. The district may acquire, purchase, construct, receive, own, operate, maintain, enlarge, and improve natural gas systems, and transport and sell at wholesale all or any part of its gas supply.

(16) To purchase or finance real or personal property under G.S. 160A-20.

(17) To obtain grants, loans, and assistance from the United States, the State of North Carolina, any public body, or any private source.

(18) To enter into and perform contracts and agreements with other natural gas districts, regional natural gas districts, or units of local government pursuant to the provisions of G.S. 160A-460 through

G.S. 160A-464 (Part 1 of Article 20 of Chapter 160A of the General Statutes) and to enter into contracts and agreements with private natural gas companies, but this subdivision does not authorize the operation of, or contracting for the operation of, service of a natural gas system outside the service area of the district.

(19) Except as restricted by covenants in bonds, notes, security interests, or trust certificates, set in its sole discretion rates, fees, and charges for use of its natural gas system in accordance with G.S. 160A-650.

(20) To do all related things necessary to carry out its purpose and to exercise the powers granted to the district.

(21) To issue bonds or other obligations of the district as provided by law and apply the proceeds thereof to the financing of any natural gas system or any part thereof and to refund, whether or not in advance of maturity or the earliest redemption date, any such bonds or other obligations.

"§ 160A-639. Power of the North Carolina Utilities Commission not affected.

(a) Except as otherwise provided in this Article, nothing in this Article shall be construed to limit or otherwise affect the powers of the North Carolina Utilities Commission.

(b) The North Carolina Utilities Commission shall not have jurisdiction over rates, fees, and charges of a district for service within its territorial jurisdiction, but safety regulations of the Commission shall apply.

"§ 160A-640. Fiscal accountability.

A district is a public authority subject to the provisions of Chapter 159 of the General Statutes.

"§ 160A-641. Funds.

The establishment and operation of a district is a public purpose, and the State of North Carolina and any unit of local government may appropriate funds to support the establishment and operation of the district. The State of North Carolina and any unit of local government may also dedicate, sell, convey, donate, or lease any of their interests in any property to the district. A district may apply for grants from the State of North Carolina, or from the United States or any department, agency, or instrumentality thereof. The Department of Commerce may allocate to a district any funds appropriated for natural gas.

"§ 160A-642. Effect on existing franchises and operations.

Creation of the district does not affect any existing franchises granted by any unit of local government. Those existing franchises shall continue in full force and effect until legally terminated, and all ordinances and resolutions of the unit of local government regulating local natural gas systems shall continue in full force and effect unless superseded by regulations of the district. This superseding, if any, may occur only on the basis of prior mutual agreement between the district and the respective unit of local government.

"§ 160A-643. Termination.

The Board of Trustees after providing the continued availability of natural gas service to its customers, if any, may terminate the existence of the district at any time when it has no outstanding indebtedness. In the event of termination, all property and assets of the district not otherwise encumbered shall automatically become the property of the State of North Carolina, and the State of North Carolina shall succeed to all rights, obligations, and liabilities of the district.

"§ 160A-644. Controlling provisions.

Insofar as the provisions of this Article are not consistent with the provisions of any other law, public or private, the provisions of this Article shall be controlling.

"§ 160A-645. Bonds and notes authorized.

In addition to the powers granted by this Article, the district may issue bonds and notes pursuant to the provisions of the Local Government Revenue Bond Act for the purpose of financing natural gas systems or any part thereof and to refund the bonds and notes, whether or not in advance of their maturity or earliest redemption date.

"§ 160A-646. Equipment trust certificates.

In addition to the powers granted in this Article, the district shall have continuing power to purchase equipment, and in connection therewith to execute agreements, leases with or without option to purchase, or equipment trust certificates. All money required to be paid by the district under the provisions of these agreements, leases with or without option to purchase, and equipment trust certificates shall be payable solely from the fares, fees, rentals, charges, revenues, and earnings of the district, moneys derived from the sale of any surplus property of the district and gifts, grants, and contributions from any source. Payment for such equipment or rentals therefore, may be made in installments; the deferred installments may be evidenced by equipment trust certificates payable solely from the aforesaid revenues or receipts and title to the equipment may or may not vest in the district until the equipment trust certificates are paid.

"§ 160A-647. Acquisition, power of eminent domain.

(a) The district shall have continuing power to acquire, by gift, grant, devise, bequest, exchange, purchase, lease with or without option to purchase, or any other lawful method including, but not limited to, the power of eminent domain, the fee or any lesser interest in real or personal property for use by the district.

(b) Exercise of the power of eminent domain by the district shall be in accordance with Chapter 40A of the General Statutes. Notwithstanding Chapter 40A of the General Statutes, before final judgment may be entered in any action of condemnation initiated by the district, the district shall furnish proof that the county board of commissioners of the county where the land is located has consented by resolution or ordinance to the taking.

"§ 160A-648. Tax exemption.

The property of the district, both real and personal, its acts, activities, and income shall be exempt from any tax or tax obligation; in the event of any lease of district property, or other arrangement which amounts to a leasehold interest to a private party, this exemption shall not apply to the value of such leasehold interest nor shall it apply to the income of the lessee. Otherwise, however, for the purpose of taxation,

when property of the district is leased to private parties solely for the purpose of the district, the acts and activities of the lessee shall be considered as the acts and activities of the district and the exemption. The interest on bonds or obligations issued by the district shall be exempt from State taxes.

"**§ 160A-649. Removal and relocation of utility structures.**

(a) The district shall have the power to require any public utility, railroad, or other public service corporation owning or operating any installations, structures, equipment, apparatus, appliances, or facilities in, upon, under, over, across, or along any ways on which the district has the right to own, construct, operate, or maintain its natural gas system, to relocate the installation, structures, equipment, apparatus, appliances, or facilities from their locations, or, in the sole discretion of the affected public utility, railroad, or other public service corporation, to remove the installations, structures, equipment, apparatus, appliances, or facilities from their locations.

(b) If the owner or operator fails or refuses to relocate them, the district may proceed to do so.

(c) The district shall provide any necessary new locations and necessary real estate interests for the relocation, and for that purpose the power of eminent domain as provided in G.S. 160A-647 may be exercised as long as the new locations are not in, on, or above a public highway. The district may also acquire the necessary new locations by purchase or otherwise.

(d) Any affected public utility, railroad, or other public service corporation shall be compensated for any real estate interest taken in a manner consistent with G.S. 160A-647, subject to the right of the district to reduce the compensation due by the value of any property exchanged under this section.

(e) The method and procedures of a particular adjustment to the facilities of a public utility, railroad, or other public service corporation shall be covered by an agreement between the district and the affected party or parties.

(c) The district shall reimburse the public utility, railroad, or other public service corporation, for the cost of relocations or removals which shall be the entire amount paid or incurred by the utility properly attributable thereto after deducting the cost of any increase in the service capacity of the new installations, structures, equipment, apparatus, appliances, or facilities and any salvage value derived from the old installations, structures, equipment, apparatus, or appliances.

"**§ 160A-650. Authority to fix and enforce rates.**

(a) A district may establish and revise from time to time schedules of reasonable rents, rates, fees, charges, and penalties made applicable throughout the district for the gas services. Schedules of rents, rates, fees, charges, or penalties may vary according to classes of service. Before it establishes or revises a schedule of rents, rates, fees, charges, or penalties, the district Board of Trustees shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing.

(b) A district may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts. A district may also discontinue service to any customer whose account remains delinquent for more than 30 days. When service is discontinued for delinquency, it shall be unlawful for any person other than a duly authorized agent or employee of the district to do any act that results in a resumption of services. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises, but this restriction shall not apply when the premises are occupied by two or more tenants whose services are measured by the same meter.

(c) Rents, rates, fees, charges, and penalties for services shall be legal obligations of the person contracting for them and shall in no case be a lien upon the property or premises served.

(d) Rents, rates, fees, charges, and penalties for services shall be legal obligations of the owner of the premises served when the property or premises are leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter."

Section 3. G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(22) A regional natural gas district created pursuant to Article 27 of Chapter 160A of the General Statutes."

Section 4. G.S. 159-81(1) reads as rewritten:

"(1) 'Municipality' means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority, hospital authority, hospital district, parking authority, special airport district, regional public transportation authority, regional natural gas district, regional sports authority, airport authority, joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, and joint agency authorized by agreement between two cities to operate an airport pursuant to G.S. 63-56, but not any other forms of local government."

Section 5. G.S. 160A-20(h) reads as rewritten:

"(h) As used in this section, the term 'unit of local government' means any of the following:

(1) A county.
(2) A city.
(3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.
(4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.

(5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.

(5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995; provided that the authority granted by this section may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.

(6) A local school administrative unit (i) that is located in a county that has a population of over 90,000 according to the most recent federal decennial census and (ii) whose board of education is authorized to levy a school tax.

(7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.

(8) A consolidated city-county, as defined by G.S. 160B-2(1).

(9) A regional natural gas district, as defined by Article 27 of this Chapter."

PART III.

EFFECTIVE DATES

Section 6. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

PUBLIC UTILITIES — April 16, 1997
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Richard Whisnant	DENR
David Simmons	Zebulon, NC
Jim Blackburn	N.C. Association of County Commissioners
Patrice Roesler	"
Andy Romeet	N.C.L.M.
Jerry Roberts	C.V.C.A.
Stuart Dixon	NCNG
Joe Pennacchia	Piedmont Natural Gas
Alice Garland	Electricities
Karen Carpenter	PCS Phosphate
Laura Hartsell	MCC
John Hurst	PCS Nitrogen
Richard Fredenburg	NCDA
Deborah Hamm	Energy Div / Commerce
Doug Culbreth	" "
Sam Kirby	NCUC
Remcy	Georgia-Pacific Corp
Sheriff Bert Austin	Dare County
Sheriff David Lane	Perquimans County
Sheriff Ira Sparrow	Chowan County
Deana Maynard	NC SA Exec Dir -
John Morrow	Spin D
Curt Williams	Gov's Office

North Carolina General Assembly

House of Representatives

State Legislative Building

Raleigh 27601-1096

MINUTES

JOINT HOUSE MEETING
COMMITTEE ON RULES, CALENDAR AND OPERATIONS
COMMERCE SUBCOMMITTEE ON PUBLIC UTILITIES

June 25, 1997

The Subcommittee on Public Utilities met with the Committee on Rules, Calendar and Operations at 3:00 p.m. on June 25, 1997 in Room 544 LOB at the Legislative Office Building. Representative Richard Morgan presided. The following members of the Subcommittee on Public Utilities were present:

Representatives: McComas; Allred; Bonner; Crawford; Dickson; Ives; McCombs; McCrary; Miner; Mitchell; Neely; Nye; Reynolds; Roger; C. Wilson; Womble; Tallent

Staff Counsel Steve Rose was present to assist the Committees. The visitor registration sheet is attached and made part of the minutes.

Chairman Morgan called the meeting to order, and the Clerk called the role for the members of the Subcommittee on Public Utilities. The Chairman then introduced Rep. Daniel McComas, Chairman of the Subcommittee on Public Utilities to explain SJR 1078 and DRHJ2340 which provide for confirmation of appointments to the North Carolina Utility Commission.

Rep. McComas called upon nominee J. Richard Conder to present his qualifications. Rep. Jerry Dockham moved that SJR 1078 be given a favorable report. The resolution was voted upon and passed favorably.

Rep. McComas called upon nominee Robert V. Owens, Jr. to present his qualifications. Rep. Jerry Dockham moved that DRHJ2340 be given a favorable report. A vote was taken and the resolution passed favorably.

The Subcommittee on Public Utilities adjourned at 3:50 p.m.

Daniel F. McComas
Chairman

Rita A. Quinn
Committee Clerk

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June 25, 1997

MEMORANDUM

TO: **House Committee on Rules**
House Subcommittee on Public Utilities

FROM: **Steven Rose, Committee Counsel for Subcommittee on Public Utilities**

RE: **Utilities Commission Appointments**

The North Carolina Utilities Commission consists of seven commissioners who are appointed for eight year terms. Commissioners are appointed by the Governor and must be confirmed by the General Assembly by Joint Resolution.

A Utilities Commissioner is paid the same salary as a Superior Court Judge, $90,915 at present. There are fixed salary increases based upon length of service on the Utilities Commission, 4.8% after five years of service and 9.6% after ten years. Members of the Utilities Commission are subject to the same standards of conduct as a judge. They may be removed during their term of office only for cause, by impeachment.

During service on the Commission, a Commissioner may not engage in any other employment, business, profession or vocation. During the term of office the Commissioner may

not be associated in any way with any public utility company, including ownership of any interest.

The General Assembly created the Utilities Commission and establishes policies which the Commission carries out, usually with broad discretion. The Commission is both a regulator of public utilities, as well as a judge in all contested matters relating to public utilities. Decisions of the Utilities Commission are appealable directly to the North Carolina Court of Appeals, with the exception of general rate cases, which are appealable directly to the North Carolina Supreme Court.

The North Carolina Utilities Commission regulates the rates and services of the intrastate operations of public utilities supplying electricity, gas, telecommunications services, water and sewer services, taxis, buses, trains, trucking services, express package and mail services, and radio common carriers. The extent of this regulation varies from utility to utility, and there are limitations imposed by federal law. The Commission hears and decides proceedings relating to the issuance of utility franchises, the construction of electric generating plants, the setting of utility rates, the adjustment of electric utility rates based upon fuel cost changes, the adjustment of natural gas rates based upon changes in the cost of natural gas, the provision of new utility services, and the adjudication of complaints concerning the services of public utilities. Again, the extent of the Commission's jurisdiction varies from utility to utility and is effected in some cases by federal law.

ARTICLE 2.

Organization of Utilities Commission.

§ 62-10. Number; appointment; terms; qualifications; chairman; vacancies; compensation; other employment prohibited.

(a) The North Carolina Utilities Commission shall consist of seven commissioners who shall be appointed by the Governor subject to confirmation by the General Assembly by joint resolution. The names of commissioners to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General Assembly on or before May 1, of the year in which the terms for which the appointments are to be made are to expire. Upon failure of the Governor to submit names as herein provided, the Lieutenant Governor and Speaker of the House jointly shall submit the names of a like number of commissioners to the General Assembly on or before May 15 of the same year for confirmation by the General Assembly. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to adjournment of the then current session of the General Assembly. This subsection shall be subject to the provisions of subsection (c) of this section.

(b) The terms of the commissioners now serving shall expire at the conclusion of the term for which they were appointed which shall remain as before with two regular eight-year terms expiring on July 1 of each fourth year after July 1, 1965, and the fifth term expiring on July 1 of each eighth year after July 1, 1963. The terms of office of utilities commissioners thereafter shall be eight years commencing on July 1 of the year in which the predecessor terms expired, and ending on July 1 of the eighth year thereafter.

(c) In order to increase the number of commissioners to seven, the names of two additional commissioners shall be submitted to the General Assembly on or before May 27, 1975, for confirmation by the General Assembly as provided in G.S. 62-10(a). The commissioners so appointed and confirmed shall serve new terms commencing on July 1, 1975, one of which shall be for a period of two years (with the immediate successor serving for a period of six years), and one of which shall be for a period of two years.

Thereafter, the terms of office of the additional commissioners shall be for eight years as provided in G.S. 62-10(b).

(d) A commissioner in office shall continue to serve until his successor is duly confirmed and qualified but such holdover shall not affect the expiration date of such succeeding term.

(e) On July 1, 1965, and every four years thereafter, one of the commissioners shall be designated by the Governor to serve as chairman of the Commission for the succeeding four years and until his successor is duly confirmed and qualifies. Upon death or resignation of the commissioner appointed as chairman, the Governor shall designate the chairman from the remaining commissioners and appoint a successor as hereinafter provided to fill the vacancy on the Commission.

(f) In case of death, incapacity, resignation or vacancy for any other reason in the office of any commissioner prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. Upon failure of the Governor to submit the name of the successor, the Lieutenant Governor and Speaker of the House jointly shall submit the name of a successor to the General Assembly within six weeks after the vacancy arises. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to the adjournment of the then current session of the General Assembly.

(g) If a vacancy arises or exists pursuant to either subsection (a) or (c) or (f) of this section when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the commissioner may be appointed and serve on an interim basis pending confirmation by the General Assembly.

(h) The salary of each commissioner shall be the same as that fixed from time to time for judges of the superior court except that the commissioner designated as the chairman shall receive one thousand dollars ($1,000) additional per annum. In lieu of merit and other increment raises paid to regular State employees, each commissioner, including the commissioner designated as chairman, shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. "Service" means service as a member of the Utilities Commission.

(i) The standards of judicial conduct provided for judges in Article 30 Chapter 7A of the General Statutes shall apply to members of the Commission. Members of the Commission shall be liable to impeachment for the causes and in the manner provided for judges of the General Court of Justice in Chapter 123 of the General Statutes. Members of the Commission shall not engage in any other employment, business, profession, or vocation while in office.

(j) Members of the Commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a). (1941, c. 97, s. 2; 1949, c. 1009, s. 1; 1959, c. 1319; 1963, c. 1165, s. 1; 1967, c. 1238; 1975, c. 243, s. 3; c. 867, ss. 1, 2; 1977, c. 468, s. 1; c. 913, s. 2; 1983 (Reg. Sess., 1984), c. 1116, s. 91; 1989, c. 781, s. 41.2; 1993 (Reg. Sess., 1994), c. 769, s. 7.4(b); 1996, 2nd Ex. Sess., c. 18, s. 28.2(b).)

§ 62-11. Oath of office.

Each utilities commissioner before entering upon the duties of his office shall file with the Secretary of State his oath of office to support the Constitution and laws of the United States and the Constitution and laws of the State of North Carolina, and to well and truly perform the duties of his said office as utilities commissioner, and that he is not the agent or attorney of any public utility, or an employee thereof, and that he has no interest in any public utility. (1933, c. 134, s. 5; 1935, c. 280; 1939, c. 404; 1941, c. 97; 1963, c. 1165, s. 1.)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE JOINT RESOLUTION 1078

House Committee Substitute Favorable 6/26/97

Sponsors:

Referred to:

May 12, 1997

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF RICHARD CONDER MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Additional Information Available on:

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the names of his appointees to serve full terms on the North Carolina Utilities Commission;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The appointment of Richard Conder to the North Carolina Utilities Commission for a term beginning July 1, 1997, and expiring June 30, 2005, is confirmed.

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE JOINT RESOLUTION DRHJR2340

Sponsors: Rules, Calendar, and Operations of the House.

Referred to:

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF ROBERT V. OWENS, JR. MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the names of his appointees to serve full terms on the North Carolina Utilities Commission;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The appointment of Robert V. Owens, Jr. to the North Carolina Utilities Commission for a term beginning July 1, 1997, and expiring June 30, 2005, is confirmed.

Section 2. This resolution is effective upon ratification.

J. Richard Conder
1401 Carolina Drive
Rockingham, N. C. 28379

Education:

College: BS Degree in Accounting
East Carolina University

High School: Hamlet High School 1949

Other: Louisiana State University
Graduate School of Banking

N. C. Bankers Association School
Chapel Hill, N. C.

Personal Data:

Married, Three (3) Children, two daughters and one son

Member First Presbyterian Church, Rockingham, N. C.

Elder, First Presbyterian Church, Rockingham, N. C.

Experience:

1974 to Present - Vice President
First Union National Bank

1960 to 1974 Southern National Bank
Senior Vice President-Area Manager

1958 to 1960 Lundin and Spencer, CPA

Military Service:

U. S. Air Force
Honorable Discharge 1955

OTHER RESPONSIBILITIES:

County Commissioner 1962 to 1984 Richmond County

Chairman of Board for 20 years. 1964 to 1984

President of North Carolina County Commissioners Association 1973

President, National Association of Counties 1980

North Carolina Senator 1984 to Present

Chairman, Children and Youth Committee - 1987 - 1989

Chairman, N. C. Senate Education Committee - 1989 - 1992

Chairman, N. C. Senate Mental Health Committee 1993 - 1994

Majority Leader, N. C. Senate 1993 - to present

Civic Involvement:

Former Chairman Richmond County Economic Development Authority

Former President of Hamlet and Rockingham Rotary Clubs.

Former Hospital Trustee Richmond Memorial Hospital

Former Chairman of Cancer Drive Richmond County

Former Chairman of Heart Fund Richmond County

Former Member- President Reagan's Private Sector Initiative

Tar Heel of the Week - Raleigh News and Observer

Outstanding Alumnus Award - East Carolina University

N. C. Distinguished Citizens Award 1982

NORTH CAROLINA BOARD OF ETHICS
116 WEST JONES STREET
RALEIGH 27603-8003
(919) 733-5103

STATEMENT OF ECONOMIC INTEREST FOR EXECUTIVE ORDER NUMBER ONE DATED JANUARY 9, 1993, BY GOVERNOR JAMES B. HUNT, JR.

MAIL FORM TO THE BOARD OF ETHICS, 116 WEST JONES STREET, RALEIGH, NC 27603. FOR ASSISTANCE, CALL MILLIE DONAVANT AT 919-733-5103.

THE PERSON FILING SHALL INCLUDE IN THE FOLLOWING THE ASSETS, LIABILITIES, AND SOURCES OF INCOME OF HIS OR HER SPOUSE WHICH ARE DERIVED FROM THE ASSETS OR INCOME OF THE PERSON FILING, CONTROLLED BY THE PERSON FILING, OR FOR WHICH THE PERSON FILING IS JOINTLY OR SEVERALLY LIABLE.

Name of Person Filing: J. Richard Conder

Home Address: 1401 Carolina Drive
Rockingham, N. C. 28379

Home Telephone: 910-895-9747

Occupation, Position, or Title: V.P. First Union Bank/N. C. Senate

Employer: First Union Bank/State of N. C.

Office Address: 202 E. Washington Street
Rockingham, N. C. 28379

Office Telephone: 910-997-5551

If you are filing as an appointee, please list the name of the board or commission on which you are serving, and the position on the board that you are appointed to.

N. C. Utilities Commission
Name of Board

At Large
Position (example = at large position)

1. List all parcels of real estate located in North Carolina in which you have an ownership interest of more than $5,000, and asterisk (*) parcels valued more than $10,000. Give street address or other description adequate to determine the location of each parcel. If persons other than your spouse have an ownership interest in the property, state the type of ownership and name of the person having the interest. If any parcels are located in an area over which the board you are serving on has regulatory authority or could otherwise be affected by board decisions, please state the particulars.

*Home - 1401 Carolina Drive

Rockingham, N.C. 28379

Joint Ownership with spouse.

2. List the name of each publicly-owned company in which you own securities valued more than $10,000. These companies are required to register with the Securities and Exchange Commission.

*First Union National Bank

*Carolina Fincorp

These are held in a self directed IRA

3. List the name of each non-publicly-owned company or business entity in which you own securities or other equity interests with a value exceeding $5,000. Asterisk (*) all with a value exceeding $10,000.

None

With respect to the entities listed with a value exceeding $10,000, should any of the entities own securities or equity interests exceeding $10,000 in other companies or business entities, list the name of the company or business entity.

Unknown

Are you or any of the entities listed licensed by, regulated by, or have business relationships with the same area of state government with which you are associated? If so, state the particulars.

N/A

4. If you, your spouse, or your dependent children are the beneficiary of a trust created, established or controlled by you which holds assets, and if those assets are known, list the name and address of the trustee and describe the trust. List each business in which the trust has an ownership interest exceeding $5,000, and asterisk (*) all with a value exceeding $10,000.

N/A

5. List assets with a value exceeding $5,000 each held by you which have not been listed elsewhere, and asterisk (*) all with a value exceeding $10,000. Some examples are mutual funds, certificates of deposit, and retirement accounts. It is not necessary to list household furniture, jewelry, automobiles, and other personal effects.

*First Union Retirement Fund (Personal)

6. List liabilities with a value exceeding $5,000 each, asterisk (*) all with a value exceeding $10,000, give the name of the creditor, and describe the nature of the liability. It is not necessary to list credit card debts, mortgage for personal residence, automobile loans, and loans of this nature.

N/A

7. List sources of income shown on the most recent federal and state income tax returns of the person filing where $5,000 or more was received from each source. For each source listed, describe the type of income received, and state the name of the business entity or individual from which the income was received. Some examples of income are salary or wages, professional fees, honoraria, interest, stock dividends, capital gains, and business profits.

Salary - First Union Bank - will resign if confirmed

Salary - N.C. Senate - will resign if confirmed

State the particulars if any of the sources of income are regulated by, receive permits from, or otherwise connected with the same area of state government with which you are connected.

N/A

8. If you are a practicing attorney, check each category of legal representation in which you and/or the law firm with which you are associated has during any single year of the past five years earned legal fees in excess of $5,000 from any of the following categories of legal representation:

( ) Admiralty ( ) Taxation ( ) Decedent's estates
( ) Negligence (representing plaintiffs)
( ) Negligence (representing defendants)
( ) Criminal law ( ) Labor law ( ) Insurance law
( ) Utilities regulation or representation of regulated utilities
( ) Corporation law ( ) Administrative law
( ) Real property ( ) Representation of local governments

9. List all businesses you have been associated with during the past five years as an employee, officer, director, partner, or a material owner of a security or other equity interest which have not been previously listed. Include your present employment if it is not listed in Question three.

For each business listed, state your association, and the time period of your association.

To the best of your knowledge, state whether any of the businesses listed does business with the state, the nature of the business, and whether you or the business is licensed by, regulated by, receives permits, grants or other funding from, or otherwise connected with the same area of state government with which you are connected.

It is not necessary to list not-for-profit organizations or civic organizations unless the entities receive benefits from the same area of state government with which you are connected.

V.P. - First Union National Bank - Vice President for 23 years as City Executive and Manager, including business developments

I assume that our Corporate Headquarters in Charlotte does routine banking business with the State of North Carolina.

10. Explain any involvement your spouse has with any business or organization which might create a conflict of interest for you.

My wife owns the following utility stocks:

*Duke Power

*C.P. & L.

If these stocks pose a conflict of interest, she will dispose them immediately.

11. List all gifts received with a value exceeding $100 during the past twelve months preceding the date of this statement from sources other than your spouse or relatives.

N/A

List all gifts received with a value exceeding $50 from any source having business with or regulated by the state.

N/A

12. Having read Executive Order Number One, state any problems or conflicts of interest you may have which are not fully covered in previous questions. Include an explanation of how you would propose to resolve the matter.

My wife's investments were paid 100% from her earnings as Director of Literacy at Richmond Community Community College. As indicated, she will dispose of them if necessary.

VERIFICATION

I hereby do certify that I have read this Statement of Economic interest, and all attachments, and to the best of my knowledge and belief it is true, correct and complete.

I hereby do certify that I have not transferred, and will not transfer, any asset, interest or property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

May 13, 1997
Date

J Richard Corder
Signature

STATE OF NORTH CAROLINA

COUNTY OF Wake

Subscribed and sworn to before me this the 13th day of May 19 97.

My Commission Expires:
1/24/2000

Beverly Adams
Notary Public

BIOGRAPHICAL SKETCH
ROBERT V. OWENS, JR.

Post Office Box 968
Nags Head, NC 27959
(919) 441-5336

505 Amanias Dare Street
Manteo, NC 27954
(919) 473-2721

Personal Information:
Life-long resident of Dare County (64 years)
Married to Sarah A. Owens for 41 years
Two children: R.V. Owens, III, Manteo, NC, a Dare County entrepreneur
Married to Julie Tillett
Two children--Shannon and Robert Daniel ("Bo)

Lisa S. Hooper, Bruxton, NC, Homemaker and Active Community Volunteer
Married to Edgar Hooper, Jr.
Two children-Chase and Avery

Business Background:
Co-owner and manager of Owens' Restaurant, a family business in existence since 1946
Co-owner of a fast-food franchise in Dare County since 1985

Military/Education Background:
United States Coast Guard
Attended East Carolina University
Graduated from Manteo High School

Government Involvement:
Director of Governor's Eastern Office; 1993 to present
Dare County Board of Commissioners; 1970-1978; 1984 to present; Chairman, 13 years
North Carolina Tax Study Commission; 1986-1988
North Carolina State Banking Commission; 1982-1984
North Carolina State Parks and Recreation Commission; 1980-1982

Community Involvement:
Member of Manteo Baptist Church
Member of Manteo Lions Club, past president
Member of Manteo Masonic Lodge
Member of Dare County Shrine Club, past president
Served on numerous local commissions and committees

Special Recognition:
Leadership Award for Promotion of Education and Technology in Dare County Schools
Leadership Award for Promotion of Dare County Babe Ruth World Series
Dare County Citizen of the Year Award
Town of Manteo Citizen of the Year Award
Leadership Award for North Carolina Mentally Handicapped

NORTH CAROLINA BOARD OF ETHICS
116 WEST JONES STREET
RALEIGH 27603-8003
(919) 733-5103

SUPPLEMENTAL STATEMENT OF ECONOMIC INTEREST

FOR EXECUTIVE ORDER NUMBER ONE DATED JANUARY 9, 1993, BY GOVERNOR JAMES B. HUNT, JR.

FOR A COPY OF YOUR PREVIOUS STATEMENT, OR ASSISTANCE, CALL MILLIE DONAVANT AT 919-733-5103.

PLEASE NOTE THAT THIS FORM REQUIRES YOU TO ADD NEW INFORMATION, AND TO DELETE INFORMATION WHICH IS NO LONGER APPLICABLE, TO YOUR STATEMENT OF ECONOMIC INTEREST FOR EXECUTIVE ORDER NUMBER ONE DATED JANUARY 9, 1993. IF YOU HAVE NOT FILED THAT STATEMENT, PLEASE REQUEST THE STATEMENT OF ECONOMIC INTEREST FORM. IT IS NOT NECESSARY TO HAVE THE SUPPLEMENTAL FORM NOTARIZED.

THE PERSON FILING SHALL INCLUDE IN THE FOLLOWING THE ASSETS, LIABILITIES, AND SOURCES OF INCOME OF HIS OR HER SPOUSE WHICH ARE DERIVED FROM THE ASSETS OR INCOME OF THE PERSON FILING, CONTROLLED BY THE PERSON FILING, OR FOR WHICH THE PERSON FILING IS JOINTLY OR SEVERALLY LIABLE.

Name of Person Filing Robert V. Owens, Jr

Dir. Governor's East Office
State Employee Position, Agency

Governor / East Office
Name of Board or Commission

IF YOU DO NOT HAVE CHANGES TO REPORT, PLEASE SIGN YOUR NAME, ADD DATE, AND RETURN THIS PAGE TO THE ABOVE ADDRESS.

Robert V. Owens, Jr. 5/2/97
Signature Date

* Note: Last filed 2/22/96

NORTH CAROLINA BOARD OF ETHICS
116 WEST JONES STREET
RALEIGH 27603-8003
(919) 733-5103

SUPPLEMENTAL STATEMENT OF ECONOMIC INTEREST

FOR EXECUTIVE ORDER NUMBER ONE DATED JANUARY 9, 1993, BY GOVERNOR JAMES B. HUNT, JR.

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Name of Person Filing Robert V. Owens, Jr.

Governor's Office
State Employee Position, Agency

Director, Governor's Eastern Office
Name of Board or Commission

✓ IF YOU DO NOT HAVE CHANGES TO REPORT, PLEASE SIGN YOUR NAME, ADD DATE, AND RETURN THIS PAGE TO THE ABOVE ADDRESS.

Robert V. Owens Jr. 2/15/96
Signature Date

NORTH CAROLINA BOARD OF ETHICS
116 WEST JONES STREET
RALEIGH 27603-8003
(919) 733-5103

SUPPLEMENTAL STATEMENT OF ECONOMIC INTEREST

FOR EXECUTIVE ORDER NUMBER ONE DATED JANUARY 9, 1993, BY GOVERNOR JAMES B. HUNT, JR.

FOR A COPY OF YOUR PREVIOUS STATEMENT, OR ASSISTANCE, CALL MILLIE DONAVANT AT 919-733-5103.

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Name of Person Filing Robert V. Owens Jr.

Director, Eastern Governor's Office
State Employee Position, Agency

Name of Board or Commission

* IF YOU DO NOT HAVE CHANGES TO REPORT, PLEASE SIGN YOUR NAME, ADD DATE, AND RETURN THIS PAGE TO THE ABOVE ADDRESS.

Robert V. Owens Jr 7/1/95
Signature Date

→ SAME INFO AS PREVIOUSLY FILED

NORTH CAROLINA BOARD OF ETHICS
116 WEST JONES STREET
RALEIGH 27603-8003
(919) 733-5103

SUPPLEMENTAL STATEMENT OF ECONOMIC INTEREST

FOR EXECUTIVE ORDER NUMBER ONE DATED JANUARY 9, 1993, BY GOVERNOR JAMES B. HUNT, JR.

FOR A COPY OF YOUR PREVIOUS STATEMENT, OR ASSISTANCE, CALL MILLIE DONAVANT AT 919-733-5103.

PLEASE NOTE THAT THIS FORM REQUIRES YOU TO ADD NEW INFORMATION, AND TO DELETE INFORMATION WHICH IS NO LONGER APPLICABLE, TO YOUR STATEMENT OF ECONOMIC INTEREST FOR EXECUTIVE ORDER NUMBER ONE DATED JANUARY 9, 1993. IF YOU HAVE NOT FILED THAT STATEMENT, PLEASE REQUEST THE STATEMENT OF ECONOMIC INTEREST FORM. IT IS NOT NECESSARY TO HAVE THE SUPPLEMENTAL FORM NOTARIZED.

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Name of Person Filing Robert V. Owens, Jr.

Director, Governor's Eastern Office
State Employee Position, Agency

Name of Board or Commission

IF YOU DO NOT HAVE CHANGES TO REPORT, PLEASE SIGN YOUR NAME, ADD DATE, AND RETURN THIS PAGE TO THE ABOVE ADDRESS.

Robert V. Owens, Jr. March 2, 1994
Signature Date

6/8/93

NORTH CAROLINA BOARD OF ETHICS
116 WEST JONES STREET
RALEIGH 27603-8003
(919) 733-5103

STATEMENT OF ECONOMIC INTEREST FOR EXECUTIVE ORDER NUMBER ONE DATED JANUARY 9, 1993, BY GOVERNOR JAMES B. HUNT, JR.

MAIL FORM TO THE BOARD OF ETHICS, 116 WEST JONES STREET, RALEIGH, NC 27603. FOR ASSISTANCE, CALL MILLIE DONAVANT AT 919-733-5103.

THE PERSON FILING SHALL INCLUDE IN THE FOLLOWING THE ASSETS, LIABILITIES, AND SOURCES OF INCOME OF HIS OR HER SPOUSE WHICH ARE DERIVED FROM THE ASSETS OR INCOME OF THE PERSON FILING, CONTROLLED BY THE PERSON FILING, OR FOR WHICH THE PERSON FILING IS JOINTLY OR SEVERALLY LIABLE.

Name of Person Filing: Robert V. Owens Jr.

Home Address: 7114 S. VA. Dare Trail
Nags Head, N.C. 27959

Home Telephone: 919-441-5336

Occupation, Position, or Title: Owner

Employer: Owens' Motel / Restaurant

Office Address: 7114 A. S. VA. Dare Trail
Nags Head, N.C. 27959

Office Telephone: 919-441-7309

If you are filing as an appointee, please list the name of the board or commission on which you are serving, and the position on the board that you are appointed to.

Eastern Office of the Governor — Bobby Owens 919-514-4825
Name of Board

Director
Position (example = at large position)

1. List all parcels of real estate located in North Carolina in which you have an ownership interest of more than $5,000, and asterisk (*) parcels valued more than $10,000. Give street address or other description adequate to determine the location of each parcel. If persons other than your spouse have an ownership interest in the property, state the type of ownership and name of the person having the interest. If any parcels are located in an area over which the board you are serving on has regulatory authority or could otherwise be affected by board decisions, please state the particulars.

* Owens' Motel and Restaurant property in South Nags Head 16½ M.P. Lower beach area.

* Lot adjoining Restaurant property 50 X 400 same location

2. List the name of each publicly-owned company in which you own securities valued more than $10,000. These companies are required to register with the Securities and Exchange Commission.

None

3. List the name of each non-publicly-owned company or business entity in which you own securities or other equity interests with a value exceeding $5,000. Asterisk (*) all with a value exceeding $10,000.

* Owens' Motel and Restaurant
* Kentucky Fried Chicken store on Outer Banks, Nags Head and Kill Devil Hills (2)

With respect to the entities listed with a value exceeding $10,000, should any of the entities own securities or equity interests exceeding $10,000 in other companies or business entities, list the name of the company or business entity.

No

Are you or any of the entities listed licensed by, regulated by, or have business relationships with the same area of state government with which you are associated? If so, state the particulars.

No

4. If you, your spouse, or your dependent children are the beneficiary of a trust created, established or controlled by you which holds assets, and if those assets are known, list the name and address of the trustee and describe the trust. List each business in which the trust has an ownership interest exceeding $5,000, and asterisk (*) all with a value exceeding $10,000.

NONE

5. List assets with a value exceeding $5,000 each held by you which have not been listed elsewhere, and asterisk (*) all with a value exceeding $10,000. Some examples are mutual funds, certificates of deposit, and retirement accounts. It is not necessary to list household furniture, jewelry, automobiles, and other personal effects.

NONE

6. List liabilities with a value exceeding $5,000 each, asterisk (*) all with a value exceeding $10,000, give the name of the creditor, and describe the nature of the liability. It is not necessary to list credit card debts, mortgage for personal residence, automobile loans, and loans of this nature.

(Same as above)

East Carolina Bank Manteo N.C. (Note / Deed of Trust)

Centura Bank Manteo N.C.

7. List each source of income received by you with a value exceeding $5,000 shown on your most recent federal and state tax returns. For each source listed, describe the type of income received, and state the name of the business entity or individual from which the income was received. Some examples of income are salary or wages, professional fees, honoraria, interest, stock dividends, capital gains, and business profits.

Salaries (from business as listed above)
Salary (Dare Cnty Commissioner)
Chairman of Dare County Commissio

State the particulars if any of the sources of income are regulated by, receive permits from, or otherwise connected with the same area of state government with which you are connected.

NO

8. If you are a practicing attorney, check each category of legal representation in which you and/or the law firm with which you are associated has during any single year of the past five years earned legal fees in excess of $5,000 from any of the following categories of legal representation:

N/A

( ) Admiralty ( ) Taxation ( ) Decedent's estates
( ) Negligence (representing plaintiffs)
( ) Negligence (representing defendants)
( ) Criminal law ( ) Labor law ( ) Insurance law
( ) Utilities regulation or representation of regulated utilities
( ) Corporation law ( ) Administrative law
( ) Real property ( ) Representation of local governments

9. List all businesses you have been associated with during the past five years as an employee, officer, director, partner, or a material owner of a security or other equity interest which have not been previously listed. Include your present employment if it is not listed in Question three.

For each business listed, state your association, and the time period of your association.

To the best of your knowledge, state whether any of the businesses listed does business with the state, the nature of the business, and whether you or the business is licensed by, regulated by, receives permits, grants or other funding from, or otherwise connected with the same area of state government with which you are connected.

It is not necessary to list not-for-profit organizations or civic organizations unless the entities receive benefits from the same area of state government with which you are connected.

NONE

10. Explain any involvement your spouse has with any business or organization which might create a conflict of interest for you.

NONE

11. List all gifts received with a value exceeding $100 during the past twelve months preceding the date of this statement from sources other than your spouse or relatives.

NONE

List all gifts received with a value exceeding $50 from any source having business with or regulated by the state.

NONE

12. Having read Executive Order Number One, state any problems or conflicts of interest you may have which are not fully covered in previous questions. Include an explanation of how you would propose to resolve the matter.

NONE

VERIFICATION

I hereby do certify that I have read this Statement of Economic interest, and all attachments, and to the best of my knowledge and belief it is true, correct and complete.

I hereby do certify that I have not transferred, and will not transfer, any asset, interest or property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

June 1, 1993
Date

Robert V. Owens Jr.
Signature

STATE OF NORTH CAROLINA

COUNTY OF Dare

Subscribed and sworn to before me this the 1 day of June 1993.

My Commission Expires:
1/7/95

Carol Aubree
Notary Public

PUBLIC UTILITIES
TUES 25
Room 544

3:10 - Roll call

MCCOMAS CANCELS ON UTIL COMMISSION

SEN. COULTER Recommend by Gov. (NOMINATED) BY GOV.

BILL ACTION WORKSHEET FOR COMMITTEE MEETINGS

Bill	H	Sponsor	
Favorable	MOTION:	Motion by	
Unfavorable	REPOSED	Motion by	DOCKHAM
Amended	CTE SUB	Motion by	
Comm. Sub.	FAVORABLE	Motion by	
Original Bill	SJR 1078		
Re-referred		Motion by	
Other Action	PASSED		

****

OWENS

Bill	HJR	Sponsor	
Favorable	DRAFT BILL	Motion by	DOCKHAM
Unfavorable	MOTION	Motion by	
Amended	DRHB2340	Motion by	
Comm. Sub.	FAVORABLE	Motion by	
Original Bill			
Re-referred		Motion by	
Other Action	PASSED		

****

REVERSED 3:50

Bill		Sponsor	
Favorable		Motion by	
Unfavorable		Motion by	
Amended		Motion by	
Comm. Sub.		Motion by	
Original Bill			
Re-referred		Motion by	
Other Action			

****

TUES 26
1:35
1:40

Bill	HB1126	Sponsor	
Favorable	✓	Motion by	
Unfavorable	NYC	Motion by	
Amended		Motion by	
Comm. Sub.		Motion by	
Original Bill			
Re-referred	✓ FINANCE	Motion by	
Other Action			

VISITOR REGISTRATION SHEET

COMMERCE/Subcommittee on Public Utilities JUNE 25, 1997

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Suzanne Dalley	Rep. Dalley's wife
Don McCorquodale	NCRMA
Cam Cowey	BPMHL
Jane Upchurch	CP&L
John McAlister	Duke Power
Natalie Haskins	Charlotte Chamber
FRAN PRESTON	NCRMA
Amy Rinderer	Hunton & Williams
Ann Case	DEHNR
KEITH HUNDLEY	WEYCO
Alan. Miles	Bailey & Dixon LLP
David Simmons	ZOA, PA
Laura Hartsell	MCIC
[illegible]	CUNC & Sprint LNS
[illegible]	NCFB
Bill Stobbin	NCBA
Curt Williams	Governor's Office

North Carolina General Assembly

House of Representatives

State Legislative Building

Raleigh 27601-1096

MINUTES

HOUSE COMMERCE
SUBCOMMITTEE ON PUBLIC UTILITIES

June 26, 1997

The Subcommittee on Public Utilities met 1:30 p.m. on June 26, 1997 in Room 425 LOB at the Legislative Office Building. Representative Daniel McComas presided. The following members were present:

Representatives: Bonner; McCombs; Nye; Reynolds; Miner; Tallent

Staff Counsel Steve Rose was present to assist the Committee.

Chairman McComas called the meeting to order welcomed those present. He then called for the agenda item.

Rep. David Miner was recognized to explain HB 1126 *No Sales Tax on Pay Phones*. Rep. Edd Nye moved that the bill be given a favorable report. The bill passed with a favorable report and was re-referred to the Committee on Finance.

The Subcommittee on Public Utilities adjourned at 1:40 p.m.

Daniel F. McComas
Chairman

Rita A. Quinn
Committee Clerk

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(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, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 26, 1997

MEMORANDUM

TO: **House Subcommittee on Public Utilities**

FROM: **Steven Rose, Subcommittee Counsel**

RE: **House Bill 1126: No sales tax on pay phones**

House Bill 1126 amends G.S. 105-164.4(a)(4a) to eliminate the sales tax on coin operated pay telephones for calls paid for by coin. Under present law, the sales tax is 3% of the gross receipts.

The act becomes effective July 1, 1997, and applies to sales made on or after that date.

If the bill receives a favorable report it will be referred to Finance.

H1126-SMRL-001

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1126

Short Title: No Sales Tax on Pay Phones. (Public)

Sponsors: Representative Miner.

Referred to: Commerce, if favorable, Finance.

April 21, 1997

A BILL TO BE ENTITLED

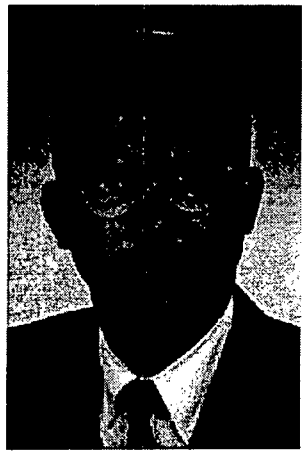
AN ACT TO EXEMPT LOCAL PAY PHONE SERVICES FROM SALES TAX.

The General Assembly of North Carolina enacts:

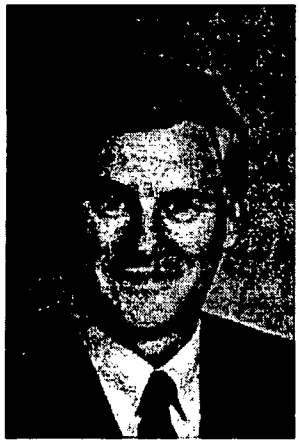
Section 1. G. S. 105-164.4(a)(4a) reads as rewritten:

"(4a) The rate of three percent (3%) applies to the gross receipts derived by a utility from sales of electricity, piped natural gas, or local telecommunications service as defined by G.S. 105-120(e), other than sales of electricity or piped natural gas subject to tax under another subdivision in this section. Gross receipts from sales of piped natural gas shall not include natural gas expansion surcharges imposed under G.S. 62-158. Gross receipts from sales of local telecommunications service shall not include receipts from service provided by means of public coin-operated pay telephone instruments and paid for by coin. A person who operates a utility is considered a retailer under this Article."

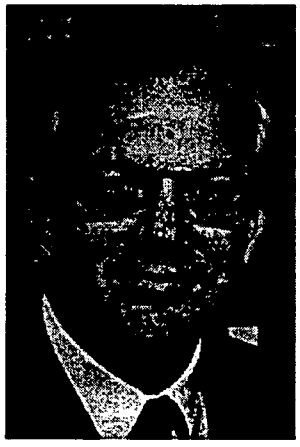
Section 2. This act becomes effective July 1, 1997, and applies to sales made on or after that date.



Rep. Daniel McComas
Chair
Subcommittee on Public Utilities



Rep. James Crawford
RMM

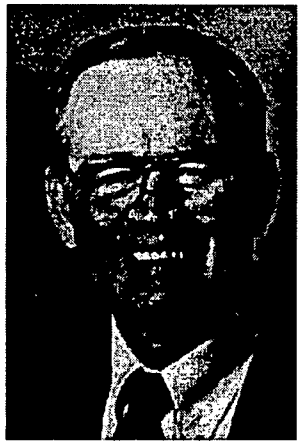


Rep. Cary Allred

Rep. Donald Bonner

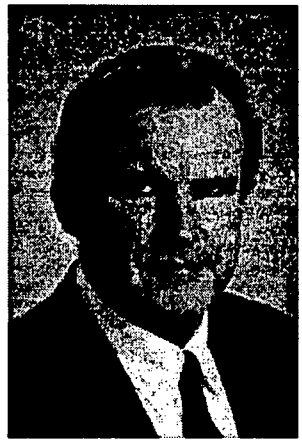
Rep. Jerry Braswell

Rep. William Culpepper



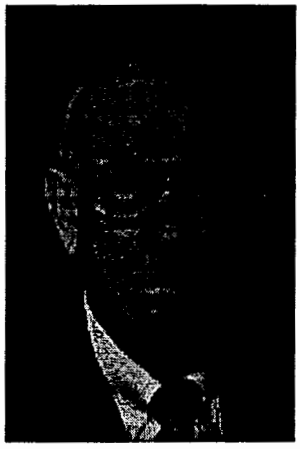
Rep. Walter Dickson

Rep. George Holmes

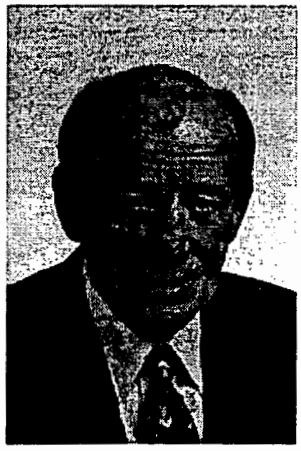


Rep. John Hurley

Rep. William Ives



Rep. Eugene McCombs



Rep. Paul McCrary

Rep. Frank Mitchell

Rep. Richard Morgan

Rep. Charles Neely, Jr.

Rep. Edd Nye

Rep. Dennis Reynolds

Rep. Eugene Rogers

Rep. Constance Wilson

Rep. Larry Womble

Subcommittee on Public Utilities 1997

Rep. Leo Daughtry
Majority Leader
Ex Officio

Rep. Julia Howard
Majority Whip
Ex Officio

Rep. Steve Wood
Speaker Pro Tem
Ex Officio

Subcommittee on Public Utilities 1997

HOUSE COMMERCE COMMITTEE

Subcommittee on Public Utilities

1997 Session

MEMBER/Clerk	PHONE	OFFICE	SEAT
Rep. Daniel McComas, Chairman Dee Bagley, Committee Clerk	3-5758	2123	63
Rep. James Crawford, RMM Linda Winstead	3-5824	1301	24
Rep. Cary Allred Jean Allred	3-5773	2223	11
Rep. Donald Bonner Lucy Johnson	5-9664	617	109
Rep. Jerry Braswell Dianna Gilmore	3-5809	539	96
Rep. William Culpepper Dot Crocker	3-5802	604	36
Rep. Walter Dickson Joyce Langdon	3-5662	530	25
Rep. George Holmes Glenda Jacobs	3-5900	631	6
Rep. John Hurley Dot Anderson	3-5859	1004	71
Rep. William Ives Jayne Walton	3-5784	633	90
Rep. Eugene McCombs Susanne Erskine	3-5881	514	10
Rep. Paul McCrary Barbara Berry	3-5780	610	55

MEMBER/Clerk	PHONE	OFFICE	SEAT
Rep. Frank Mitchell Susan West	3-5959	638	9
Rep. Richard Morgan Dixie Epps	5-3028	404	17
Rep. Charles Neely Betty Harrison	5-3001	420	29
Rep. Edd Nye Jo Bobbitt	3-5477	639	23
Rep. Dennis Reynolds Kara McCraw	3-5820	533	76
Rep. Eugene Rogers Sally Gillis	5-3023	416A	35
Rep. Constance Wilson Gail Musser	3-7663	529	40
Rep. Larry Womble Phyllis Cameron	3-5751	540	105
Rep. Leo Daughtry, Majority Leader (Ex Officio) Bernice Bullard	5-0850	2301	30
Rep. Julia Howard, Majority Whip (Ex Officio) Gail Stewart	3-5904	1021	8
Rep. Steve Wood, Speaker Pro Tem (Ex Officio) Sylvia Perkins	3-5807	2208	12
Rep. David Miner, SRM (Commerce Co-Chair) Susan Phillips	3-5749	2219	16
Rep. Cherie Berry (Commerce Co-Chair) Betty Smith	3-5861	1006	41

MEMBER/Clerk	PHONE	OFFICE	SEAT
Rep. Walter Church (Commerce Co-Chair) Joyce Fuller	3-5805	1311	33
Rep. William Hiatt (Commerce Co-Chair) Edna Pearce	3-5862	1008	14
Rep. Tim Tallent (Commerce Co-Chair) Joyce Bulluck	3-5934	1104	73
Steve Rose, Staff Attorney	3-2578	545	

ATTENDANCE

SUBCOMMITTEE ON PUBLIC UTILITIES

DATES	8/4														
McCOMAS, CHAIR	✓														
CRAWFORD, RMM	✓														
ALLRED															
BONNER	✓														
BRASWELL	✓														
CULPEPPER	✓														
DICKSON	✓														
HOLMES															
HURLEY	✓														
IVES	✓														
McCOMBS	✓														
McCRARY	✓														
MITCHELL	✓														
MORGAN															
NEELY															
NYE	✓														
REYNOLDS	✓														
ROGERS	✓														
WILSON, C.	✓														
WOMBLE	✓														
DAUGHRTY (Ex Officio)															
HOWARD (Ex Officio)															
WOOD (Ex Officio)															
MINER, SRM (Commerce CTE CoChair)	✓														
BERRY (Commerce CTE CoChair)															
CHURCH (Commerce CTE CoChair)															
HIATT (Commerce CTE CoChair)	✓														
TALLENT (Commerce CTE CoChair)															

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1997-98 Regular Session — HOUSE: COMMERCE--PUBLIC UTILITIES — Valid Through 22-OCT-1998

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 26=	THOMPSON	AMEND LP GAS CODE	HF-POSTPONED INDEFINITELY	02-04-97	07-31-97
H 495	OWENS	NATURAL GAS	*R -CH. SL 97-0426	04-02-97	04-22-97
H 547=	CULP	RENEWABLE RESOURCE ENERGY	H -ASSIGNED TO COMM-UTL	04-02-97	
H1126	MINER	NO SALES TAX ON PAY PHONES	*H -PRES. TO GOV. 10-15	05-28-97	07-03-97
S1242=	HOYLE	WIRELESS TELEPHONE SERVICE ACT	*R -CH. SL 98-0158	08-04-98	08-05-98

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.

MEMORANDUM

TO: Representative Culp

FROM: Representative Daniel F. McComas, Chairman
COMMERCE/Subcommittee on Public Utilities

DATE: August 20, 1998

SUBJECT: HB 547, Renewable Resource Energy.

House Rule 36 speaks to reporting bills out of standing committees or permanent subcommittees by the last adjournment of the 1997-98 legislative session. -- "All House bills and resolutions **shall be reported from** the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair of the standing committee or permanent subcommittee that the bill not be considered.**" If it is your intent that the bill listed above not be considered by subcommittee this legislative session, please **sign** and **date** the form and **return** it to the Subcommittee Clerk, Dee Bagley for the Committee on COMMERCE/Subcommittee on Public Utilities in Room 2123 by August 21, 1998.

oooooooooooooo

Mr. Chairman:

I request that the above-mentioned House Bill # 547, for which I am the principal introducer, not be considered by your committee for the 1997-98 legislative session.

Willie Culp (Sign)
Representative

8-20-98 (Date)

PLEASE DO NOT DETACH THE FORM FROM THE MEMORANDUM

HOUSE COMMERCE COMMITTEE
SUBCOMMITTEE ON PUBLIC UTILITIES
MINUTES

August 4, 1998

The House Commerce/Subcommittee on Public Utilities met on Tuesday, August 4, 1998, in Room 544 of the Legislative Office Building 15 minutes after Session.

Representative Daniel F. McComas, Chairman, presided and the following members were present:

> Representatives Crawford, Bonner, Braswell, Culpepper, Dickson, Hurley, Ives, McCombs, McCrary, Mitchell, Nye, Reynolds, Rogers, C. Wilson and Womble. Representatives Miner and Hiatt, Co-Chairs of the Commerce Committee, were also present.

Visitors present were: (See Attachment 1)

Staff Counsel Steve Rose was present to assist the Subcommittee.

Chairman McComas called the meeting to order, introduced the Pages and Sergeant-at-Arms serving the Subcommittee and welcomed guests. The following bills were considered:

> Finance Committee Substitute No. 2 for SB 1242, An Act To Provide For A Wireless Enhanced 911 System For The Use of Cellular Telephone Customers, As Recommended By The Joint Legislative Utility Review Committee, And To Allow State Agencies To Lease Public Property For The Construction Of Wireless Communications Towers And To Encourage Co-Location Of Services To Those Towers, And To Make A Technical Correction To G.S. 62A-10. (see Attachment 2). Representative Mitchell moved to bring the bill before the Subcommittee for discussion. The motion passed. Representative Dickson was recognized to explain the bill for Senator David Hoyle, Bill Sponser. Representative Ives moved to amend the bill as follows: (see Attachment 3). The motion passed. After some discussion and questions concerning the bill, Representative Mitchell moved that the amendment be incorporated into a proposed House Committee Substitute and the proposed House Committee Substitute be given a favorable report. Upon a vote, the motion passed. Representative Miner informed the Chair that this bill would need to be referred to the Finance Committee. The Finance Committee Substitute No. 2 for SB 1242 was reported to the House Floor as follows: (see Attachments 4 and 5).

Upon a motion, the meeting adjourned at 3:45 p.m.

Representative Daniel F. McComas
Subcommittee Chairman

Jane M. "Dee" Bagley
Subcommittee Clerk

ATTACHMENT 1

VISITOR REGISTRATION SHEET

Subcommittee on Public Utilities — Name of Committee

August 4, 1998 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jon Mosier	Sprint
Jim Blackburn	Frequent phone user
Susan Kelly	More-Va Alle
Lynn Holmes	BellSouth
Allyson Duncan	Kilpatrick Stockton
Ben Kuhn	Kilpatrick Stockton
Gary Walker	ALLTEL
Joe Foster	GTE
Meredith Morris	Lawrence Bewley & Assoc.
Don Geer	The Capitol Sys
Carrie Hitt	NC Science + Technology
Brenda Eargle	Sprint
Jere Upchurch	CP&L

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 3

SENATE BILL 1242*
Commerce Committee Substitute Adopted 6/16/98
Finance Committee Substitute #2 Adopted 7/9/98

Short Title: Wireless Telephone Service/Tower Act. (Public)

Sponsors:

Referred to:

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A WIRELESS ENHANCED 911 SYSTEM FOR THE USE OF CELLULAR, PERSONAL COMMUNICATIONS SERVICE, AND OTHER WIRELESS TELEPHONE CUSTOMERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE, AND TO ALLOW STATE AGENCIES TO LEASE PUBLIC PROPERTY FOR THE CONSTRUCTION OF WIRELESS COMMUNICATIONS TOWERS AND TO ENCOURAGE CO-LOCATION OF SERVICES TO THOSE TOWERS, AND TO MAKE A TECHNICAL CORRECTION TO G.S. 62A-10.

The General Assembly of North Carolina enacts:

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

"Chapter 62B.

"Wireless Telephone Service.

"§ 62B-1. Definitions.

As used in this Chapter:

(1) 'Automatic location identification' or 'ALI' means a wireless Enhanced 911 service capability that enables the automatic display of information defining the approximate geographic location of the wireless telephone used to place a 911 call in accordance with the FCC Order and includes pseudoautomatic number identification.

(2) 'Automatic number identification' or 'ANI' means a wireless Enhanced 911 service capability that enables the automatic display of a mobile handset telephone number used to place a 911 call.

(3) 'CMRS' means 'commercial mobile radio service' under sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151, et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66, August 10, 1993, 107 Stat. 312. It includes the term 'wireless' and service provided by any wireless two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communications service, or the functional competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, SMR mobile service, or a network radio access line which has access to E911 service.

(4) 'CMRS connection' means each mobile handset telephone number assigned to a CMRS customer with a billing address in North Carolina.

(5) 'CMRS provider' means a person or entity who is licensed by the FCC to provide CMRS service or is reselling CMRS service.

(6) 'Eligible PSAPs' means those public safety answering points that have opted to provide wireless Enhanced 911 service and have submitted written notice to their CMRS providers and to the Wireless 911 Board.

(7) 'FCC Order' means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on December 1, 1997.

(8) 'Local exchange carrier' means any entity that is authorized to engage in the provision of telephone exchange service or exchange access in North Carolina.

(9) 'Mobile set telephone number' means the number assigned to a CMRS connection.

(10) 'Proprietary information' means customer lists and other related information, technology descriptions, technical information, or trade secrets, including the term 'trade secrets' as defined by the North Carolina Trade Secrets Protection Act, G.S. 66-152, and the actual or developmental costs of wireless Enhanced 911 systems that are developed, produced, or received internally by a CMRS provider or by a CMRS provider's employees, directors, officers, or agents.

(11) 'PSAP' ('public safety answering point') means the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to such calls.

(12) 'Pseudoautomatic number identification' or 'Pseudo-ANI' means a wireless Enhanced 911 service capability that enables the automatic display of the number of the cell site or cell face.

(13) 'Service supplier' means a person or entity who provides exchange telephone service to a telephone subscriber.

(14) 'Wireless 911 system' means an emergency telephone system that provides the user of a CMRS connection the ability to reach a PSAP by dialing the digits 911.

(15) 'Wireless Enhanced 911 system' means an emergency telephone system that provides the user of the CMRS connection with wireless 911 service and, in addition, directs 911 calls to appropriate PSAPs by selective routing based on the geographical location from which the call originated and provides the capability for ANI (or Pseudo-ANI) and ALI features, in accordance with the requirements of the FCC Order.

(16) 'Wireless Fund' means the Wireless Emergency Telephone System Fund required to be established and maintained pursuant to G.S. 62B-2(c).

"**§ 62B-2. Wireless 911 Board.**

(a) There is created a Wireless 911 Board ('Board'), consisting of thirteen members as follows:

(1) Two members appointed by the Governor, one upon the recommendation of the North Carolina League of Municipalities and one upon the recommendation of the North Carolina Association of County Commissioners;

(2) Five members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall be a sheriff, three representing CMRS providers licensed to do business in North Carolina and one representing the North Carolina Chapter of the Association of Public Safety Communications Officials (APCO);

(3) Five members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be a chief of police, two representing CMRS providers licensed to do business in North Carolina, one representing local exchange carriers licensed to do business in North Carolina, and one representing the North Carolina Chapter of the National Emergency Number Association (NENA); and

(4) The Secretary of Commerce or the Secretary's designee, who shall serve as the chair.

A quorum of the Board shall consist of seven members. The Board shall meet upon the call of the chair.

(b) Each member shall serve a term of four years and may be appointed to no more than two successive terms. Vacancies may be filled in the same manner as the original appointment.

(c) There is established with the Treasurer the Wireless Fund into which the Board shall deposit all revenues derived from the service charge levied on CMRS connections in the State and collected pursuant to G.S. 62B-3. The Wireless Fund shall be a separate fund restricted to the uses set forth in this Chapter. (d) Consistent with the provisions of G.S. 143-3.2, the Board shall disburse the revenues remitted to the Wireless Fund in the manner set forth in G.S. 62B-5. The Board shall establish procedures for disbursement of these revenues and advise the CMRS providers and eligible counties of such procedures within 60 days after all members are appointed pursuant to G.S. 62B-2(a).

(e) The Board shall serve without compensation, but members of the Board shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 138-5.

"§ 62B-3. Amount of service charge.

(a) The Board shall levy a monthly wireless Enhanced 911 service charge on each CMRS connection. The rate of such service charge shall initially be set at eighty cents (80¢) per month per each CMRS connection beginning October 1, 1998. The service charge shall have uniform application and shall be imposed throughout the State.

(b) The service charge may be adjusted by the Board beginning July 1, 2000 and every two years thereafter. The Board is to set the service charge at such a rate as to ensure full recovery for CMRS providers and for PSAPs, over a reasonable period of time, of the costs associated with developing and maintaining a wireless Enhanced 911 system. If necessary to ensure full recovery of costs for both CMRS providers and PSAPs over a reasonable period of time, the Board may, at the time it adjusts the service charge, also adjust the allocation percentages set forth in G.S. 62B-5(a) and G.S. 62B-5(b).

(c) The service charge shall not exceed one dollar and twenty-five cents ($1.25).

(d) The Board may adopt other rules and procedures as may be necessary to effect the provisions of this act but may not regulate any other aspect of the provision of wireless Enhanced 911 service, such as technical standards.

(e) No other State agency or local government may levy any additional surcharge relating to the provision of wireless Enhanced 911 service.

"§ 62B-4. Management of funds.

(a) Each CMRS provider, as a part of its monthly billing process, shall collect the wireless Enhanced 911 service charge described in G.S. 62B-3. The CMRS provider may list the service charge as a separate entry on each bill. If a CMRS provider receives a partial payment for a monthly bill from a subscriber, the provider shall apply the payment first against the amount the subscriber owes the provider.

(b) A CMRS provider has no obligation to take any legal action to enforce the collection of the service charges for which any subscriber is billed. However, a

collection action may be initiated by the Board and reasonable costs and attorneys' fees associated with that collection action may be awarded.

(c) Each CMRS provider shall be entitled to deduct a one percent (1%) administrative fee from the total service charges collected.

(d) All service charges collected by the CMRS providers, less the administrative fee described in subsection (c) of this section, are to be remitted to the Wireless Fund, not later than 30 days after the end of the calendar month in which such service charges are collected.

"§ 62B-5. Use of funds.

(a) Sixty percent (60%) of the funds in the Wireless Fund established in G.S. 62B-2(c) shall be used to reimburse CMRS providers, in response to sworn invoices submitted to the Board, for the actual costs incurred by the CMRS providers in complying with the wireless 911 requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order, including costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required in order to provide such service as well as the recurring and nonrecurring costs of operating such service. All costs and expenses must be commercially reasonable.

(b) Forty percent (40%) of the funds in the Wireless Fund established in G.S. 62B-2(c) shall be used to make monthly distributions to eligible PSAPs (the '40% Fund'). Money from the 40% Fund shall be used only to pay for the lease, purchase, or maintenance of emergency telephone equipment for the wireless Enhanced 911 system, including necessary computer hardware, software and database provisioning, and nonrecurring costs of establishing a wireless Enhanced 911 system. Money from the 40% Fund shall also be used to pay the rates associated with the local telephone companies' charges related to the operation of the wireless Enhanced 911 system. The 40% Fund shall be distributed as follows:

(1) Fifty percent (50%) of it shall be divided equally among the total number of PSAPs in North Carolina. However, monthly distribution shall be made only to those PSAPs that have complied with the provisions of this Chapter. Distribution to each eligible PSAP will begin the month following its compliance with the provisions of this Chapter. All monies remaining in this portion of the 40% Fund on January 31 of each year will then be evenly distributed to each of the eligible PSAPs.

(2) The other fifty percent (50%) shall be divided pro rata among the eligible PSAPs based on the population served by the PSAP. However, monthly distribution shall be made only to those PSAPs that have complied with the provisions of this Chapter. Distribution to each eligible PSAP will begin the month following its compliance with the provisions of this Chapter. The population data to be used shall be the latest certified county and official municipal estimates of population published by the Office of State

Planning. All monies remaining in this portion of the 40% Fund on January 31 of each year will then be distributed to each of the eligible PSAPs based on the population served by the PSAP.

(c) Sworn invoices shall be presented by CMRS providers in connection with any request for reimbursement under this section. In no event shall any invoice for reimbursement be approved for the payment of costs that are not related to compliance with the wireless Enhanced 911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order.

(d) In no event shall any invoice for reimbursement be approved for payment of costs of any CMRS provider exceeding one hundred twenty-five percent (125%) of the service charges remitted by such CMRS provider unless prior approval for such expenditures is received from the Board. If the total amount of invoices submitted to the Board and approved for payment exceeds the amount in the Wireless Fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the Wireless Fund, based on the relative amount of their approved invoices available that month, and the balance of the payments will be carried over to the following month or months and shall include interest at the rate set out in G.S. 24-1 until all of the approved payments are made.

(e) In January of each year every participating PSAP will submit to the Board a copy of its governing agency's approved budget detailing the PSAP's revenues and expenditures associated with the operation of its wireless Enhanced 911 system. PSAPs must comply with all requests by the Board for financial information related to the operation of the wireless Enhanced 911 system.

(f) On February 15, 2000, and every two years thereafter the Board shall report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee. The report shall contain complete information regarding receipts and expenditures of all funds received by the Board during the period covered by the report as well as the status of wireless Enhanced 911 systems in North Carolina at the time of the report. The first report shall cover the period from the formation of the Board to December 31, 1999. Each succeeding report shall cover the two year period of time from the ending date of the previous report.

"§ 62B-6. Administrative fee.

The Board shall be entitled to deduct a one percent (1%) administrative fee from the total service charges remitted by the CMRS providers for its expenses.

"§ 62B-7. Provision of services.

In accordance with the FCC Order, no CMRS provider shall be required to provide wireless Enhanced 911 service until such time as (i) the provider receives a request for such service from the administrator of a PSAP that is capable of receiving and utilizing the data elements associated with the service; (ii) funds are available pursuant to G.S. 62B-4; and (iii) the local exchange carrier is able to support the wireless Enhanced 911 system.

"§ 62B-8. Audit.

The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds in the Wireless Fund are being managed in accordance with the provisions of this Chapter and shall perform an audit at least every two years. The State Auditor shall provide the audit to the Board when it meets to consider adjusting the service charge pursuant to G.S. 62B-3. The cost of audits shall be reimbursed to the State Auditor by the Board.

"§ 62B-9. Customer records.

Each CMRS provider shall provide its ten thousand number groups to the PSAPs upon request. This information shall remain the property of the disclosing CMRS provider and shall be used only in providing emergency response services to 911 calls. CMRS connection information obtained by PSAP personnel for public safety purposes is not public information under Chapter 132 of the General Statutes. No person shall disclose or use, for any purpose other than for the wireless 911 calling system, information contained in the data base of the telephone network portion of a wireless 911 calling system established pursuant to this Chapter.

"§ 62B-10. Proprietary information.

All proprietary information submitted to the Board or the State Auditor shall be retained in confidence. Proprietary information submitted pursuant to this Chapter shall not be subject to disclosure under Chapter 132 of the General Statutes, or otherwise released to any person other than to the submitting CMRS provider, the Board, and the independent, third-party auditor retained pursuant to G.S. 62B-6, without the express permission of the submitting CMRS provider. Further, proprietary information shall constitute trade secrets as defined by the North Carolina Trade Secrets Protection Act, Article 24 of Chapter 66 of the General Statutes. General information collected by the Board or the State Auditor shall be released or published only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS provider.

"§ 62B-11. Limitation of liability.

A CMRS provider, local exchange company, service supplier, or their employees, directors, officers, or agents, except in cases of wanton or willful misconduct, shall not be liable for any damages in a civil action resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, implementing, maintaining, or operating any wireless 911 system or wireless Enhanced 911 system. This section shall not apply to actions arising out of the operation or ownership of a motor vehicle.

"§ 62B-12. Misuse of wireless 911 system; penalty.

Wireless emergency telephone service shall be used solely for emergency communications by the public. Any person who knowingly uses or attempts to use wireless emergency telephone service or information for a purpose other than obtaining public safety assistance, or who knowingly uses or attempts to use wireless emergency telephone service in an effort to avoid any CMRS charges, is guilty of a Class 3 misdemeanor. If the value of the CMRS charge or service obtained in a manner prohibited by this section exceeds one hundred dollars ($100.00), the person is guilty of a Class 1 misdemeanor."

Section 2. G.S. 62A-10 reads as rewritten:

"**§ 62A-10. Limitation of liability.**

A service supplier, including any telephone company and its employees, directors, officers and agents, is not liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission of a service supplier or of any of its employees, directors, officers, or agents, except for willful or wanton misconduct, in connection with developing, adopting, implementing, maintaining, or operating any 911 system. This section shall not apply to actions arising out of the operation or ownership of a motor vehicle."

Section 3. Chapter 146 of the General Statutes is amended by adding a new section to read:

"**§ 146-29.2. Lease provisions for communications towers.**

The State may lease real property, or any interest in real property, for the purposes of construction and placement of communications towers on State land or for placement of antennas upon State-owned structures. The following additional requirements shall apply to such leases:

(1) The lease shall require the lessee to permit other telecommunications carriers to co-locate on the communications tower on commercially reasonable terms between the lessee and the co-locating carrier until the communications tower reaches its capacity. Unless the State determines that co-location is not feasible at that location, the communications tower shall be designed and constructed to accommodate other carriers on the tower.

(2) The State shall, in determining the location of lands to be leased for communications towers, encourage communications towers to be located near other communications towers to the extent technically desirable.

(3) The State shall, when choosing a communications tower or antenna location, choose a location which minimizes the visual impact on surrounding landscape.

For purposes of this section, 'co-locate and co-location' mean the sharing of a communications tower by two or more services.

City and county ordinances apply to leases and rentals created under this section."

Section 4. G.S. 105-120 is amended by adding a new subsection to read:

"(c1) Enhanced 911 service charge. -- Gross receipts of an entity that provides local telecommunications service do not include wireless Enhanced 911 service charges imposed under G.S. 62B-3 and remitted to the Wireless Fund under G.S. 62B-4."

Section 5. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(17) The amount of wireless Enhanced 911 service charges collected under G.S. 62B-3 and remitted to the Wireless Fund under G.S. 62B-4."

Section 6. If any provision of this act or the application of this act to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 7. Section 5 of this act is effective for taxable years beginning on or after October 1, 1998. The remainder of this act is effective when it becomes law.

ATTACHMENT 3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1242

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1242-ARL-002

Date_____,1998

Comm. Sub. [YES]
Amends Title []
Third Edition

Representative Ives

moves to amend the bill on page 8, lines 34,
by deleting the words "leases and rentals created" and substituting
the words "communications towers and antennas authorized".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

1998 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Daniel F. McComas** for the Permanent Subcommittee on **Public Utilities** of the Standing Committee on **COMMERCE**.

☒ Committee Substitute #2 for

S.B. 1242 ☐A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR A WIRELESS ENHANCED 911 SYSTEM FOR THE USE OF CELLULAR, PERSONAL COMMUNICATIONS SERVICE, AND OTHER WIRELESS TELEPHONE CUSTOMERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE, AND TO ALLOW STATE AGENCIES TO LEASE PUBLIC PROPERTY FOR THE CONSTRUCTION OF WIRELESS COMMUNICATIONS TOWERS AND TO ENCOURAGE CO-LOCATION OF SERVICES TO THOSE TOWERS, AND TO MAKE A TECHNICAL CORRECTION TO G.S. 62A-10.

REPORTED TO THE STANDING COMMITTEE ON

RECOMMENDED ACTION:

☐ With a favorable recommendation.

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

☐ With a favorable recommendation, as amended.

☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on .

☐ With an unfavorable recommendation.

☐ With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.

☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

☐ Without prejudice.

☐ Other recommended action: _____.

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. Miner for the Standing Committee on COMMERCE.

s/ _____

☐ With a favorable report.

☐ With a favorable report, as amended.

☒ With a favorable report as to committee substitute bill (#_____), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill # 2). (and recommendation that the committee substitute bill (#_____) be referred to the Committee on Finance).

☐ And having received a unanimous vote in committee, be placed on the Consent Calendar. (PUBLIC BILLS ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1242*
Commerce Committee Substitute Adopted 6/16/98
Finance Committee Substitute #2 Adopted 7/9/98
Proposed House Committee Substitute S1242-PCS9606-RL

Short Title: Wireless Telephone Service/Tower Act. (Public)

Sponsors:

Referred to:

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A WIRELESS ENHANCED 911 SYSTEM FOR THE USE OF CELLULAR, PERSONAL COMMUNICATIONS SERVICE, AND OTHER WIRELESS TELEPHONE CUSTOMERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE, AND TO ALLOW STATE AGENCIES TO LEASE PUBLIC PROPERTY FOR THE CONSTRUCTION OF WIRELESS COMMUNICATIONS TOWERS AND TO ENCOURAGE CO-LOCATION OF SERVICES TO THOSE TOWERS, AND TO MAKE A TECHNICAL CORRECTION TO G.S. 62A-10.

The General Assembly of North Carolina enacts:

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

"Chapter 62B.

"Wireless Telephone Service.

"**§ 62B-1. Definitions.**

As used in this Chapter:

(1) 'Automatic location identification' or 'ALI' means a wireless Enhanced 911 service capability that enables the automatic display of information defining the approximate geographic location of the wireless telephone used to place a 911 call in accordance with the FCC Order and includes pseudoautomatic number identification.

(2) 'Automatic number identification' or 'ANI' means a wireless Enhanced 911 service capability that enables the automatic display of a mobile handset telephone number used to place a 911 call.

(3) 'CMRS' means 'commercial mobile radio service' under sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151, et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66, August 10, 1993, 107 Stat. 312. It includes the term 'wireless' and service provided by any wireless two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communications service, or the functional competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, SMR mobile service, or a network radio access line which has access to E911 service.

(4) 'CMRS connection' means each mobile handset telephone number assigned to a CMRS customer with a billing address in North Carolina.

(5) 'CMRS provider' means a person or entity who is licensed by the FCC to provide CMRS service or is reselling CMRS service.

(6) 'Eligible PSAPs' means those public safety answering points that have opted to provide wireless Enhanced 911 service and have submitted written notice to their CMRS providers and to the Wireless 911 Board.

(7) 'FCC Order' means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on December 1, 1997.

(8) 'Local exchange carrier' means any entity that is authorized to engage in the provision of telephone exchange service or exchange access in North Carolina.

(9) 'Mobile set telephone number' means the number assigned to a CMRS connection.

(10) 'Proprietary information' means customer lists and other related information, technology descriptions, technical information, or trade secrets, including the term 'trade secrets' as defined by the North Carolina Trade Secrets Protection Act, G.S. 66-152, and the actual or developmental costs of wireless Enhanced 911 systems that are developed, produced, or received internally by a CMRS provider or by a CMRS provider's employees, directors, officers, or agents.

(11) 'PSAP' ('public safety answering point') means the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to such calls.

(12) 'Pseudoautomatic number identification' or 'Pseudo-ANI' means a wireless Enhanced 911 service capability that enables the automatic display of the number of the cell site or cell face.

(13) 'Service supplier' means a person or entity who provides exchange telephone service to a telephone subscriber.

(14) 'Wireless 911 system' means an emergency telephone system that provides the user of a CMRS connection the ability to reach a PSAP by dialing the digits 911.

(15) 'Wireless Enhanced 911 system' means an emergency telephone system that provides the user of the CMRS connection with wireless 911 service and, in addition, directs 911 calls to appropriate PSAPs by selective routing based on the geographical location from which the call originated and provides the capability for ANI (or Pseudo-ANI) and ALI features, in accordance with the requirements of the FCC Order.

(16) 'Wireless Fund' means the Wireless Emergency Telephone System Fund required to be established and maintained pursuant to G.S. 62B-2(c).

"§ 62B-2. Wireless 911 Board.

(a) There is created a Wireless 911 Board ('Board'), consisting of thirteen members as follows:

(1) Two members appointed by the Governor, one upon the recommendation of the North Carolina League of Municipalities and one upon the recommendation of the North Carolina Association of County Commissioners;

(2) Five members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall be a sheriff, three representing CMRS providers licensed to do business in North Carolina and one representing the North Carolina Chapter of the Association of Public Safety Communications Officials (APCO);

(3) Five members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be a chief of police, two representing CMRS providers licensed to do business in North Carolina, one representing local exchange carriers licensed to do business in North Carolina, and one representing the North Carolina Chapter of the National Emergency Number Association (NENA); and

(4) The Secretary of Commerce or the Secretary's designee, who shall serve as the chair.

A quorum of the Board shall consist of seven members. The Board shall meet upon the call of the chair.

(b) Each member shall serve a term of four years and may be appointed to no more than two successive terms. Vacancies may be filled in the same manner as the original appointment.

(c) There is established with the Treasurer the Wireless Fund into which the Board shall deposit all revenues derived from the service charge levied on CMRS connections in the State and collected pursuant to G.S. 62B-3. The Wireless Fund shall be a separate fund restricted to the uses set forth in this Chapter. (d) Consistent with the provisions of G.S. 143-3.2, the Board shall disburse the revenues remitted to the Wireless Fund in the manner set forth in G.S. 62B-5. The Board shall establish procedures for disbursement of these revenues and advise the CMRS providers and eligible counties of such procedures within 60 days after all members are appointed pursuant to G.S. 62B-2(a).

(e) The Board shall serve without compensation, but members of the Board shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 138-5.

"**§ 62B-3. Amount of service charge.**

(a) The Board shall levy a monthly wireless Enhanced 911 service charge on each CMRS connection. The rate of such service charge shall initially be set at eighty cents (80¢) per month per each CMRS connection beginning October 1, 1998. The service charge shall have uniform application and shall be imposed throughout the State.

(b) The service charge may be adjusted by the Board beginning July 1, 2000 and every two years thereafter. The Board is to set the service charge at such a rate as to ensure full recovery for CMRS providers and for PSAPs, over a reasonable period of time, of the costs associated with developing and maintaining a wireless Enhanced 911 system. If necessary to ensure full recovery of costs for both CMRS providers and PSAPs over a reasonable period of time, the Board may, at the time it adjusts the service charge, also adjust the allocation percentages set forth in G.S. 62B-5(a) and G.S. 62B-5(b).

(c) The service charge shall not exceed one dollar and twenty-five cents ($1.25).

(d) The Board may adopt other rules and procedures as may be necessary to effect the provisions of this act but may not regulate any other aspect of the provision of wireless Enhanced 911 service, such as technical standards.

(e) No other State agency or local government may levy any additional surcharge relating to the provision of wireless Enhanced 911 service.

"**§ 62B-4. Management of funds.**

(a) Each CMRS provider, as a part of its monthly billing process, shall collect the wireless Enhanced 911 service charge described in G.S. 62B-3. The CMRS provider may list the service charge as a separate entry on each bill. If a CMRS provider receives a partial payment for a monthly bill from a subscriber, the provider shall apply the payment first against the amount the subscriber owes the provider.

(b) A CMRS provider has no obligation to take any legal action to enforce the collection of the service charges for which any subscriber is billed. However, a

collection action may be initiated by the Board and reasonable costs and attorneys' fees associated with that collection action may be awarded.

(c) Each CMRS provider shall be entitled to deduct a one percent (1%) administrative fee from the total service charges collected.

(d) All service charges collected by the CMRS providers, less the administrative fee described in subsection (c) of this section, are to be remitted to the Wireless Fund, not later than 30 days after the end of the calendar month in which such service charges are collected.

"§ 62B-5. Use of funds.

(a) Sixty percent (60%) of the funds in the Wireless Fund established in G.S. 62B-2(c) shall be used to reimburse CMRS providers, in response to sworn invoices submitted to the Board, for the actual costs incurred by the CMRS providers in complying with the wireless 911 requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order, including costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required in order to provide such service as well as the recurring and nonrecurring costs of operating such service. All costs and expenses must be commercially reasonable.

(b) Forty percent (40%) of the funds in the Wireless Fund established in G.S. 62B-2(c) shall be used to make monthly distributions to eligible PSAPs (the '40% Fund'). Money from the 40% Fund shall be used only to pay for the lease, purchase, or maintenance of emergency telephone equipment for the wireless Enhanced 911 system, including necessary computer hardware, software and database provisioning, and nonrecurring costs of establishing a wireless Enhanced 911 system. Money from the 40% Fund shall also be used to pay the rates associated with the local telephone companies' charges related to the operation of the wireless Enhanced 911 system. The 40% Fund shall be distributed as follows:

(1) Fifty percent (50%) of it shall be divided equally among the total number of PSAPs in North Carolina. However, monthly distribution shall be made only to those PSAPs that have complied with the provisions of this Chapter. Distribution to each eligible PSAP will begin the month following its compliance with the provisions of this Chapter. All monies remaining in this portion of the 40% Fund on January 31 of each year will then be evenly distributed to each of the eligible PSAPs.

(2) The other fifty percent (50%) shall be divided pro rata among the eligible PSAPs based on the population served by the PSAP. However, monthly distribution shall be made only to those PSAPs that have complied with the provisions of this Chapter. Distribution to each eligible PSAP will begin the month following its compliance with the provisions of this Chapter. The population data to be used shall be the latest certified county and official municipal estimates of population published by the Office of State

Planning. All monies remaining in this portion of the 40% Fund on January 31 of each year will then be distributed to each of the eligible PSAPs based on the population served by the PSAP.

(c) Sworn invoices shall be presented by CMRS providers in connection with any request for reimbursement under this section. In no event shall any invoice for reimbursement be approved for the payment of costs that are not related to compliance with the wireless Enhanced 911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order.

(d) In no event shall any invoice for reimbursement be approved for payment of costs of any CMRS provider exceeding one hundred twenty-five percent (125%) of the service charges remitted by such CMRS provider unless prior approval for such expenditures is received from the Board. If the total amount of invoices submitted to the Board and approved for payment exceeds the amount in the Wireless Fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the Wireless Fund, based on the relative amount of their approved invoices available that month, and the balance of the payments will be carried over to the following month or months and shall include interest at the rate set out in G.S. 24-1 until all of the approved payments are made.

(e) In January of each year every participating PSAP will submit to the Board a copy of its governing agency's approved budget detailing the PSAP's revenues and expenditures associated with the operation of its wireless Enhanced 911 system. PSAPs must comply with all requests by the Board for financial information related to the operation of the wireless Enhanced 911 system.

(f) On February 15, 2000, and every two years thereafter the Board shall report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee. The report shall contain complete information regarding receipts and expenditures of all funds received by the Board during the period covered by the report as well as the status of wireless Enhanced 911 systems in North Carolina at the time of the report. The first report shall cover the period from the formation of the Board to December 31, 1999. Each succeeding report shall cover the two year period of time from the ending date of the previous report.

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The Board shall be entitled to deduct a one percent (1%) administrative fee from the total service charges remitted by the CMRS providers for its expenses.

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(3) The State shall, when choosing a communications tower or antenna location, choose a location which minimizes the visual impact on surrounding landscape.

For purposes of this section, 'co-locate and co-location' mean the sharing of a communications tower by two or more services.

City and county ordinances apply to communications towers and antennas authorized under this section."

Section 4. G.S. 105-120 is amended by adding a new subsection to read:

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"(17) The amount of wireless Enhanced 911 service charges collected under G.S. 62B-3 and remitted to the Wireless Fund under G.S. 62B-4."

Section 6. If any provision of this act or the application of this act to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 7. Section 5 of this act is effective for taxable years beginning on or after October 1, 1998. The remainder of this act is effective when it becomes law.